



Office of the Attorney General

State of Texas

August 24, 1998

DAN MORALES
ATTORNEY GENERAL

Mr. John Adamo
Human Resources Attorney
Texas Department of Protective and Regulatory Services
8100 Cameron Road, Suite 150
Austin, Texas 78758-3814

OR98-2008

Dear Mr. Adamo:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117543.

The Texas Department of Protective and Regulatory Services (the "department") received a request for "[t]wo letters dated 4/10/98 from Joanne Edge to Bill Nutt and Wayne Hairgrove regarding outcome of OCRI investigation involving Supervisor Jan Witkowski and Investigator James Parnell." You assert that the requested information is excepted from required public disclosure based on sections 552.101 and 552.111 of the Government Code.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, including information made confidential by judicial decision. This exception applies to information made confidential by the common-law right to privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information may be withheld under section 552.101 in conjunction with the common-law right to privacy if the information contains highly intimate or embarrassing facts about a person's private affairs such that its release would be highly objectionable to a reasonable person and if the information is of no legitimate concern to the public. *See id.* We have reviewed the information and conclude that it is not protected from disclosure based on the common-law right to privacy.

Section 552.111 of the Government Code excepts from required public disclosure:

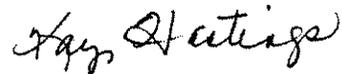
An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993). An agency's policymaking function, however, do not encompass internal administrative or personnel matters; disclosure of information relating to such matters will not inhibit free discussion among agency personnel as to policy issues. *See id.* at 5-6; *see also* *Garland v. Dallas Morning News*, No. 05-95-01350-CV (Tex. App.—Dallas May 13, 1998, n.w.h.) (citing *Lett v. Klein Indep. Sch. Dist.*, 917 S.W.2d 455, 457 (Tex. App—Houston [14th Dist.] 1996), *writ denied per curiam*, 41. Tex. Sup Ct. J. 575 (1998) (documents relating to problems with specific employee do not relate to the making of new policy but merely implement existing policy).

We believe the memoranda concerns administrative and personnel matters. Thus, section 552.111 is inapplicable. Accordingly, the department must release the requested information to the requestor.

We are resolving this matter with this 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 may 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 Hastings
Assistant Attorney General
Open Records Division

KHH/mjc

Ref.: ID# 117543

Enclosures: Submitted documents

cc: Mr. James Parnell
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Department of Protective and Regulatory Services
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(w/o enclosures)