



Office of the Attorney General
State of Texas

July 30, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. Brian K. Bricker
Assistant District Attorney
Brazoria County District Attorney's Office
111 East Locust, Rm. 408A
Angleton, Texas 77515

OR97-1737

Dear Mr. Bricker:

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# 108428.

The Brazoria County District Attorney received an open records request for the following information:

1. The "memo," "writing," "grievance" or "complaint," written on or after May 16, 1997, by [a named individual] - Brazoria County Juvenile Probation Officer to the District Attorney's office (or employees thereof) complaining of various actions of members of the District Attorney's professional staff which allegedly occurred in Judge Germany's courtroom on May 16, 1997.
2. Any memoranda circulated among the District Attorney's staff directing conduct of the District Attorney's professional staff written after May 16, 1997.

You state that the district attorney's office possesses no document responsive to the first item requested; you therefore need not comply with that portion of the request. You have submitted to this office for review a single document responsive to the second requested item, which you contend is excepted from required public disclosure pursuant to section 552.111 of the Government Code.

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. 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. Rather, after reviewing the memorandum at issue, it is clear to this office that this document is a directive from the district attorney to his staff prohibiting certain types of behavior while conducting public business. This is not the type of information section 552.111 was intended to protect.

Because you have raised no applicable exception for the information at issue, we conclude the requested memorandum must be released to the requestor. 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,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RWP/cbh

Ref.: ID# 108428

Enclosure: Submitted document

cc: Mr. Benjamin H. Best, II
P.O. Box 1168
Pearland, Texas 77588-1168
(w/o enclosures)