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OFFICE OF CITY ATTORNEY

December 21, 1990

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DEC 27 90

Opinion Committee

Honorable Jim Mattox
Attorney General of Texas
Supreme Court Building
P. O. Box 12548
Capitol Station
Austin, Texas 78711-2548

Re: Request for Open Records Decision

Dear Attorney General Mattox:

On December 13, 1989, Irving paramedics were called to Pioneer Medical Center. Upon arrival they found Mr. Tae Kor Chang, unconscious, receiving CPR from a clinic doctor. An oral endotracheal tube was placed in Mr. Chang, who was transported to Irving Community Hospital. Mr. Chang died December 17, 1989.

The City of Irving has received a demand letter from Andrea R. Cassem, an attorney hired by Mr. Chang's family. She has demanded that the City of Irving settle this claim for the full amount available under the Tort Claims Act or litigation will ensue. The letter, received December 14, 1990, is attached.

In addition, Ms. Cassem's letter requests the City of Irving to "Please expeditiously tender any and all medical records in the care, custody or control of the City of Irving Emergency Medical Service and/or its record-keeping department concerning Tae Kor ("T.K.") Chang within ten (10) days after receipt of this letter, as provided by law under § 4.01(d) of Texas Revised Statutes Article 4590i, ...".

It is the City of Irving's position Section 4.01(d) of Texas Revised Statutes Article 4590i does not apply to us; however, that is not our question to you. In case this letter could be construed as an Open Records

request, we are asking for an opinion in regard that Section 3(a)(3) of Article 6252-17a specifically exempts this information from classification as public information. Section 3(a)(3) provides:

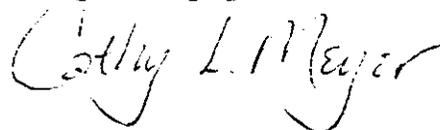
(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

It is our opinion that the demand letter containing this request for information is clearly stating an intention to file a lawsuit, thus litigation is reasonably anticipated. As the facts in this case are almost identical to those in OR 88-165 (copy enclosed), we would ask that you make the same finding in this case. The City of Irving respectfully requests a decision from the Attorney General to determine whether the information is within the Section 3(a)(3) exception.

A copy of the information requested is enclosed. The enclosures are identified as follows:

1. Letter of request from Andrea R. Cassem.
2. Patient form.
3. OR 88-165.

Very truly yours,



Cathy L. Meyer
Assistant City Attorney

CLM:pg

Enclosures