



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1995

Mr. Terrence S. Welch
Vial, Hamilton, Koch & Knox, L.L.P.
1717 Main Street, Suite 4400
Dallas, Texas 75201-4605

OR95-743

Dear Mr. Welch:

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# 32650.

Matagorda County (the "county") received a request for copies of documents reflecting the compensation paid to Donald K. Gray of Risk Management Group, Inc. from January 1, 1988 to March 21, 1995. You claim that the requested documents relate to pending litigation and are excepted from disclosure pursuant to section 552.103 of the Government Code. You have provided copies of the documents you believe to be excepted from disclosure and copies of pleadings filed in the pending litigation to which you claim the documents relate.

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

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

To be excepted under section 552.103(a), information must relate to litigation that is pending or reasonably anticipated. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You assert that the submitted documents relate to pending litigation involving the county and two other parties in an insurance coverage dispute regarding liability for alleged acts committed by county jail employees. We have reviewed the submitted information and agree with your assertion. Therefore, you may withhold the documents pursuant to section 552.103 of the Government Code.

We assume, however, that the opposing parties in the litigation have not had access to the documents in question. Once information has been obtained by all parties to the litigation, 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 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). Finally, 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# 32650

Enclosures: Submitted documents

cc: Ms. Nina J. Gwin
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1800 Eighth Street
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(w/o enclosures)