



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1996

The Honorable Tim Cone
Criminal District Attorney
Upshur County Justice Center
405 North Titus Street
Gilmer, Texas 75644

Letter Opinion No. 96-111

Re: Whether a commissioners court may
decline to permit a particular individual to
speak at a public meeting (ID# 38709)

Dear Mr. Cone:

You ask whether a commissioners court may refuse to hear a person who wishes to complain at a meeting of the court about the lack of maintenance of a county road.

As you suggest in your brief, we think that the commissioners court has broad discretion in exercising its statutory powers under the Local Government Code, and may limit the number of persons who may speak on a topic and the length and frequency of their presentations. However, it must act reasonably and may not discriminate on the basis of the particular views expressed, nor arbitrarily deny citizens their right to apply to the government for redress of grievances by "petition, address or remonstrance," as guaranteed by article I, section 27 of the Texas Constitution. It must also comply with the Open Meetings Act, chapter 551 of the Government Code, which requires among other things, that "[e]very regular, special, or called meeting of a governmental body shall be open to the public" Gov't Code § 551.002.

The commissioners court as a whole has the authority to determine its own agenda. Attorney General Opinions DM-228 (1993) at 2-3, JM-63 (1983) at 1. The court may adopt reasonable rules consistent with relevant provisions of law--including, among other things, the Open Meetings Act--to govern the conduct of its meetings. Attorney General Opinion DM-228 (1993) at 3. The court may limit the number, frequency, and length of presentations to it. Attorney General Opinion H-188 (1973) at 2. We note that, as Attorney General Opinion H-188 points out, the Open Meetings Act does not of itself give citizens the right to participate in a public meeting, but only the right to observe it. However, if the commissioners has adopted a policy of opening the floor to citizen comment, Attorney General Opinion H-188 counsels that such a policy must be administered in an even-handed fashion, and that the commissioners may not discriminate against a particular point of view. Such limits as the commissioners court adopts must not be arbitrary or unreasonable, and must not unfairly discriminate among views seeking expression. *Id.*

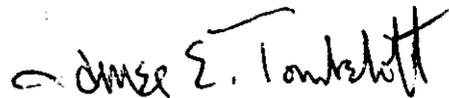
We cannot speak to the question of any particular exercise of the court's power, since that would require factual determinations we cannot make in the opinion process.

However, we agree with your conclusion that the court "may set some degree of limits on the number of persons who speak on a particular subject and how often they speak on a particular subject but probably not limit the specific subject matter as it relates to any constitutionally guaranteed right of freedom of speech." Such a limitation would likely violate the right of petition and remonstrance; were that the case, the action would be arbitrary and unreasonable, and therefore an abuse of discretion.

S U M M A R Y

A commissioners court may set reasonable limits on the number, frequency, and length of presentations before it, but may not unreasonably discriminate in deciding what matters to consider, or what speakers to hear.

Yours very truly,



James E. Tourtelott
Assistant Attorney General
Opinion Committee