



THE ATTORNEY GENERAL
OF TEXAS

JIM MATTON
ATTORNEY GENERAL

September 18, 1990

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

OR90-446

Dear Mr. Diaz:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9899.

The Arlington Police Department received an open records request for, inter alia, certain records pertaining to sworn complaints filed against a particular police officer, the past employment history of the officer, and all of the officer's character references. You contend that the requested information comes under the protection of sections 3(a)(3) and 3(a)(8) of the Open Records Act.

We initially note that the records at issue do not pertain to any pending criminal investigation. Because the release of this information would not "unduly interfere with law enforcement," see Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977), section 3(a)(8) does not protect this information.

You contend that section 3(a)(3) of the act protects the records at issue because they relate to pending criminal litigation in that the police officer who is the subject of these records is the complainant in pending criminal charges of aggravated assault on a peace officer. See Penal Code § 22.02(a)(2). In order for the city to withhold these documents pursuant to section 3(a)(3), this office must first receive notice from the district attorney or assistant district attorney who is prosecuting the assault charge that the requested records relate to the pending litigation and that they should be released only during criminal discovery. Absent such notice, the city must release the requested documents at this time in their entirety, except for portions of the documents that we have marked that come under

the protection of common-law privacy. See V.T.C.S. art. 6252-17a, § 3(a)(1).

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 OR90-446.

Yours very truly,



Jim Moellinger
Assistant Attorney General
Opinion Committee

JM/RWP/le

Ref.: ID# 9899
ID# 9907
ID# 10329
ID# 10422

Enclosures: Open Records Decision No. 551
Marked documents

cc: Paul C. Velte IV
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