



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 21, 1996

Mr. Robert J. Miklos
Assistant City Attorney
City of Dallas
Criminal Law and Police Division
Dallas, Texas 75201

OR96-0370

Dear Mr. Miklos:

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# 38239.

The City of Dallas (the "city") received an open records request for a detailed and "complete police report . . . identical to the report submitted to the Dallas County District Attorney's Office," regarding a criminal trespass case. You contend the city may withhold the requested information from the public pursuant to section 552.103(a) of the Government Code, because of litigation styled the *State of Texas v. Marilyn Anderson*, which is set for trial on February 16, 1996.

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.

The documents submitted may be withheld from disclosure, except for information generally found on the first page of an offense report. See Open Records Decision No. 597 (1991) (basic offense report information not excepted from disclosure under section 552.103). First page offense report information must be disclosed. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ *ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976).

In reaching this conclusion, however, we assume that the opposing party to the pending 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). In particular, if the opposing parties in the pending litigation have seen or had access to information normally found on the front page of the offense reports, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). *See* Open Records Decision No. 597 (1991). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded.¹ 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 may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/ch

Ref.: ID#38239

Enclosures: Submitted documents

cc: Ms. Portia D. Simmons
1601 E. Lamar Blvd., Suite 106
Arlington, Texas 76011
(w/o enclosures)

¹ On March 19, 1996, the city attorney delivered to this office, *via facsimile*, a handwritten letter signed by assistant district attorney Katie Magee, stating that Cause Number M95-59193, litigation styled the *State of Texas v. Marilyn Anderson*, is still pending before the Court.