



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 29, 1995

Mr. Miles K. Risley
Assistant City Attorney
Legal Department
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR95-305

Dear Mr. Risley:

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# 32962.

The City of Victoria (the "city") received a request for information relating to certain criminal offense investigations. Although you state that the city has released information expressly made public by *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), you claim that the remaining information is¹ excepted from required public disclosure under 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). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a). See Open Records Decision No. 597 (1991).

¹We note that although the information required to be released under *Houston Chronicle* is generally on the first page of an offense report, its location is not determinative. This information must be released regardless of where it is found. See Open Records Decision No. 127 (1976). A summary of the types of information that are generally public is enclosed.

However, absent special circumstances, once information has been obtained by all parties to the litigation, for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing party in the litigation has 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 have marked some information that has already been disclosed to the opposing party and therefore must be released. If any of the other information has already been seen by the opposing party, it also must be released. The other information at issue may be exempted from disclosure under section 552.103(a). We note 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).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LBC/rho

Ref: ID# 32962

Enclosures: Marked documents
Summary of Open Records Decision No. 127

cc: Ms. Gracie Reyes
607 Fillmore, Apt. Z-1
Victoria, Texas 77901
(w/o enclosures)