



THE ATTORNEY GENERAL  
OF TEXAS

MISS MARYLOU  
ATTORNEY GENERAL

February 20, 1990

Mr. Robert E. Diaz  
Assistant City Attorney  
Police Legal Advisor  
City of Arlington  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR90-071

Dear Mr. Diaz:

By letter of November 9, 1989, addressed to Jennifer Riggs, you asked us to reconsider OR89-355. This matter has been referred to me. Your request was assigned ID# 8118.

Informal ruling OR89-355 dealt with a request to the Arlington Police Department for prior employment information from the personnel files of four named police officers and of all other police officers the department has hired since September 1987. It concluded that litigation was reasonably anticipated with respect to Officer Farrell and that portions of his personnel records could be withheld under section 3(a)(3). It found that the information relating to the other named police officers or the police officers hired since September 1987 could not be withheld under section 3(a)(3).

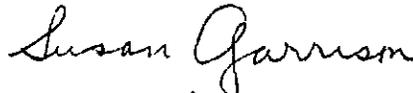
By letter of November 6, 1989, you forwarded pleadings in the following cases: Robinson v. City of Arlington, No. CA 3-89-2707-F (N.D. Tex., Oct. 23, 1989); Dobson v. Farrell, No. 342-123467-89 (Dist. Ct. of Tarrant County, 342d Judicial Dist. of Texas, filed Oct. 1989); Soto v. City of Arlington, No. 88-1337 (Dist. Ct. of Tarrant County, 000 Judicial Dist. of Texas, unfiled). From these pleading we can determine that there is either litigation or a reasonable anticipation of litigation to which the City of Arlington and Officers Farrell, Kunkle, Woods, and Anderson are parties.

The pleadings in Robinson v. City of Arlington allege that the city failed to establish and implement policies, rules, and procedures in selecting, retraining and retaining police officers who would serve arrest warrants and who had

the right to use deadly force. The pleadings in Dobson v. Farrell allege that the City of Arlington failed to exercise due care in the selection of its police officers. A similar issue is raised in the pleadings in Soto v. City of Arlington. The personnel files of the four named police officers and of all other police officers the department has hired since September 1987 are relevant to issues raised in the litigation. See generally Open Records Decisions Nos. 418 (1984); 135 (1976). Accordingly, the requested information is excepted from public disclosure by section 3(a)(3) of the Texas Open Records Act.

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 refer to OR90-071.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee

SG/le

Ref.: ID# 8118, 8050, 4648

Enclosure: Open Records Decision Nos. 418, 135

cc: Eddie Vela  
Dallas Morning News  
2201 North Collins  
Arlington, Texas 76001