



December 3, 1999

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-3474

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130255.

The City of Austin (the "city") received a request for information related to proposed consolidation of city police services. You claim that the responsive information in your possession is excepted from disclosure under section 552.111 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

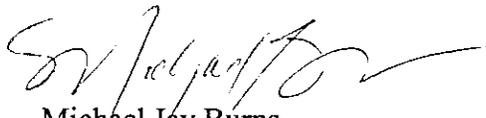
Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas 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. The draft of a document that has been released or is intended for release in final form necessarily represents the advice, opinion, and recommendation of the drafter as to the form and content of the final document, and may therefore be withheld under section 552.111 of the Government Code. See Open Records Decision No. 559 (1990). 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). Thus, information that relates entirely to a particular employee and the job description of the position occupied by that

employee is not protected by section 552.111. *See Garland v. Dallas Morning News*, 969 S.W.2d 548 , 557 (Tex. App.--Dallas 1998, pet. requested) (citing *Lett v. Klein Indep. Sch. Dist.*, 917 S.W.2d 455, 457 (Tex. App.--Houston [14th Dist.] 1996)), *writ denied per curiam*, 41 Tex. Sup. Ct. J. 575 (1998). In addition, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. Open Records Decision No. 615 at 4-5 (1993). In Open Records Decision No. 631 (1995), this office concluded that the policymaking functions of a governmental body include an outside consultant's advice, recommendations, and opinions regarding administrative and personnel matters of broad scope that affect the governmental body's policy mission.

You relate that the responsive information is a working draft that has not been released in final form. Further, we conclude that this report is an expression of the Chief of Police's opinion regarding matters of broad scope that affect the governmental body's policy mission. Based on your representations and our review of the information, we conclude that the submitted information consists of advice, opinions, and recommendations protected by section 552.111 of the Government Code. The information may therefore be withheld.

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,



Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 130255

Encl. Submitted documents

cc: Mr. Bob Banta
Austin American Statesman
P.O. Box 670
Austin, Texas 78787-0670
(w/o enclosures)