



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 16, 1995

Ms. Tamara Armstrong
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR95-1249

Dear Ms. Armstrong:

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# 36706.

Travis County received an open records request for certain records that you contend may be withheld from the public pursuant to section 552.103(a) of the Government Code.¹ 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). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a); the requested records may, therefore, be withheld.

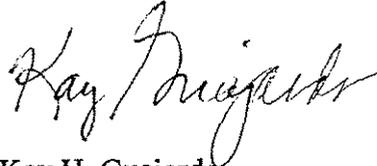
In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation,

¹You contend that three categories of information sought either do not exist or are not in the possession of the Travis County Sheriff's Office. A governmental body has no obligation to produce documents not in existence at the time the request was received, Open Records Decision Nos. 605 (1992), 572 (1990), nor does a governmental body have to obtain requested documents not in the governmental body's possession at the time the request was received, Open Records Decision Nos. 558 (1990), 499 (1988).

for example, 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,



Kay H. Guajardo
Assistant Attorney General
Open Records Division

KHG/LBC/rho

Ref: ID# 36706

Enclosures: Submitted documents

cc: Mr. Jorge E. Ardila
12607 Modena Tr.
Austin, Texas 78729
(w/o enclosures)