



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 15, 1997

Mr. Charles Breaux, Jr.
Legal Administrative Assistant
to the Sheriff
Jefferson County Sheriff's Office
P.O. Box 2950
Beaumont, Texas 77704

OR97-1829

Dear Mr. Breaux:

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# 107820.

The Jefferson County Sheriff's Office (the "Sheriff") received a request for "any and all records regarding work details or jobs undertaken by Mr. Zenon..." and for "[a]ny and all records that reflect the physical condition of Willie Zenon..." while incarcerated. You assert that the information is excepted from disclosure pursuant to sections 552.101 and 552.111 of the Government Code. We have considered your arguments and have reviewed the information submitted.¹

Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision and incorporates the doctrine of common-law privacy. For information to be protected from public disclosure under the common-law right of privacy, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). Information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of

¹We note the requestor also asked for copies of the inmate's medical records in addition to records reflecting the inmate's physical condition. As you have submitted for our review only the records related to trusty work assignments and limit your request to these records, we accordingly limit this ruling to the submitted records, and assume either that no such records exist, or that you have released to the requestor the records related to the inmate's physical condition pursuant to the confidentiality and release provisions of the Medical Practice Act, article 4495b, §5.08(b) of Vernon's Texas Civil Statutes.

ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1. Upon review of the information submitted, we conclude it is not highly intimate and embarrassing and therefore it may not be withheld from disclosure pursuant to section 552.101 in conjunction with a common-law right to privacy.

You also argue that the information is excepted under section 552.111. Section 552.111 excepts "an interagency or intraagency 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*, 842 S.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 (1993) at 5-6. In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. After reviewing the submitted information, we conclude that this information does not relate to the policymaking processes of the Sheriff, and therefore it may not be withheld from disclosure pursuant to section 552.111.

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/ch

Ref.: ID# 107820

Enclosures: Submitted documents

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