



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 25, 1991

Mr. John Schneider  
Assistant City Attorney  
City of Pasadena  
P.O. Box 672  
Pasadena, Texas 77501

OR91-521

Dear Mr. Schneider:

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# 13848.

The City of Pasadena has received a request for the personnel file of a certain police officer, including all disciplinary records, commendations, and any reports that detail the officer's use of his firearm. You claim that the requested information is exempted from required public disclosure by sections 3(a)(1), 3(a)(2), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

We have considered the exceptions you claim. Previous open records decisions issued by this office resolve your request. Open Records Decision No. 555 (1990) held that a section 3(a)(3) exception is applicable when litigation involving a governmental body is pending or may be reasonably anticipated and when the requested information is related to that litigation. Section 3(a)(3) compels parties to a lawsuit to obtain relevant information through the normal process of discovery. Open Records Decision No. 551 (1990) at 4. Moreover, the litigation exception may be applied to a contested case before an administrative agency. Open Records Decision No. 368 (1983).

You advise us that the requested information relates to an investigation of a police officer which "is almost certainly to be presented to a Grand Jury" and that "it is the policy of the District Attorney's office to present all shootings involving law

enforcement officers to the Grand Jury for review." You further advise us of the "possibility of administrative disciplinary action on the part of the Pasadena Police Department" which would place the city and department in adversarial administrative proceedings. We conclude that litigation may be reasonably anticipated. Having examined the information submitted to us for review, we further conclude that the information relates to that litigation and, unless previously disclosed through the discovery process or by court order, may be withheld from required public disclosure under section 3(a)(3). Please note that this ruling applies only for the duration of the litigation and only for the information at issue here. See Open Records Decision No. 551 at 5. Because we resolve this request under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 3(a)(2), 3(a)(8), and 3(a)(11) at this time.

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 OR91-521.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/GK/lcd

Ref.: ID# 13848

cc: Mr. David E. Benson  
Reporter  
The Daily Pasadena Citizen  
P. O. Box 6192  
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