



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 10, 1991

Ms. Jackee Cox
General Counsel
Texas Department of Criminal Justice
816 Congress Avenue, Suite 500
P. O. Box 13084
Austin, Texas 78701

OR91-411

Dear Ms. Cox:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13116.

You have received a request for access to or copies of:

1. All documents involving the bidding and construction of the Alfred D. Hughes Unit in Gatesville, Texas.
2. All documents involving the bidding and construction of the William P. Clements, Jr. Unit in Amarillo, Texas.

You claim that the requested information is excepted from required public disclosure by sections 3(a)(3) and 3(a)(11) of the Open Records Act.

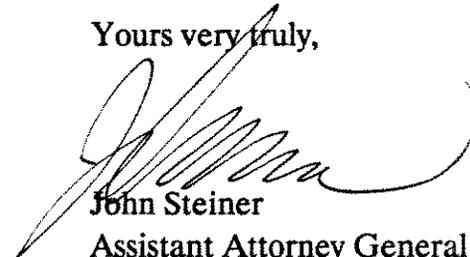
Section 3(a)(3) excepts from required public disclosure:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

V.T.C.S. art. 6252-17a, § 3(a)(3). A previous open records decision issued by this office, Open Records Decision No. 551 (1990), addresses the applicability of section 3(a)(3). For information to be excepted from required public disclosure by section 3(a)(3), litigation must be pending or reasonably anticipated and the requested information must relate to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.). We have considered the exceptions you claim, specifically section 3(a)(3), and have reviewed the documents at issue. As you advise that litigation is pending to which your agency is a party and the requested information relates to that litigation, you may withhold the requested information under section 3(a)(3). Because we resolve your question under section 3(a)(3), we need not address the applicability of section 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-411 .

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GK/lcd

Ref. ID# 13116

cc: Mr. Brian S. Greig
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