



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

August 1, 1991

Mr. Paul G. Stuckle
Police Legal Advisor
Assistant City Attorney
Fort Worth Police Department
350 W. Belknap Street
Fort Worth, Texas 76102

OR91-351

Dear Mr. Stuckle:

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# 12957.

You have received a request for "a copy of the tape, or a transcript, of the radio dispatch tape concerning the arrest of Ernest Alvin Anderson on Wednesday, July 3, 1991." Specifically, the request asked for:

- (1) The exchange between the officers involved in the arrest of Anderson with the police dispatcher;
- (2) The conversations between Officer E.J. Parnell and the dispatcher,
- (3) Any taped conversation between the police dispatchers and Federal Express employee Randy Fuller.

You object to disclosing the requested information and claim exemption from such disclosure under sections 3(a)(1), 3(a)(3), and 3(a)(8) of the Open Records Act.

Section 3(a)(3) provides the following exception:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state of political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective

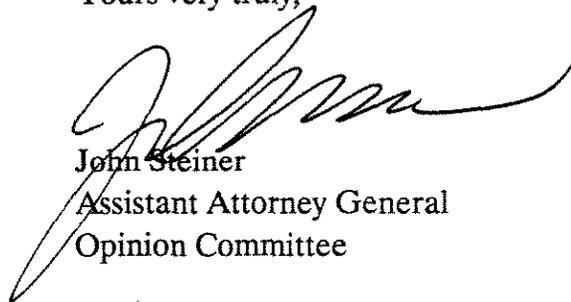
attorneys of the various political subdivisions has determined should be withheld from public inspection.

V.T.C.S. art. 6252-17a, 3(a)(3).

A prior open records decision issued by this office, Open Records Decision No. 551 (1990) addresses the applicability of section 3(a)(3). "For information to be excepted from public disclosure by section 3(a)(3), litigation must be pending or reasonably anticipated and the information must relate to that litigation." *Id.* at 4, citing, *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.). We have determined that there is adequate cause to believe that litigation is pending or reasonably anticipated and that the information relates to that litigation. For this reason you may withhold the requested information. Because we resolve your question under section 3(a)(3), we need not consider the applicability of section 3(a)(1) or 3(a)(8), 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 OR91-351.

Yours very truly,



John Steiner
Assistant Attorney General
Opinion Committee

JS/GK/lb

Ref.: ID# 12957

cc: Debbie Mitchell Price
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