



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 8, 1992

Mr. Terrence S. Welch
Vial, Hamilton, Koch & Knox
1717 Main Street, Suite 4400
Dallas, Texas 75201

OR92-465

Dear Mr. Welch:

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# 16554.

The Town of Buckingham (the "town"), which you represent, has received two requests for information relating to the termination of the entire town police department on June 11, 1992. Specifically, the requestors seek the investigative report resulting from an evaluation of the town police department by an outside firm. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(7), 3(a)(8), and 3(a)(11) of the Open Records Act.

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.

You have submitted to us for review several letters from terminated members of the town police department or their attorneys. One terminated police department employee states that he "will seek whatever avenues necessary in obtaining a just and amicable settlement in this matter." You also advise us that the town has received several verbal threats of litigation. On the basis of the letters and threats, we conclude that litigation may be reasonably anticipated. Having examined the documents submitted to us for review, we also accept your assertion that the requested report relates to the anticipated litigation. Accordingly, the requested information may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. Please note that this ruling applies only for the duration of the litigation and to the documents at issue here. As we resolve this matter under section 3(a)(3) of the Open Records Act, we need not address the applicability of sections 3(a)(1), 3(a)(7), 3(a)(8), or 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 OR92-465.

Yours very truly,



Kimberly K. Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GCK/lmm

Ref.: ID# 16554

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