



April 27, 1999

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 77342-4004

OR99-1130

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123634.

The Texas Department of Criminal Justice received a request for all documents “pertaining to the investigation process conducted on Ms. Elizabeth G. Stanbery’s step three grievance submitted September 18, 1998.” You indicate that you will release most of the responsive information. You claim, however, that portions of one document are excepted from required public disclosure by section 552.111 of the Government Code. The document outlines an employee’s grievance proceedings. The inter-office communication contains information about the employee’s job performance and recommendations about the employee’s employment. We have considered the exception you claim and have reviewed the document at issue.

Section 552.111 excepts “an interagency or intra-agency 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*, 842S.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 records relate exclusively to the discipline and employment of an employee, a personnel matter. We do not believe that you may withhold the information pursuant to section 552.111. *Id*; see *Garland v. Dallas Morning News*, 969 S.W.2d 548, 557 (Tex.

App.--Dallas 1998, pet. granted) (*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 specific employee do not relate to the making of new policy but merely implement existing policy). The requested 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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\ef

Ref: ID#123634

encl. Submitted document

cc: Ms. Elizabeth G. Stanbery
1905 Normal Park, Apartment 108
Huntsville, Texas 77340-4948
(w/o enclosures)