



September 16, 1999

Mr. Todd Blomerth  
Blomerth and Payne  
103 South Main Street  
Lockhart, Texas 78644

OR99-2573

Dear Mr. Blomerth:

You ask us to reconsider Open Records Letter No. 99-1929 (1999). Your request for reconsideration was assigned ID# 127840.

The City of Lockhart (the "city") received a request for information relating to the employment of a police officer. In Open Records Letter No. 99-1921, we concluded, *inter alia*, that you did not demonstrate the applicability of section 552.103 of the Government Code to the requested information. You now ask us to reconsider whether section 552.103 applies to the information. The city received a subsequent request for the tape of the police officer's termination hearing. You also ask whether the city may withhold this information from disclosure under section 552.103.

You initially requested a decision from this office on April 19, 1999. On July 1, 1999, the police officer filed suit against the city. You notified us of this change in circumstances within a reasonable time after the filing of the lawsuit. *See* Open Records Decision No. 638 (1996). We therefore find that you have established the applicability of section 552.103 to the requested information and overrule Open Records Letter No. 99-1921 to the extent it conflicts with this decision. In reaching this conclusion, we assume that the opposing party in the litigation has not previously had access to the information at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). Thus, section 552.103 does not except from disclosure documents received from or previously provided to the

police officer. We also note that the applicability of section 552.103 ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Finally, please note that the city may not rely on section 552.103 to withhold court records from disclosure. See ORL 99-1929 at 4.

Sincerely,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 127840

Encl. Submitted documents

cc: Mr. John Brady  
District Parole Officer II  
PD-Fort Worth DPO I  
3628 McCart  
Fort Worth, Texas 76110  
(w/o enclosures)