



October 19, 1999

Ms. Joni M. Vollman
Assistant General Counsel
Harris County District Attorney
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR99-2959

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128205.

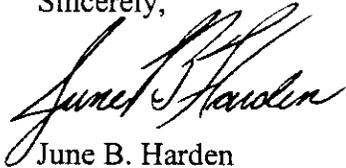
The Harris County District Attorney received an open records request for certain records that you contend may be withheld from the public pursuant to section 552.103 of the Government Code. To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); Open Records Decision No. 588 at 1 (1991). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103. The requested records may therefore be withheld.¹

In reaching this conclusion, however, we assume that neither the criminal defendant nor his previous attorneys has had prior 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 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the criminal defendant or his attorneys have seen or had access to these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103. We also note that the applicability of section 552.103 ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

¹Because we resolve your request under section 552.103, we need not address the applicability of the other exceptions you raised.

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 regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/RWP/nc

Ref.: ID# 128205

Encl: Submitted documents

cc: Ms. Sandra L. Henderson
Gray, Plant, Mooty, Mooty & Bennett
3400 City Center
33 South Sixth Street
Minneapolis, Minnesota 55402-3796
(w/o enclosures)