



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 20, 1992

Ms. Karen W. Osborne  
Texas Department of Criminal Justice  
Institutional Division  
P. O. Box 99  
Huntsville, Texas 77342-0099

OR92-250

Dear Ms. Osborne:

The Texas Department of Criminal Justice (hereinafter TDCJ) has enquired 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 # 15283.

You have received a request from counsel for Charles Rowlls, a Texas Department of Corrections inmate, for release of documents. The request states that Rowlls' has retained counsel to represent him "concerning injuries and damages [Rowlls] sustained in an accident which was cause by [TDCJ's] negligence on or about August 30, 1991 in Fort Bend County, Texas." You claim that the requested information is excepted from required public disclosure by Section 3(a)(3).

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

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.

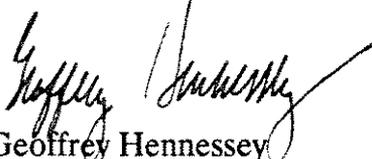
Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information relevant to that litigation. Open Records Decision No. 551 (1990).

The materials at issue include incident reports describing the accident, correspondence concerning the accident, as well as administrative findings concerning the accident. We note that Rowlls has retained counsel and that in the request of Rowlls' counsel for release of the documents, Rowlls' counsel alleges the accident was due to the negligence of TDCJ. We also note from the file that on January 8, 1992 Rowlls filed a Notice of Claim against the State of Texas concerning this same incident.

Having examined the documents submitted to us for review, we conclude that litigation is reasonably anticipated and the requested information relates to the anticipated litigation, and therefore may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only until the resolution of the litigation and to the documents at issue here.

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 OR92-250.

Very truly yours,

  
Geoffrey Hennessey  
Assistant Attorney General  
Opinions Committee

GH/lmm

cc: Mr. Ken Williford  
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