



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

February 1, 1991

Ms. Mary Ann Courter
Assistant General Counsel
Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

OR91-071

Dear Ms. Courter:

You ask whether two documents held by the Department of Public Safety, relating to the shooting death of a Texas Highway Patrol trooper, the subsequent search for the suspect, and the discovery of him dead of apparently self-inflicted wounds, are subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11327.

The two documents in question are a "report of investigation" of a DPS ranger, and a "voluntary statement" of a private party regarding discussions with a private investigator and an attorney (the requestor here) who have been engaged by the suspect's family. We note that you do not submit for our review certain other information the requestor's letter indicates he is seeking from you, and we assume that either you are not in possession of such information or that disclosing it is not at issue.

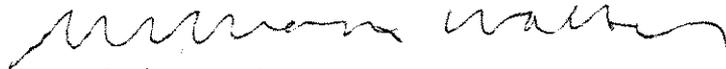
We have considered the exceptions you claimed, specifically sections 3(a)(3) and 3(a)(8), and have reviewed the documents at issue.

Section 3(a)(3), the "litigation exception," excepts from disclosure information relating to pending or reasonably anticipated litigation to which the governmental entity is a party, and that the government's attorney for the litigation has determined should be withheld. Open Records Decision No. 551 (1990). The information you supply indicates that the suspect's family has engaged an attorney and a private investigator and that those individuals have indicated they believe the suspect was in fact killed by law enforcement personnel, though it was made to appear that the suspect had taken his own life. The information also indicates that the victim's mother shares this belief. We believe you have made a sufficient showing that litigation, while not pending, may be reasonably anticipated in this matter, and that the records in question would relate to such litigation. See Open Records Decision No. 555 (1990)

(copy enclosed). Accordingly, you may withhold the records in question until litigation relating to the materials has terminated or can no longer be reasonably anticipated. We thus need not address your claim that section 3(a)(8) also would operate to except a portion of the records from required disclosure.

Because prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-071.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

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Ref.: ID# 11327

Enclosure: Open Records Decision Nos. 551, 555

cc: J. Julian Moore
Attorney at Law
1635 Richmond
Houston, Texas 77006