



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1996

Mr. Burk Roberts
Attorney for City of Harker Heights
Roberts & Roberts, L.L.P.
P.O. Box P
Killeen, Texas 76540

OR96-0150

Dear Mr. Roberts:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31100.

The City of Harker Heights (the "city"), which you represent, received an open records request for records pertaining to any disciplinary actions taken and complaints filed against the city's chief of police. You have submitted to this office as responsive to the request two memoranda that you seek to withhold from public disclosure pursuant to section 552.111 of the Government Code. Each of the memoranda in question is addressed to the chief of police. The first was written by the former city manager. The second was written by his successor, an interim city manager.

Section 552.111 of the Government Code excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the governmental entity's policymaking process. *Open Records Decision No. 615 (1993)*. The purpose of this section is "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." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In *Open Records Decision No. 615 (1993)* at 5, this office concluded that:

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An

agency's policymaking functions do not encompass routine internal administrative and personnel matters

We do not believe the information contained in the memoranda relates to the city's policymaking functions. These two documents in effect merely reflect the city managers' evaluations of the police chief's job performance. *Compare* Open Records Decision No. 615 (1993) (criteria used to evaluate individual professors not protected under § 552.111) *with* Open Records Decision No. 631 (1995) (report on university's affirmative action policy protected under § 552.111). Furthermore, these critiques of the chief of police do not appear to have been intended to play a role in the city's deliberative process in formulating public policy, but rather to improve the police chief's job performance and to correct "internal administrative and personnel" problems. Consequently, section 552.111 is inapplicable here. Because you have not argued or demonstrated that any other of the Open Records Act's exceptions apply to these records, the city must release the requested information in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hamilton Guajardo
Assistant Attorney General
Open Records Division

KHG/RWP/ch

Ref.: ID# 31100

Enclosures: Submitted documents

cc: Ms. Laretta Lewis Matthews
217 West Bobwhite
Harker Heights, Texas 76543
(w/o enclosures)