



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 17, 1996

Honorable Jeff Norwood
Midland County Judge
200 West Wall, Suite 006
Midland, Texas 79701

OR96-1165

Dear Judge Norwood:

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# 100302.

The Midland County Commissioner's Court (the "county") received an open records request for various documents pertaining to a salary and personnel survey conducted for the county by an outside consulting firm. You state that the county has released to the requestor all of the requested documents except for a draft of a report prepared by the consulting firm. You contend that portions of the draft report that outline proposed salary changes and pay group classifications for what appears to be each of the county's employees may be excepted from required public disclosure pursuant to section 552.111 of the Government Code.

In Open Records Decision 559 (1990), this office concluded that a preliminary draft of a document that is intended for public release in a final form necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document and as such could be withheld pursuant to the statutory predecessor to section 552.111. However, subsequent to issuance of Open Records Decision No. 559 (1990), this office determined that section 552.111 excepts only advice, opinion, or recommendation intended for use in a governmental entity's policymaking processes.

[T]o 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 [Emphasis in original.]

Open Records Decision No. 615 (1993) at 5. Consequently, in the wake of Open Records Decision No. 615 (1993), section 552.111 now excepts draft documents only to the extent that the draft documents pertain to the policymaking function of the governmental body.

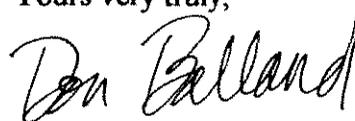
You explain in this instance that the requested report is only a draft and is subject to change before release. You contend that this proposed salary and pay group information contained within the draft comes under the protection of section 552.111 because the information

deal[s] with major policy decisions the Commissioner's Court will be making in the near future. The proposed grouping of employees and the level of compensation for various pay groups is an administrative and personnel matter of broad scope that will have tremendous impact on county policy for years to come.

In Open Records Decision No. 631 (1995), this office concluded that the policymaking functions of a governmental body include an outside consultant's advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect the governmental body's policy mission. Section 552.111, however, does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 (1993) at 4-5. We conclude that you have established the applicability of section 552.111 here. The county may, therefore, withhold the highlighted portions of the draft report.

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,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 100302

Enclosures: Submitted documents

cc: Mr. Bill Anderson
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(w/o enclosures)