



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 30, 1994

Ms. Karen Hendershot Bailey  
Assistant City Attorney  
Legal Department  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR94-320

Dear Ms. Bailey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 26174.

The City of Victoria (the "city") has received a request for an arrest report dated April 4, 1994. You have submitted an 8 page offense report and a 1 page supplementary offense report to this office. You assert that this information is excepted from required public disclosure under section 552.103 of the act.

Section 552.103 of the act excepts from required public disclosure information relating to litigation "to which the state or political subdivision . . . is or may be a party." Section 552.103 requires concrete evidence that litigation is realistically contemplated; it must be more than mere conjecture. Open Records Decision Nos. 518 (1989) at 5; 328 (1982). Your April 14, 1994 letter states that charges are pending against the requestor with respect to the offense at issue in the information. We conclude that the city has demonstrated that litigation regarding this matter is pending and that the requested information relates to that information. Accordingly, the city may except the requested information from required public disclosure with the caveats noted below.

First, information commonly contained in offense reports -- including the offense committed, the location, identification and description of the complainant, the premises, time of occurrence, the property involved, the vehicles involved, weather, details of the offense in question, and the names of the investigating officers -- generally may not be withheld from disclosure under section 552.103. See Open Records Decision No. 597 (1991).

Therefore, you must release the offense reports to the extent they contain the information specified above. (A list of the types of information in an offense report that must be made available to the public is enclosed.) In addition, please note that section 552.103 does not apply if the requestor has had access to the information or if litigation is no longer reasonably anticipated. See Open Records Decision No. 597. Thus, if the requestor has obtained this information through discovery or the city no longer intends to press charges, the city must release the information.

If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Open Government Section

MRC/MAR/sbm

Ref.: ID# 26174

Enclosures: Offense report list  
Submitted documents

cc: Mr. Julius S. Whitby, Jr.  
1307 Anthony  
Victoria, Texas 77901  
(w/o enclosures)