



The Attorney General of Texas

December 21, 1982

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Mr. Joel V. Roberts
Odessa City Attorney
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Open Records Decision No. 334

Re: Memoranda relating to
absence of Odessa police
officers from municipal court
proceedings

Dear Mr. Roberts:

You have asked for a decision under the Open Records Act, article 6252-17a, V.T.C.S. The relevant facts are as follows.

On July 15, 1982, a local newspaper asked the city of Odessa to release "any information the City may have relating to the absence of Odessa police officers from any trials or other proceedings involving their presence in Municipal Court." Specifically, the newspaper requested all notes, reports, or city memoranda written by the office of the city attorney, the city manager, the municipal court, the police department, or any other applicable agency.

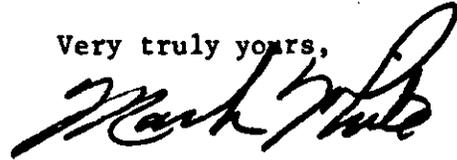
On July 21, the city sent the following documents to the newspaper's managing editor: a report containing data on the appearance of police officers in the municipal court; three memoranda describing approved policies and procedures for resolving the problem; and a letter restating a telephone interview given to a newspaper reporter. The city declined, however, to provide two memoranda prepared by the municipal court clerk and sent to the acting city manager and to the police chief. You contend that these memoranda are excepted from required disclosure under section 3(a)(11) of the Open Records Act, which excepts "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency."

This office has held on numerous occasions that section 3(a)(11) only permits the withholding of advice, opinions and recommendations contained in inter-agency or intra-agency memoranda. Open Records Decision Nos. 315, 308 (1982); 273 (1981). This position was recently affirmed in Austin v. City of San Antonio, 630 S.W.2d 391, 394 (Tex. App. - San Antonio 1982, writ ref'd n.r.e.), where the court, citing Open Records Decision No. 222 (1979), stated:

The exception contained in section 3(a)(11) is intended to protect from public disclosure advice and opinions on policy matters and to encourage frank and open discussion within the agency in connection with its decision-making processes.

We have carefully examined the two memoranda in question. Certain portions of both memoranda may be characterized as advice, opinion and recommendation, but some portions may not. We have marked those portions which fit in this category and may therefore be withheld. The remainder of the two memoranda should be released.

Very truly yours,



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