



Office of the Attorney General

State of Texas

September 28, 1992

DAN MORALES
ATTORNEY GENERAL

Honorable John Hannah, Jr.
Secretary of State
P. O. Box 12697
Austin, Texas 78711-2697

OR92-565

Dear Mr. Hannah:

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# 16948.

You have received a request for information relating to certain legal expenses incurred by the Office of the Secretary of State (the "Secretary of State"). Specifically, the requestor seeks "[a]ll inter-office memos relating to the records, bills, payments and supporting documents for legal expenses incurred for the 1992 primaries and the reasons for paying or not paying those expenses" and "any reports, files or memos which summarize the amounts requested by attorneys representing clients" in the election-related lawsuits and "the amounts actually approved by the Secretary of State." You have submitted to us for review the requested intra-agency memorandums (Attachment "C") and the requested attorney fee bills (Attachment "D"). In communications with this office, the requestor has clarified that he does not seek access to the fee bills. Accordingly, we only will consider the availability of Attachment "C" at this time. You claim that this information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(7), and 3(a)(11) of the Open Records Act.

Previous open records decisions issued by this office resolve your request. 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).

You advise us that the Secretary of State is currently a party to pending litigation in two suits instituted pursuant to section 173.086 of the Texas Election Code, *Raimer v. Hannah*, Cause No. 92-066959, (261st Dist. Ct., Travis County) (filed May 15, 1992) and *Jameson v. Hannah*, Cause No. 92-07025 (200th Dist. Ct., Travis County) (filed May 15, 1992). The attorney representing the Secretary of State in these two actions has determined that the requested information relates to the pending litigation. We agree. Accordingly, the requested information may be withheld from required public disclosure 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), 3(a)(7), and 3(a)(11) 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 OR92-565.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/GCK/lmm

Ref.: ID# 16948

cc: Mr. Laylan Copelin
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