



# The Attorney General of Texas

June 18, 1981

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Mr. Kyle S. Morrison  
Assistant City Attorney  
City of Wichita Falls  
Wichita Falls, Texas 76307

Open Records Decision No. 274

Re: Whether summons and complaints issued by police department to persons violating traffic regulations are open to the public

Dear Mr. Morrison:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether traffic summons and complaints issued by the Police Department of the city of Wichita Falls are available to the public.

Traffic offenses occurring within the city of Wichita Falls are within the jurisdiction of that city's municipal courts established by article 1200aa, V.T.C.S. That statute provides that:

[a]ll proceedings in municipal courts shall be commenced upon original complaint approved for filing by the city attorney of the city, his assistant or deputy, and filed with the court clerk, provided, however, that parking tickets, including red meter tickets, need not be signed by the city attorney, his assistant or deputy, unless a complaint is tried in court. All such complaints shall be prepared under the direction of the city attorney, his assistant or deputy.

Section 5. Since The Open Records Act is not applicable to the judiciary, see section 2(l)(G), it is clear that the information requested here is not available under that statute. As this office has said:

[t]he Open Records Act neither authorizes information held by the judiciary to be withheld nor requires it to be disclosed.

Open Records Decision No. 25 (1974).

It was held in Open Records Decision No. 25, however, that article 2383, V.T.C.S., applicable to justice courts, when considered together with the common law right of inspection of public records, permits a member of the public "to see the formal complaint papers filed against an individual with" a justice of the peace. In our opinion, the present inquiry presents a similar question.

The clerk of the Wichita Falls municipal courts is directed:

to keep the records of proceedings of the court and to issue all processes and generally to do and to perform the duties now prescribed by law for clerks of county court at law exercising criminal jurisdiction insofar as the same may be applicable.

V.T.C.S. art. 1200aa, §7. In turn, article 1945, V.T.C.S., prescribes certain duties of a county clerk:

The clerk shall keep such other dockets, books and indexes as may be required by law; and all books, records and filed papers belonging to the office of county clerks shall at all reasonable times be open to the inspection and examination of any citizen, who shall have the right to make copies of the same.

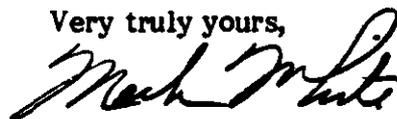
Although article 1945 was repealed by article 1941(a), V.T.C.S., the statute which provides for the microfilming of county clerk records, the repeal was effective "to the extent of conflict only." Acts 1971, 62d Leg., ch 886, at 2716. There is no conflict between the inspection requirement of article 1945 and any provision of article 1941(a). Indeed, section 5(i) strongly suggests that article 1941(a) contemplates public inspection of county clerk records:

Suitable means shall be furnished for the public to quickly and easily locate and project onto a viewing screen or viewing glass the complete image of a desired record. Such projected image shall be as large as, or larger than, the instrument of writing, legal document, paper or record of which it is an image.

Acts 1971, 62d Leg., ch. 886, §5(i), at 2720.

We conclude that the portion of article 1945 which permits the inspection of books, records and filed papers in the office of a county clerk remains in effect and that, by virtue of section 7 of article 1200aa, these provisions are applicable to the clerk of the municipal courts of the city of Wichita Falls. As a result, complaints issued by the city of Wichita Falls Police Department and filed with the clerk of the municipal courts should be made available to the public.

Very truly yours,



MARK WHITE  
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**Mr. Kyle S. Morrison - Page Three**

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