



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 17, 1997

Ms. Helen M. Gros
Senior Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR97-2085

Dear Ms. Gros:

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# 109049.

The City of Houston Police Department (the "department") received requests for all records, including a videotape, relating to the detention, arrest, and incarceration of requestor's client on June 20, 1997. You state that the requestor may obtain a copy of the public release portion of the offense report and a copy of the sworn statement that requestor's client gave to the department's Internal Affairs Division ("IAD"). However, you claim that the remaining information relating to a pending IAD complaint is excepted from disclosure pursuant to sections 552.101, 552.103, and 552.108 of the Government Code. We have considered your arguments and have reviewed the information submitted.

Section 552.101 of the Government Code excepts from disclosure information deemed confidential by statute, such as section 143.089 of the Local Government Code. Section 143.089 contemplates two different types of personnel files, a police officer's civil service file that the police department is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). In cases in which a police department takes disciplinary action against a police officer, it is required by section 143.089(a)(2) to place records relating to the investigation and disciplinary action in the officer's civil service file maintained under section 143.089(a). Such records are subject to release under chapter 552 of the Government Code. See Local Gov't Code § 143.089(f); Open Records Decision No. 562 (1990) at 6. However,

information maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied).¹

You state that an internal affairs investigation of the incident, which is the subject of the requests, is in progress, and that no records relating to this investigation are contained in the officers' civil service files at this time. We therefore conclude that this information is confidential pursuant to section 143.089(g) of the Local Government Code and may be withheld under section 552.101.²

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref.: ID# 109049

Enclosures: Submitted documents

cc: Mr. Sam Deane
Pruitt & Deane
2950 North Loop West, Suite 270
Houston, Texas 77092-8800
(w/o enclosures)

¹We note that section 143.089(g) requires a police department who receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.

²As we have resolved this matter under section 552.101, we need not address your other claimed exceptions against disclosure.