



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 8, 1992

Ms. Annette Jones
Police Legal Advisor
City of Waco, Legal Services
P. O. Box 2570
Waco, Texas 76702-2570

OR92-314

Dear Ms. Jones:

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# 15956.

The Waco Police Department (the "department") has received a request for a certain police investigation report involving driving while intoxicated. You have submitted to us for review the requested report and claim that it is excepted from required public disclosure under sections 3(a)(3) and 3(a)(8) of the Open Records Act.

Section 3(a)(3) excepts

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.

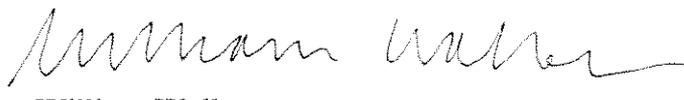
Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). In Open Records Decision No. 597 (1991) (copy enclosed), this office held that section 3(a)(3) cannot be invoked to withhold from disclosure first page offense report information held to be open in *Houston*

Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) from a defendant who has been indicted, because that information has already been made available to the defendant in the course of his charge and indictment.

You advise us that the requestor is currently being prosecuted for driving while intoxicated. We have examined the documents submitted to us for review and conclude that they relate to the pending litigation. Accordingly, unless already released to the requestor through disclosure, court order, or other means, the police report, except for first page offense report information, may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act.

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 OR92-314.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GCK/lmm

Ref.: ID# 15956

Enclosure: Open Records Decision No. 597

cc: Mr. Thomas M. Martin
2425 Parrott, # 201
Waco, Texas 76707