



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 26, 1994

Mr. Randy Thomas
Attorney at Law
P.O. Box 934
Stephenville, Texas 76401

OR94-415

Dear Mr. Thomas:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23310.

The Stephenville Police Department (the "department"), which you represent, received an open records request from a rejected job applicant for "any, and all, information concerning my application for employment" with the department. You inform this office that the department has released to the requestor all of the requested information except for two portions of a particular record entitled "Background Investigation." You contend that those two portions come under the protection of former section 3(a)(11) of the Open Records Act, now found at section 552.111 of the Government Code.

Section 552.111 of the 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 (1993) at 5 (copy enclosed). 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.) (emphasis added). In Open Records Decision No. 615 at 5, this office held that:

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

to 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.]

After reviewing the information you seek to withhold, we conclude that this information does not come under the protection of section 552.111. The information contained in the background investigation report does not relate to the policymaking function of the city police department, but rather pertains solely to the routine personnel matter of hiring a new employee and as such does not come under the protection of section 552.111. Accordingly, the department must release the report in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rebecca L. Payne
Section Chief
Open Government Section

RLP/RWP/rho

Ref.: ID# 23310

Enclosures: Open Records Decision No. 615
Submitted documents

cc: Mr. Thomas C. Retzlaff
5433 Loop 205-230
Temple, Texas 76504
(w/o enclosures)