



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1995

Mr. Miles K. Risely
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 7790-1758

OR95-732

Dear Mr. Risely:

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# 33622.

The City of Victoria (the "city") received a request for copies of statements from certain individuals involved in an automobile accident in the city. You claim that the information is excepted from required public disclosure pursuant to section 552.103 of the Government Code. You provided copies of the documents you believe are excepted from disclosure.¹

Section 552.103(a) excepts 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

¹You indicate you have provided the requestor all of the first page offense report information. See Open Records Decision No. 597 (1991).

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

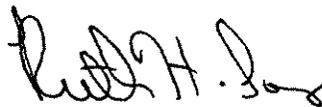
To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). You inform us that the grand jury has true-billed the defendant for failure to stop and render aid in response to the automobile accident, and no trial date has been set at this time.

In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). The requested records may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an 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 should 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,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LMM/rho

Ref.: ID# 33622

Enclosures: Submitted documents

cc: Mr. Rex Byrns
Hartman Lapham & Smith, L.L.P.
201 South Main
Victoria, Texas 77901
(w/o enclosures)