



Office of the Attorney General
State of Texas

June 29, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Mark E. Dempsey
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR93-379

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), article 6252-17a, V.T.C.S. Your request was assigned ID# 19965.

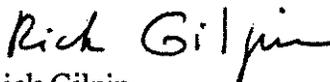
The City of Garland (the "city") has received several requests for information relating to two city police officers. Generally, the requestor seeks, *inter alia*, information verifying the certification of the two police officers, certain city ordinances and rules, photographs of the police officers, complaints made against the police officers, and certain witness statements and videotapes. You advise us that some of the requested information has been or will be released to the requestor, including information verifying that the two police officers were licensed by the Texas Commission on Law Enforcement Standards and Education, police officer job descriptions, and the city police department's general orders. You object, however, to release of the remaining information, which you claim is protected by sections 3(a)(1), 3(a)(3), 3(a)(8), and 3(a)(17) of the act.

You contend that the information at issue here is protected from required public disclosure by section 3(a)(3) of the act. To secure the protection of section 3(a)(3), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the information relates to pending litigation for purposes of section 3(a)(3); the requested records may therefore be withheld. In reaching this conclusion, however, we assume that the opposing party to the pending litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the pending litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 3(a)(3). We also note that the applicability of section 3(a)(3) ends

once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

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 contact this office.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Opinion Committee

RG/GCK/jmn

Ref.: ID# 19965
ID# 20322
ID# 20323
ID# 20324

cc: Mr. Barry K. Odell
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