



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 7, 1998

Ms. Anne Constantine  
Legal Counsel  
Dallas-Fort Worth International Airport  
P.O. Drawer 619428  
DFW Airport, Texas 7261-9428

OR98-0080

Dear Ms. Constantine:

You ask whether certain information is subject to required public disclosure under the Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 111697.

The Dallas-Fort Worth International Airport Board (the "board") received a request for information relating to sexual harassment complaints filed from January 1, 1994 to the present and several other categories of information. Apparently the board has released all of the requested information except for several documents relating to sexual harassment complaints. You contend that these documents are excepted from disclosure under sections 552.102 and 552.103 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Initially, we note that some of the enclosed documents, such as the arrest warrant, may have been filed with a court. Documents filed with a court are generally considered public and must be released to the requestor. *See Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992).

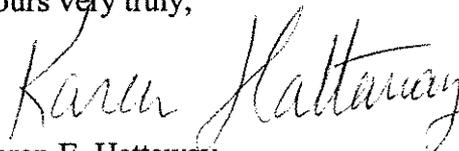
Section 552.103(a) of the Government Code excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have submitted a petition which indicates that the board is a party to pending litigation. *Watson v. Dallas-Fort Worth Int'l Bd.*,

No. 153-168158-97 (Dist. Ct., Tarrant County, Tex., Mar. 5, 1997). We have reviewed the petition and agree that the submitted documents relate to the pending litigation. Thus, with the exception of documents that have been filed with a court, the board may withhold the submitted documents from disclosure pursuant to section 552.103(a).<sup>1</sup>

Finally, we note that once all parties to the pending litigation have gained access to the documents at issue, through discovery or otherwise, section 552.103(a) is no longer applicable to the documents. Open Records Decisions Nos. 551 (1990), 454 (1986). In addition, the applicability of section 552.103(a) ends once the litigation has concluded. Open Records Decision No. 350 (1982). However, we urge the board to exercise caution in disclosing these documents once section 552.103(a) no longer protects them because they contain information that may be otherwise confidential by law.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 111697

Enclosures: Submitted documents

cc: Mr. G. Chambers Williams, III  
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Bedford, Texas 76021  
(w/o enclosures)

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<sup>1</sup>Because we are able to resolve this matter under section 552.103(a), we do not address your section 552.102 claim.