



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 21, 1995

Charles E. Griffith, III  
Deputy City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR95-1569

Dear Mr. Griffith:

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# 24256.

The requestor seeks information regarding the selection of Chief of Police for the City of Austin (the "city"). You have submitted various records for our review and contend that exhibits B and the highlighted portions of Exhibits C and D are protected from disclosure by sections 552.106 and 552.111 of the Government Code.

We first address your section 552.111 claim. 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 (1993) at 5. An agency's policymaking functions, however, do not encompass internal administrative or personnel matters. *Id.*

After reviewing the records at issue, we conclude that some of the information you have marked as coming under the protection of section 552.111 consists of opinions and advice regarding policy matters within the city's police department. On the other hand, other information you have marked pertains solely to personnel matters which fall outside the scope of section 552.111 protection. We have marked in brackets those portions of the records that the city may withhold pursuant to section 552.111.

You also claim that section 552.106 excepts the requested information from required public disclosure because "selection of the Chief of Police requires legislative action." Section 552.106 excepts from disclosure "a draft or a working paper involved in the preparation of proposed legislation." *See also* Open Records Decision No. 460 (1987) (concluding that section 552.106 excepts from disclosure drafts of municipal ordinances). Although section 143.013(a) of the Local Government Code requires that a department head be "appointed by the municipality's chief executive and confirmed by the municipality's governing body," we do not believe that this statutory requirement somehow transforms the requested information into a "draft or working paper involved in the preparation of proposed legislation." You may therefore not withhold the information under section 552.106.<sup>1</sup>

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.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Ref.: ID# 24256

Enclosures: Marked documents

cc: Mr. Wayne A. Vincent  
Austin Police Association  
715 E. 8th Street  
Austin, Texas 78701  
(w/o enclosures)

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<sup>1</sup>The requested records contain the home addresses and telephone numbers of peace officers. You must withhold this information under section 552.117 of the Government Code.