



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 10, 2014

Ms. Susan Camp-Lee  
Attorney for the City of Round Rock  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664

OR2014-20437

Dear Ms. Camp-Lee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 542628.

The City of Round Rock (the "city"), which you represent, received a request for the police report and video recordings pertaining to a specified individual and a specified incident. You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.103 of the Government Code provides, in relevant part:

(a) Information is excepted from [required public disclosure] if it is information relating to litigation of a civil or criminal nature 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.

...

(c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure

under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

Gov't Code § 552.103(a), (c). The governmental body claiming section 552.103 has the burden of providing relevant facts and documents sufficient to establish the applicability of section 552.103 to the information it seeks to withhold. To meet this burden, the governmental body must demonstrate: (1) litigation was pending or reasonably anticipated on the date of its receipt of the request for information, and (2) the information at issue is related to that litigation. *See Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, orig. proceeding); *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.). Both elements of the test must be met in order for information to be excepted from disclosure under section 552.103. *See Open Records Decision No. 551 at 4 (1990).*

You state, and provide documentation showing, prior to the city's receipt of the instant request, a lawsuit styled *William Slade Sullivan v. The City of Round Rock, Texas and Officers N.J. Zoss, L.M. Osborn, B.B. Johnson, C.S. Mount, K.A. Mayo, and A.P. Ballew*, Civil Action No. 1:14-cv-349-LY, was filed and is currently pending against the city. Therefore, we agree litigation was pending on the date the city received the present request for information. You assert the information in Exhibit C is related to the pending litigation. Upon review, we find the information in Exhibit C is related to the pending litigation. Accordingly, the city may generally withhold the submitted information under section 552.103 of the Government Code.

We note, however, the information at issue involves alleged criminal activity. Information normally found on the front page of an offense or incident report is generally considered public. *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); *see Open Records Decision No. 127 (1976)*. This office has stated basic information about a crime may not be withheld under section 552.103 of the Government Code even if it is related to the litigation. *Open Records Decision No. 362 (1983)*. Thus, we find the basic offense information from the incident report at issue may not be withheld on the basis of section 552.103. Basic front-page information refers to the information held to be public in *Houston Chronicle*, and includes, among other items, an identification and description of the complainant. 531 S.W.2d at 186-87; *see also ORD 127 (summarizing types of information considered to be basic information)*. Therefore, with the exception of basic information, the city may generally withhold the submitted information under section 552.103.

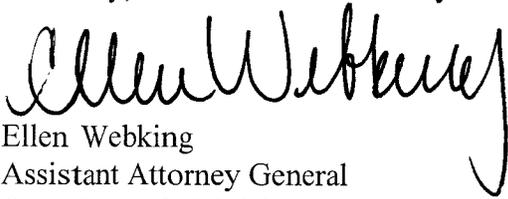
We note once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. *See Open Records Decision Nos. 349 (1982), 320 (1982)*. Thus, information that has either been obtained from or provided to the opposing party in the litigation is not excepted from

disclosure under section 552.103(a), and it must be disclosed. Upon review, we find the DIC-24 and DIC-25 forms we have marked were released to the opposing party to the litigation and may not be withheld under section 552.103.<sup>1</sup> However, with the exception of basic information, which must also be released, the remaining information may be withheld under section 552.103 of the Government Code. We also note the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/ac

Ref: ID# 542628

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note this requestor has a special right of access to some of the information being released. *See* Gov't Code § 552.023(a) (government body may deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles). Therefore, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office.