



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 21, 1998

Mr. Gary C. Landers
City Attorney
City of Tyler
Legal Department
P.O. Box 2039
Tyler, Texas 75710

OR98-0193

Dear Mr. Landers:

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# 113194.

The City of Tyler (the "city") received a request for information pertaining to an Internal Affairs investigation of an incident involving one of the city's fire fighters. You claim that the Internal Affairs records are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. We have considered your arguments and have reviewed the information submitted.

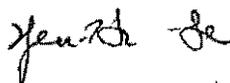
Section 552.101 of the Government Code excepts from disclosure information deemed confidential by statute, such as section 143.089 of the Local Government Code. Section 143.089 contemplates two different types of personnel files, a fire fighter's civil service file that the fire department is required to maintain, and an internal file that the fire department may maintain for its own use. Local Gov't Code § 143.089(a), (g). In cases in which a fire department takes disciplinary action against a firefighter, it is required by section 143.089(a)(2) to place records relating to the investigation and disciplinary action in the fire fighter'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 fire department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied).¹

¹We note that section 143.089(g) requires a fire 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. You inform us that you have done so, and that "the Director of Civil Service advised the requestor that there were no documents responsive to the request in the civil service files."

You state that the Internal Affairs records at issue are maintained in the fire department's internal file pursuant to section 143.089(g), and that none of the records are contained in the fire fighter's civil service file. We note that there is not a right of access for the firefighter to obtain information in a section 143.089(g) file. 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.

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# 113194

Enclosures: Submitted documents

cc: Mr. Hector Nunez
c/o Tyler Fire Department
P.O. Box 2039
Tyler, Texas 75710
(w/o enclosures)