THE ATTORNEY GENERAL
OF TEXAS

JIM MATTOX
ATTORNEY GENERAL

May 1, 1990

Mr. Joel V. Roberts
City Attorney
City of Odessa
P.O. Box 4398
Odessa, Texas 79760-4398

OR90-166

Dear Mr. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 9089.

The City of Odessa received a request for information concerning the unauthorized appropriation of city funds by a former city employee. You submitted to this office for review the following documents: a memo dated August 18, 1986, concerning funds missing from a petty cash drawer; a statement narrating the facts of the incident and actions taken by the city purchasing agent's office; several petty cash vouchers, two of which contain sworn statements by the alleged recipients of the disbursed funds to the effect that their signatures are forged and that they do not have any petty cash in their possession; a cash audit performed by the auditor with notes and a list of questions asked during the audit. You state that these documents are kept in the personnel file of the employee in question and should be accorded privacy protection, that the identities of the persons making the signed statements are entitled to the protection of the informer's privilege, and that the statements are intra-agency memoranda. You claim that the documents are protected from required public disclosure under sections 3(a)(1), 3(a)(2), and 3(a)(11) of the Open Records Act.

Section 3(a)(1) includes the informer's privilege, which protects the identities of persons who report

violations of law. See Open Records Decision 515 (1988). As the statements you submitted are not reports of violations of law, they are not protected by the informer's privilege aspect of section 3(a)(1).

Section 3(a)(2) excepts

> information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This office has held that section 3(a)(2) may be invoked only when information reveals "intimate details of a highly personal nature." See Open Records Decision No. 397 (1983). None of the information you have submitted comports with this standard, and it is therefore not protected from disclosure under section 3(a)(2). We have previously held that the circumstances surrounding the resignation of a public employee and related information is not protected by section 3(a)(2). See Open Records Decision Nos. 269 (1981); 230 (1979).

Section 3(a)(11) of the act excepts inter-agency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's deliberative process. Open Records Decision Nos. 464 (1987); 239 (1980). The information you submitted, specifically the memoranda, consists of a factual narrative of events involving the forgery of names and the unauthorized taking of petty cash. None of the documents you submitted to this office contain advice, opinion, or recommendation. They are not excepted from disclosure under section 3(a)(11). We have previously held that an audit report is not excepted from disclosure under section 3(a)(11). See Open records Decision No. 160 (1977). Also, section 6(1) specifically makes public "reports, audits, evaluations, and investigations made of, for, or by, governmental bodies upon completion."

We have considered the exceptions you claimed, specifically sections 3(a)(1), 3(a)(2), and 3(a)(11), and have reviewed the documents at issue. Previous determinations of this office, cited above and enclosed with this decision, resolve your request. For this reason, you must release the requested information.

Because 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 OR90-166.

Yours very truly,

David Newton

David A. Newton
Assistant Attorney General
Opinion Committee

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Ref.: ID# 9089

Enclosures: ORD Nos. 160, 230, 239, 269, 464, 515

cc: Oscar A. Campos
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