



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

August 30, 1991

Mr. Scott Lyford
Galveston County Legal Department
4127 Shearn Moody Plaza
123 Rosenberg
Galveston, Texas 77550-1454

OR91-392

Dear Mr. Lyford:

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# 12715.

You have received a request for information related to a police department investigation. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), and 3(a)(8) of the Open Records Act.

Section 3(a)(3) excepts from required public disclosure:

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or 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). In order to properly invoke section 3(a)(3), a governmental body must show (1) that litigation is pending or is "reasonably anticipated," and (2) that the information in question relates to that litigation. Open Records Decision No. 551 (1990), *citing Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App. - Houston [1st Dist.] 1984, writ ref'd n.r.e.). Section 3(e) provides, in part, that a governmental body is a party to litigation of a criminal nature for purposes of section 3(a)(3) "until the applicable statute of limitations has expired."

See also Open Records Decision Nos. 478; 469 (1987). There is no limit of time during which felony indictments may be presented for murder and manslaughter. *See* Code Crim. Proc. art. 12.01, § (1). Because you have demonstrated that litigation may be reasonably anticipated and that the requested information relates to that litigation, you may withhold the requested information under section 3(a)(3) of the Open Records Act. Because we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1) and 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 OR91-392.

Very truly yours,



Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/GK/lb

Enclosure: Returned Documents

Ref.: ID# 12715, 12818, 12837

cc: Dave and Susan Meadows
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