



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 20, 1998

Mr. Robert Gervais  
Assistant City Attorney  
City of Galveston  
P.O. Box 779  
Galveston, Texas 77553-0779

OR98-2456

Dear Mr. Gervais:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118737.

The Galveston Police Department (the "department") received a request for the names, dates of birth, badge numbers, and payroll numbers of the officers who were involved in several police calls. The requestor also seeks other information about these officers, including "training, special schools, active or non-active, formal and informal complaints, reprimands, disciplinary actions, TCLEOSE<sup>1</sup> status, and psychological evaluations." You provided the requestor with the requested names, birth dates, badge numbers, payroll numbers, TCLEOSE information, and information concerning grievances that resulted in disciplinary action. However, you assert that some of the responsive information is protected under section 143.089(g) of the Local Government Code in conjunction with section 552.101 of the Government Code, which provides that information is excepted from disclosure if it is confidential by law. You contend that the psychological evaluations of the officers are protected from disclosure as provided by section 611.002 of the Health and Safety Code in conjunction with section 552.101. You also assert that some of the information in the officers' civil service files is protected from disclosure by section 552.117 of the Government Code.

You state that the department maintains two different personnel files on its police officers: a civil service file and an internal, departmental file, as provided under section 143.089 of the Government Code. Section 143.089(a) outlines what must be maintained in

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<sup>1</sup>The Texas Commission on Law Enforcement Officer Standards and Education.

the officers' civil service personnel files. Information maintained in the civil service personnel 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 at 6 (1990) (construction of Local Gov't Code § 143.089(f) provision requiring release of information as required by law). Section 143.089(b) and (c) detail the types of information which may not be kept in the civil service personnel file.

A police department's internal personnel file may duplicate information in the civil service file but also may contain information which may not be placed in the civil service file, as provided in section 143.089(g):

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

Information maintained in the section 143.089(g) file is confidential. *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied) (addressing availability of information in the department's internal file). You submitted to this office documents from both the department's internal personnel files and the civil service personnel files. We agree that the documents maintained only in the department's internal file pursuant to section 143.089(g) must be maintained as confidential and may not be released.<sup>2</sup>

You contend that the psychological examination results of the officers are confidential in their entirety. Chapter 611 of the Health and Safety Code provides for the confidentiality of records created or maintained by a mental health professional. Section 611.002(a) reads as follows:

Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.

Section 611.001 defines a "professional" as (1) a person authorized to practice medicine, (2) a person licensed or certified by the state to diagnose, evaluate or treat mental or emotional conditions or disorders, or (3) a person the patient reasonably believes is authorized, licensed, or certified. Sections 611.004 and 611.0045 provide for access to mental health

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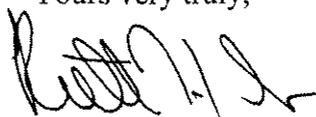
<sup>2</sup>We assume that, pursuant to section 143.089(g), the requestor was directed to the civil service director. We note that in this ruling, we refer to the civil service file as the section 143.089(a) - (e) file.

records only by certain individuals. *See* Open Records Decision No. 565 (1990). We agree that the psychological evaluations, which we have marked, are protected from disclosure and may be released only as provided under sections 611.004 and 611.0045.

Section 552.117 provides that information is excepted from disclosure if it relates to a peace officer's home address, home telephone number, social security number, or reveals whether the peace officer has family members. *See* Open Records Decision No. 622 (1994) (section 552.117 excepts from disclosure former home addresses and former home telephone numbers). Section 552.117 is applicable to some of the information at issue, as indicated by our markings in the civil service personnel files.<sup>3</sup> We note that the records also include photographs of the police officers. Because photographs of peace officers are generally protected from disclosure under section 552.119 of the Government Code, Open Records Decision No. 502 (1988), the photographs must also be withheld from disclosure.

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# 118737

Enclosures: Submitted documents

cc: Mr. John Castillo  
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Castillo Investigation Specialists  
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(w/o enclosures)

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<sup>3</sup>We note that if releasing the officers' old student identification numbers will also reveal the social security numbers of the officers', the student numbers also must be withheld under section 552.117.