



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 14, 2017

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
Box 4087
Austin, Texas 78773-0001

OR2017-25983

Dear Ms. Cost:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. This request was originally received by the Open Records Division ("ORD") of this office and assigned ID# 684750. Preparation of this ruling has been assigned instead to the Opinion Committee.

The Department of Public Safety ("Department") received a request regarding the "dashboard camera video in possession of DPS from a stop on FM 922 outside Tioga Texas, August 7, 2012." You claim the submitted information is excepted from disclosure under section 552.103 of the Government Code. You state that this request is related to a ruling from this office, OR #2013-07730, which we concluded some information was excepted from disclosure but that other information must be released. 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.

TEX. GOV'T CODE § 552.103(a), (c). A governmental body has the burden of providing relevant facts and documents to show the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing (1) litigation was pending or reasonably anticipated on the date the governmental body received the request for information, and (2) the information at issue is related to that litigation. *Univ. of Tex. Law Sch. v. Tex. Legal Found.*, 958 S.W.2d 479, 481 (Tex. App.—Austin 1997, orig. proceeding [mand. denied]); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Tex. Att'y Gen. ORD-551 (1990) at 4. A governmental body must meet both prongs of this test for information to be excepted under section 552.103(a).

You state that “after the issuance of the prior ruling, Randy Travis filed an Original Petition for Declaratory Judgment against the Department and the Texas Attorney General in the 353rd Judicial District Court of Travis County.” You indicate that the “Texas Supreme Court recently denied Mr. Travis’s Motion for Rehearing on the denial of his Petition for Review.” You further state that on the date of the current request, “a mandate had not been issued by the Third Court of Appeals in this matter.” You aver the submitted information is related to the pending lawsuit. We agree that litigation was still pending when the Department received this request for information. We also find that the submitted information is related to the pending litigation for the purposes of section 552.103. Therefore, the Department may withhold the information under section 552.103(a) of the Government Code.

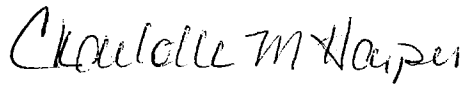
However, once the information has been obtained by all parties to the pending litigation, no section 552.103(a) interest exists with respect to this information. Tex. Att'y Gen. ORD-349 (1982) at 2. We also note that the applicability of section 552.103(a) ends once the litigation has concluded. Tex. Att'y Gen. Op. No. MW-575 (1982) at 1; Tex. Att'y Gen. ORD-350 (1982) at 3.

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, 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,

A handwritten signature in black ink that reads "Charlotte M. Harper". The signature is written in a cursive style with a large initial "C".

Charlotte M. Harper
Assistant Attorney General
Opinion Committee

CMH/eb

Ref: ID# 684750

Enc. Submitted documents

c: Requestor
(w/o enclosures)