



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 6, 1997

Ms. Y. Qiyamah Taylor  
Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR97-0282

Dear Ms. Taylor:

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# 103523.

The City of Houston (the "city") received a request for

any and all information and a copy of the cycle of lights at the intersection of West Sam Houston Parkway Service Road North Bound and Hammerly on October 21, 1995 at 4:45 p.m. The accident resulted in a death of a Client.

The city asserts that all of the requested information is excepted from disclosure pursuant to section 552.103(a) of the Government Code.

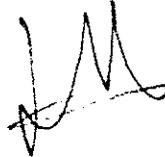
To secure the protection of section 552.103(a), a governmental entity must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. However, the Open Records Act exceptions do not, as a general rule, apply to information made public by other statutes. Open Records Decision No. 525 (1989).

After reviewing the documents and your representation that none of the facts surrounding this claim have changed since the issuance of Open Records Letter No. 96-0371 (1996), we conclude that litigation is reasonably anticipated and that the documents requested are related to the anticipated litigation. Therefore, the city may withhold the

requested documents under section 552.103. Although we do note that if you have not already released the accident report it may be released to the requestor.<sup>1</sup> Additionally, we would note that when the opposing party in the litigation has seen or had access to any of the information in these records, there is no justification for withholding that information from the requestor pursuant to section 552.103(a). Open Records Decision Nos. 349 (1982), 320 (1982). In addition, 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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/rho

Ref.: ID# 103523

Enclosures: Submitted documents

cc: Mr. Ted Doebbler  
405 Main, Suite 601  
Houston, Texas 77002  
(w/o enclosures)

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<sup>1</sup>Access to accident reports is governed by law other than the Open Records Act which is, as amended, section 47(b)(1) of article 6701d, V.T.C.S. Specifically, section 47(b)(1) provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. It appears that in the instant case the requestor has provided that information to you. Section 47(a) states that, except as provided by section 47(b), these accident reports are privileged and for the confidential use of the Department of Public Safety and agencies who use the reports for accident prevention purposes.