



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 30, 1995

Mr. Kevin Raymond
Assistant General Counsel
Legal Services
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR95-315

Dear Mr. Raymond:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31721.

The Texas Department of Public Safety (the "department") received a request for information that you assert is excepted from required public disclosure under sections 552.107(1) and 552.101 of the Government Code. You inform us that the information at issue is part of an internal legal file developed by the department's legal services division. You assert that the information in this file is excepted from disclosure under the attorney-client privilege and the attorney work product privilege.

A governmental body may withhold from required public disclosure information that is part of an attorney's work product if it establishes that section 552.103 of the Government Code is applicable.¹ See Open Records Decision No. 575 (1990).

¹Section 552.103(a) applies to information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, 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; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

Section 552.101, which excepts from required public disclosure information that is confidential by law, does not incorporate discovery privileges. *See id.* You have not raised section 552.103 of the Government Code. Consequently, the department may not withhold any of the requested information because it is an attorney's work product.

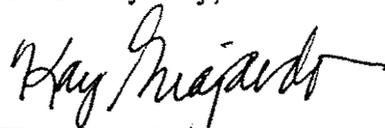
Section 552.107(1) states that information is excepted from required public disclosure if:

it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

This exception applies only to information that reveals attorney advice and opinion or client confidences. *See* Open Records Decision No. 574 (1990). We agree that section 552.107(1) applies to portions of the requested information. We have marked the documents accordingly.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo
Assistant Attorney General
Open Government Section

KHG/rho

Ref.: ID#31721

Enclosures: Marked documents

cc: Mr. Gilbert J. Bernal, Jr.
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(w/o enclosures)

(Footnote continued)

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 588 (1991).