



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 11, 1992

Ms. Annette Jones
Police Legal Advisor
City of Waco
P. O. Box 2570
Waco, Texas 76702-2570

OR92-220

Dear Ms. Jones:

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# 15750.

You have received a request for copies of the personnel records of three City of Waco (the "city") police officers. Specifically, the requestor seeks "copies of all personnel records, including, but not limited to training and seminars, commendations, awards, complaints, reprimands and/or disciplinary actions regarding three Waco Police Officers." You claim that the requested information relates to anticipated litigation and is therefore excepted from required public disclosure by section 3(a)(3) of the Open Records Act. You also claim that the requested information is excepted from disclosure by section 3(a)(1) and that some of it is excepted from disclosure by section 3(a)(2).

Previous open records decisions issued by this office resolve your request. Section 3(a)(3) excepts

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various

political subdivisions has determined should be withheld from public inspection.

Section 3(a)(3) applies only when litigation in a specific matter is pending or reasonably anticipated and only to information clearly relevant to that litigation. Open Records Decision No. 551 (1990). Whether litigation is reasonably anticipated must be determined on a case-by-case basis. Open Records Decision No. 452 (1986) at 4.

The city has received notice of a claim against the city for damages arising out of an incident allegedly resulting from "the negligence of your police officers on or about August 24, 1991, at 'Puff's Under \$12.00 Zoo'." You have submitted the notice of claim for our review. You advise us that the three requested personnel files are those of three police officers who were involved in the incident at "Puff's Under \$12.00 Zoo" on August 24, 1991. On the basis of this notice of claim, we conclude that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we further conclude that the requested information relates to the anticipated litigation and may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only until the resolution of the matter and to the documents at issue here. As we resolve this matter under section 3(a)(3), we need not address the applicability of sections 3(a)(1) and 3(a)(2) 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 OR92-220.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

WW/GK/mc

Ms. Annette Jones - Page 3 (OR92-220)

Ref.: ID# 15750

cc: Mr. Douglas Weitzel
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