



July 26, 2000

Ms. Lisa Aguilar  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2000-2819

Dear Ms. Aguilar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 137462.

The City of Corpus Christi (the "city") received a written request for "all disciplinary records of the Corpus Christi Police Department personnel . . . during the years of 1995, 1996, 1997, 1998, 1999 and 2000." You contend that some of the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 143.089 of the Local Government Code.

We note at the outset that you state that the city has sought clarification from the requestor as to whether his request includes disciplinary records of civilian employees, but has not received a response. We believe it is clear from the request that the requestor is seeking disciplinary records of all police department employees. You have raised no exception to disclosure with regard to disciplinary records pertaining to the police department's civilian employees. We conclude, therefore, that the city must release these records in their entirety. See Gov't Code §§ 552.301(e)(1)(A), 552.302.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, *statutory*, or by judicial decision." (Emphasis added.) Section 143.089 of the Local Government Code provides in pertinent part:

(a) The director [of the police officers' civil service] or the director's designee shall maintain a personnel file on each . . . police officer. The personnel file must contain *any* letter, memorandum, or document relating to:

.....

(2) any misconduct by the . . . police officer if the letter, memorandum, or document is from the employing department and *if*

*the misconduct resulted in disciplinary action* by the employing department in accordance with this chapter[.]

....

(b) A letter, memorandum, or document relating to alleged misconduct by the . . . police officer may not be placed in the person's personnel file if the employing department determines that there is insufficient evidence to sustain the charge of misconduct.

....

(g) A . . . police department may maintain a personnel file on a . . . 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 . . . 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 . . . police officer's personnel file.

Loc. Gov't Code § 143.089(a), (b), (g) (emphasis added). In Open Records Decision No. 562 (1990), this office discussed the confidentiality of personnel file information maintained by police and fire departments in cities that have adopted the fire fighters' and police officers' civil service law in accordance with the provisions of chapter 143 of the Local Government Code. Section 143.089 of the Local Government Code provides for the creation of two personnel files for police officers: one that is maintained by the city's civil service director and the other by the city police department. *See* Loc. Gov't Code § 143.089(a), (g).

Information contained in personnel files held by the civil service, including all records relating to misconduct by police officers that resulted in disciplinary action, must be released to the public unless the information comes within one of the Public Information Act's exceptions to required public disclosure. Because you do not contend that any of the information contained in the civil service files are excepted from public disclosure, the city must release those files in their entirety.

On the other hand, you have submitted to this office a representative sample of the types of documents that are contained in the city police department's internal files. These records pertain to complaints that did not result in disciplinary action, and as such are made confidential under section 143.089(g) of the Local Government Code. Consequently, the city may not release these types of records to the requestor. *See also City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.--Austin 1993, writ denied).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson  
Assistant Attorney General  
Open Records Division

JRW/RWP/ljp

Ref: ID# 137462

Encl. Submitted documents

cc: Mr. Scott Reese Willey  
611 Sarah Street  
Edna, Texas 77957  
(w/o enclosures)