



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 1, 1996

Ms. Tracy B. Calabrese  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR96-1812

Dear Ms. Calabrese:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100913.

The City of Houston (the "city") received a request for information related to the shooting death of an individual by a Houston police officer. The records that you submitted to this office for review as responsive to the request consist of the police department's internal investigation records, labeled as Exhibit 2, the police offense report, labeled as Exhibit 3, and a videotape. You contend that the investigation records in Exhibit 2 are excepted from disclosure pursuant to section 143.089(g) of the Local Government Code. You also assert that the offense report and the videotape may be withheld from disclosure pursuant to section 552.108 of the Government Code.

Section 143.089(a) and (b) of the Local Government Code requires that certain documents be maintained in a police officer's civil service file. This includes information relating to evaluations, sustained misconduct charges and disciplinary actions. Information maintained in civil service files must generally be released to the public upon request, unless some provision of chapter 552 of the Government Code permits the civil service commission to withhold the information. Local Gov't Code § 143.089(f); Gov't Code §§ 552.006, .021; Open Records Decision No. 562 (1990) at 6 (construction of Local Gov't Code § 143.089(f) provision requiring release of information as required by law). However, pursuant to section 143.089(g) of the Local Government Code, a police department may maintain its own separate, internal personnel file on a police officer. The documents maintained in a section 143.089(g) file are confidential and may not be disclosed. *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied); Open Records Decision No. 562 (1990) at 7. As you advise this office that the internal affairs investigation

records are maintained in a section 143.089(g) file rather than the officer's civil service files, the records in Exhibit 2 are confidential and may not be disclosed.<sup>1</sup>

You have also asserted that the submitted videotape and the offense report are excepted from disclosure pursuant to section 552.108. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime." and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). We note, however, that information normally found on the front page of an offense report is generally considered public and may not be withheld from disclosure. See generally *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Pursuant to section 552.108, you may withhold from disclosure the videotape and all of the offense report except for the information that is generally considered to be front page type information, even if this information is not actually located on the front page of the offense report.

You have also asserted that section 552.103(a) is applicable to the information at issue. We note that section 552.103(a) will not protect from disclosure the public information that is normally found on the front page of an offense report. See *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). Thus, the front page offense report information must be disclosed.

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,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref.: ID# 100913

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<sup>1</sup>We note that a request for information in the police department's internal file must be referred to the civil service director or his designee. See *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied).

Enclosures: Submitted documents

cc: Mr. Barry Barnes  
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(w/o enclosures)