



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. HILL**  
ATTORNEY GENERAL

July 23, 1975

The Honorable John C. Ross, Jr.  
City Attorney  
Room 203, City-County Bldg.  
El Paso, Texas 79901

Open Records Decision No. 105

Re: Availability of reports of  
Internal Affairs Division of Police  
Department concerning alleged  
police misconduct.

Dear Mr. Ross:

Pursuant to section 7 of the Open Records Act, article 6252-17a, V. T. C.S., you request our decision as to whether investigation reports prepared by the Internal Affairs Division of the El Paso Police Department concerning specific incidents of alleged police misconduct are excepted from required public disclosure under the Act. You contend that the reports are excepted under one or more of the following exceptions: sections 3(a)(1), 3(a)(2), 3(a)(3), and 3(a)(8).

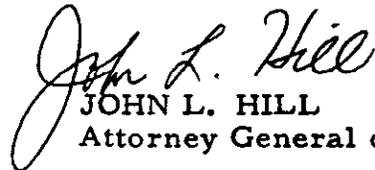
In Open Records Decision No. 71 (1975), we said that information concerning evaluation or investigation of a police employee's qualifications or performance is not required to be disclosed. We said that information concerning suspected offenses gathered in such a case by a police department would be excepted from disclosure either under 3(a)(2) which excepts certain personnel records, or under 3(a)(8), which excepts certain law enforcement records.

In this instance we believe that the exception stated in section 3(a)(3) is most clearly applicable. The request is made by an attorney who states that he represents the complaining parties "in their claims for damages arising out of alleged police malpractice." As the attorney for the city, you have determined that the information requested should be withheld from public inspection under section 3(a)(3), which excepts information relating to litigation to which the city is or may be a party. You clearly have authority under section 3(a)(3) to make a reasonable determination in a case such as this where litigation is pending or reasonably anticipated. Attorney General Opinions H-90 (1973), H-483 (1974). See Open Records Decisions Nos. 27 and 29 (1974).

It is our decision that the requested information in this case is excepted from required public disclosure by section 3(a)(3) of the Open Records Act. The exceptions contained in sections 3(a)(2) and 3(a)(8) also may be applicable, but it is unnecessary to reach that question.

We do not address the availability of the information through judicial process. See Attorney General Opinion H-231 (1974).

Very truly yours,

  
JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant

  
C. ROBERT HEATH, Chairman

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