



February 24, 1999

Mr. Thomas P. Brandt
Fanning, Harper & Martinson
Third Floor Preston Commons West
8117 Preston Road
Dallas, Texas 75225

OR99-0535

Dear Mr. Brandt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122583.

Rockwall County received a request for "jail records relating to Victor Dean." You seek to withhold the requested information under sections 552.103, 552.107, and 552.111 of the Government Code.

Section 552.103(a) exempts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

You have supplied copies of the Plaintiff's Original Complaint and other pleadings in *Pugh v. Rockwall Co. et al.*, cause number 3-98cv2142-P, pending in the United States District Court, Northern District of Texas, Dallas Division. We believe that the information requested here relates to this litigation. Accordingly, you may generally withhold the

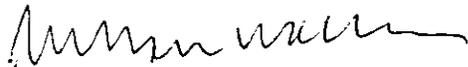
requested information under section 552.103(a). However, absent a particularized showing, which you have not made here, section 552.103 does not protect “front page,” or “basic information” about an arrest or a crime as described in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) and Open Records Decision No. 127 (1976). See Open Records Decision No. 597 (1991).

Please note, too, that we assume that none of the information in the records at issue has previously been made available to the opposing party in the litigation. Absent special circumstances, once information has been obtained by all parties to the litigation, either through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). To the extent the opposing party has seen or had access to these records, there would be no justification for now withholding such information from the requestor pursuant to section 552.103(a). Similarly, section 552.103(a) does not authorize the governmental body to withhold materials which have already been made available to the public. Open Records Decision No. 436 (1986). The applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

Since we have resolved this matter under section 552.103(a), we need not address your other claimed exceptions to disclosure except to note that the “front page” or “basic information” in the records at issue, which we have found not to be protected by section 552.103, would not be protected from disclosure by either section 552.107 or 552.111.

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 questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref:: ID# 122583

Enclosures: Submitted documents

cc: Mr. Steven Dewolf
Bellinger & Dewolf
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Dallas, Texas 75201
(w/o enclosures)