



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

June 3, 1991

Mr. Robert Moreno
Office of General Counsel
State Department of Highways
and Public Transportation
11th & Brazos
Austin, Texas 78701-2483

OR91-255

Dear Mr. Moreno:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12317.

The State Department of Highways and Public Transportation (the department) received three identical open records requests from the same individual for, *inter alia*, certain records pertaining to the maintenance, removal, and alteration of railroad crossing warning devices in Montgomery County. The requestor also seeks information pertaining to all automobile/train accidents in Montgomery County for the years 1969 through 1991. You contend these records come under the protection of section 3(a)(3) of the Open Records Act.

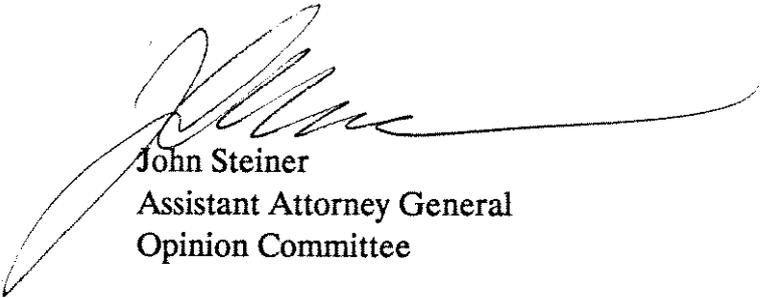
To secure the protection of section 3(a)(3), a governmental body must first demonstrate that a judicial or quasi-judicial proceeding is pending or reasonably anticipated. Open Records Decision Nos. 452 (1986); 360 (1983). Further, the governmental body's attorney must show that the requested material relates to the litigation. Open Records Decision No. 551 (1990). You have in this instance demonstrated that the requested information listed above relates to litigation currently pending against the department. You may therefore withhold the information at this time pursuant to section 3(a)(3).

The requestor also seeks "interdepartmental directory's [sic] promulgated by [the department] *which are available to the public*" and "documentation to on-line information or statistical computer services used or maintained by [the department] *which are available to the public*, as well as information on how to establish an account on any such service, fee schedule of any such service, telephone number of system, and name and address of any vendor maintaining such a service" (Emphasis

added.) Any of the above described information that is currently available to the general public may not be withheld from the requestor despite the pending litigation. See V.T.C.S. art. 6252-17a, § 14(a) (prohibiting selective disclosure). To the extent that such information currently exists, it must be released at this time.

Because case law and 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 OR91-255.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/RWP/lb

Ref.: ID# 12317

Enclosures: Submitted documents

cc: Mr. John L. Grayson
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