



# The Attorney General of Texas

December 31, 1982

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Honorable Lee E. Holt  
Dallas City Attorney  
City Hall  
Dallas, Texas 75201

Open Records Decision No. 354

Re: Whether information concerning a police officer and an arrest made by him are available to a third party under the Open Records Act

Dear Mr. Holt:

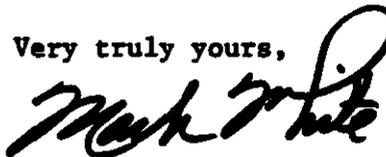
You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to the availability of information relating to an investigation into police conduct during an arrest. The records being sought include the periodic evaluation reports of one of the officers involved, as well as the report of an internal investigation conducted by the Dallas Police Department to determine the circumstances of the arrest of the complaining individual.

The periodic evaluation reports at issue here consist exclusively of the kind of "advice, opinion and recommendations" which we have long held to be clearly excepted under section 3(a)(11) of the Open Records Act. Open Records Decision Nos. 273 (1981); 239 (1980). In addition, some portions of the internal investigative report into the alleged police misconduct contain the advice, opinions and recommendations of the investigator, and thus, are also excepted from disclosure by section 3(a)(11).

Most of the remainder of the investigative report, and the attachments thereto, consists of the kind of law enforcement records considered by the court in Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. - Houston [14th Dist.] 1975), writ ref'd n.r.e., 536 S.W.2d 559 (Tex. 1976), and in Open Records Decision No. 127 (1976). The arrestee's criminal history and arrest record and the identification of statements by witnesses are excepted from disclosure by section 3(a)(8). The two officers' narrative versions of the incident do, however, constitute public information. Cf. Open Record Decision No. 251 (1980) (records prepared in contemplation of civil litigation). On the basis of the standards set forth in Open Records Decision No. 127, you should delete those portions of the record which are excepted by sections 3(a)(11) and 3(a)(8) and furnish the remainder to the requestor.

We note that the Police Department's final action on the complaint is subject to disclosure under section 6(12) of the Act. Open Records Decision No. 106 (1975).

Very truly yours,



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APPROVED:  
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