



August 11, 1999

Mr. Craig H. Smith  
Deputy General Counsel  
Texas Workers' Compensation Commission  
4000 South IH-35  
Austin, Texas 78704-7491

OR99-2259

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126842.

The Texas Workers' Compensation Commission (the "commission") received a request for information concerning "the use and applicability of the decision of Judge Earl Corbitt of the State Office of Administrative Hearings, which addresses a carrier's suspension of temporary income benefits based on the certification of maximum medical improvement and impairment rating by a non-treating or non-designated doctor." You assert that some of the requested information is excepted from disclosure by section 552.111 of the Government Code. We assume that you have released the remaining information. You have submitted the documents you seek to withhold.

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 at 5-6 (1993).

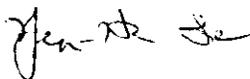
Section 552.111 also excepts from required public disclosure preliminary drafts of documents if those documents are related to policymaking matters, since drafts represent the advice, opinion, and recommendation of the drafter as to the form and content of the final

documents. *See* Open Records Decision No. 559 (1990). Section 552.111 does not protect facts and written observation of facts and events that are severable from advice, opinions, and recommendation. ORD 615. However, when such factual matter is contained in the final version of the document, the release of the final version satisfies this requirement. *Id.*

We have reviewed the submitted information and marked the information you may withhold under section 552.111. The remaining information is factual information that is not excepted from public disclosure by section 552.111 and must be released.

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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/nc

Ref: ID# 126842

Encl.: Marked documents

cc: Ms. LeeAnna Gainer  
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(w/o enclosures)