



March 22, 1999

Mr. Ellis Ortego  
City Attorney  
City of Santa Fe  
P.O. Box 950  
Santa Fe, Texas 75510-0950

OR99-0778

Dear Mr. Ortego:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 122968

The City of Santa Fe (the "city") received a request for "a copy of the Internal Police Department Review [the city manager] conducted and presented to the City Council several months ago."<sup>1</sup> In response to the request, you submit to this office for review the information at issue. You state that the report is excepted from disclosure pursuant to section 552.111 of the Government Code.<sup>2</sup> We have considered the exception and arguments you raise and reviewed the submitted information.

Section 552.111 excepts from disclosure inter-agency or intra-agency communications consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body. *See Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ); 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.) (emphasis added). Section 552.111 also excepts from required public disclosure preliminary drafts of documents related to policymaking matters, since drafts represent the advice, opinion, and

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<sup>1</sup>See also Gov't Code § 552.007 (prohibiting selective disclosure of information to public).

<sup>2</sup>You also assert that "it is anticipated that the report would be used by CLEAT to its advantage in the upcoming collective bargaining process." We note, however, that the legislature has prohibited governmental bodies from inquiring into the motives of a requestor in seeking information. Gov't Code § 552.222(b).

recommendation of the drafter as to the form and content of the final documents. *See* Open Records Decision No. 559 (1990). However, a governmental body's policymaking functions do not encompass routine personnel matters. *Id.* The information for which you claimed the protection of section 552.111 deals, in effect, with personnel matters. It does not, in our opinion, relate to "policymaking functions" such that it would fall within the ambit of section 552.111. Therefore, none of the information you submitted may be withheld under 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.

Sincerely,

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive style with a large, looping initial "S".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/nc

Ref.: ID# 122968

Enclosures: Submitted documents

cc: Mr. Ronald DeLord  
CLEAT President  
400 West 14<sup>th</sup> Street, Suite 200  
Austin, Texas 78701  
(w/o enclosures)