



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 28, 1992

Ms. Marianne Landers Banks  
City Attorney  
City of Georgetown  
P. O. Box 409  
Georgetown, Texas 78627-0409

OR92-699

Dear Ms. Banks:

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# 17872.

You have received a request for information relating to internal affairs investigations involving two employees of the City of Georgetown (the "city"). Specifically, the requestor seeks:

All information . . . concerning internal affairs investigations of Georgetown Police Department employees Ed Anderson and Diana Fox.

You have submitted to us for review representative samples of the requested information. You claim that the requested information is excepted from required public disclosure by sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(11) of the Open Records Act.

In Open Records Letter OR92-130 (1992) (copy enclosed), this office addressed a request involving some of the information at issue here. In that ruling we addressed the availability of "[r]eports or files of internal affairs investigations involving complaints of harassment against Sgt. Ed Anderson, including . . . complaint statements, witness statements, memos, other affidavits in the file, names of investigating officers and the final disposition(s)." This office determined that the section 3(a)(3) exception applied to all of the requested information on the basis of claims filed against the city pursuant to article 5221k, V.T.C.S., Title VII of the federal Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and section 106.001 of the Civil Practices and Remedies Code. This office held that the ruling applied only until the litigation had been resolved. You advise us that litigation in this matter has not been resolved. Accordingly, you may continue to withhold the requested information in accordance with our ruling in Open Records Letter OR92-130 until such time that the litigation has been resolved, but only to the extent that such information was addressed in Open Records Letter OR92-130. Thus, only information

relating to internal affairs investigations of police officer Ed Anderson may be withheld under Open Records Letter OR92-130.

Because the requestor seeks information not addressed in Open Records Letter OR92-130--namely, internal affairs investigations of police officer Diana Fox--we need address whether this additional information is protected by any of the exceptions asserted under section 3(a) of the Open Records Act. You claim that this additional information is exempted from required public disclosure by section 3(a)(3) of the Open Records Act. Section 3(a)(3) excepts:

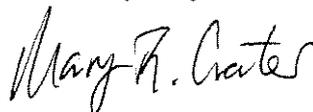
information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, 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).

You advise us that the city is currently party to litigation in district court, *Fox v. City of Georgetown*, No. 92-309-C277 (Dist. Ct. of Williamson County, 277th Judicial Dist. of Texas, filed Oct. 14, 1992). Accordingly, we conclude that litigation is pending. Furthermore, we accept your determination that information relating to internal affairs investigations of police officer Diana Fox relates to the pending litigation. Accordingly, we conclude that information relating to internal affairs investigations of police officer Diana Fox may be withheld from required public disclosure under section 3(a)(3) of the Open Records Act. This ruling applies only to the documents at issue here and only until the resolution of the litigation. As we resolve this matter under a prior ruling of this office and under section 3(a)(3), we need not address the applicability of sections 3(a)(1), 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 OR92-699.

Yours very truly,



Mary R. Crouter  
Assistant Attorney General  
Opinion Committee

MRC/GCK/lmm

Enclosure: Open Records Letter OR92-130

Ref.: ID# 17872  
ID# 17898  
ID# 18120

cc: Mr. Greg Weiner  
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