



May 18, 2000

Ms. Kristi LaRoe  
Assistant District Attorney  
Tarrant County  
401 W. Belknap  
Fort Worth, Texas 76196-0201

OR2000-1972

Dear Ms. LaRoe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135309.

The Tarrant County Sheriff's Department (the "department"), which you represent, received a written request for, among other things, "any memos, notices or other documents that discuss" the use of forms used by the department when a member of the media requests an interview with the sheriff. You contend that one document, a four-page memorandum dated January 31, 2000, is excepted from disclosure under section 552.111 of the Government Code.<sup>1</sup>

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 entity's policymaking process. Open Records Decision No. 615 at 5 (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.).

The memorandum you submitted to this office does not consist of "advice, opinion, or recommendation" intended for use in the deliberative process. *See Garland v. Dallas Morning News*, 43 Tex. Sup. Ct. J. 303 (Jan. 13, 2000). Rather, after reviewing the memorandum at issue, it is clear to this office that this document is a directive from the sheriff to his staff outlining certain procedures to be followed whenever the sheriff receives a request for an interview. This is not the type of information section 552.111 was intended to protect. Because you have raised no applicable exception for this document, we conclude the requested memorandum must be released to the requestor in its entirety.

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<sup>1</sup>You inform us that the department has released all other responsive information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/RWP/ljp

Ref: ID# 135309

Encl. Submitted documents

cc: Ms. Dianna Hunt  
Dallas Morning News/FW Bureau  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)