



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 25, 1998

Mr. James R. Lindley
Attorney at Law
500 North 10th Street
Killeen, Texas 76540-1384

OR98-2306

Dear Mr. Lindley:

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# 118397.

The City of Nolanville (the "city"), which you represent, received a request for a specific investigative report prepared by an outside consultant.¹ You claim that the requested information is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, 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. Open Records Decision No. 615 at 5-6 (1993). The requested information merely involves internal administrative and personnel matters. Thus, the city may not withhold the report based upon section 552.111.

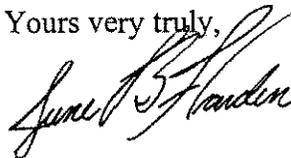
¹We note that a governmental body's duty under section 552.301(a) to request a ruling from the attorney general arises only after it receives a written request. Open Records Decision No. 304 (1982).

We note, however, that some of the requested information may be protected by common law privacy. Section 552.101 encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *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 from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992). We have reviewed the report and have marked the information that is protected by privacy.

Finally, we note that the submitted documents contain references to a peace officer's family members. Section 552.117(2) of the Government Code excepts from public disclosure a peace officer's home address, home telephone number, social security number, and information indicating whether the peace officer has family members. We have marked the information that must be withheld under section 552.117(2). The remaining information must be released.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 118397

Enclosures: Marked documents

cc: Mr. Ray L. Belk
1114 Old Nolanville Road
Nolanville, Texas 76559
(w/o enclosures)