



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 30, 1994

Mr. Matthew Masek
Assistant County Attorney
Harris County
1001 Preston, Suite 634
Houston, Texas 77002-1891

OR94-316

Dear Mr. Masek:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26307.

The Harris County Juvenile Probation Department received an open records request for certain information pertaining to escapes from Harris County juvenile detention facilities that you contend may be withheld from the public pursuant to section 552.103(a) of the Government Code. To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990).

You have submitted to this office for review a copy of the Plaintiff's Original Petition in the cause of *Clayborn v. Harris County Juvenile Probation Department*, Cause No. 94-011851, District Court of Harris County, 133rd Judicial District. Our review of the petition, particularly the paragraph in which punitive damages are sought, indicates that the requested information "relates" to the legal issues of this lawsuit. You therefore have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). The requested records may be withheld at this time pursuant to section 552.103(a).¹

¹Because we resolve your request on the basis of section 552.103(a), we need not discuss here the extent to which the requested information comes under the protection of the other exceptions you claim.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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 contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/sbm

Ref.: ID# 26307

Enclosure: Submitted documents

cc: Mr. Matt Schwartz
The Houston Post
P.O. Box 4747
Houston, Texas 77210-4747
(w/o enclosures)