



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 14, 1994

Ms. Helen M. Gros
Senior Assistant City Attorney
Legal Department
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR94-540

Dear Ms. Gros:

You asked 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# 24510.

The City of Houston (the "city") received a request for recorded communications connected with the arrest of an individual, as follows:

These communications include, but are not limited to, conversations between police cars and the dispatcher, and the arresting officer and any other police cars. I am also requesting any recorded communications between the off-duty Denton County Sheriff's Deputy Kenneth A. Myers, and any police department personnel. I am requesting the recorded communications, whether they are by radio, cellular phone, or any other recorded conversations. Additionally, I am requesting copies of any computer tapes and/or printouts that contain communications involving this incident number or the arrest of Mrs. Dahl that were generated by mobile data terminals, vehicle computers, or other computers.

The city has submitted to this office as responsive to the request three tape recordings, which it contends are excepted from disclosure under section 552.103(a). A review of the tape indicates that only part of the recorded information is responsive to the request. This decision considers only the part that is responsive to the request.

The section 552.103(a) exception is applicable when a governmental body can show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. At the time of the request, litigation was pending. However, the city has informed this office that the litigation for which the exception was sought has concluded. Generally, the applicability of 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982) at 3. Therefore, the city must disclose the requested information if it has not already done so.

If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/MJO/rho

Ref.: ID# 24510

Enclosures: Submitted audiotapes

cc: Mr. W.B. McAfee
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(w/o enclosures)