



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 23, 1992

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

OR92-425

Dear Ms. Jones:

The City of Waco asks whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 16453.

Ms. Veta M. Cale has filed an administrative claim against the city for personal injuries and property damages allegedly caused by her collision with a city owned garbage dumpster. Counsel for Ms. Veta M. Cale has requested that the city furnish certain documents relating to this accident. The city already has furnished Ms. Cale with a copy of the motor vehicle accident report, and thus this document is not at issue. The city has furnished certain other documents for our review. The City claims that these documents are excepted by Open Records Act sections 3(a)(3), 3(a)(7), and 3(a)(11).

Open Records Act section 3(a)(3) excepts from required public disclosure

information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or a political subdivision 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.

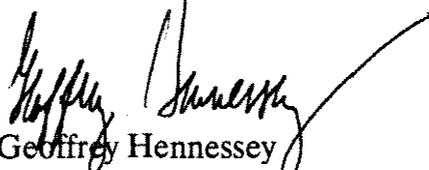
Section 3(a)(3) is intended to allow a government agency to protect its position in litigation by forcing parties seeking information relating to that litigation to obtain it through discovery, if at all. Open Records Decision No. 551 (1990). For information to be excepted from public disclosure by section 3(a)(3), litigation must

be pending or reasonably anticipated and the information must relate to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.).

The notice of claim filed by Ms. Cale with the city sufficiently demonstrates that litigation may be reasonably anticipated. We have reviewed the documents submitted for our review and have concluded that the requested information and the responsive documents relate to the anticipated litigation. Therefore, the requested documents may be withheld pursuant to section 3(a)(3). Please note that this ruling applies only until the resolution of the matter and to the documents at issue here. Because we resolve this matter under section 3(a)(3), we do not address your claim that the documents are also excepted under sections 3(a)(7) and 3(a)(11).

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 OR92-425.

Very truly yours,


Geoffrey Hennessey
Assistant Attorney General
Opinion Committee

GH/lmm

Ref.: ID# 16453

cc: Mr. Charles W. McDonald
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