



June 4, 2001

Ms. Julie Gannaway
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2001-2276

Dear Ms. Gannaway:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 147886.

The City of Bryan Police Department (the "department") received a request for various items of personnel information concerning a department officer. You inform us that the City of Bryan is "releasing the public information responsive to [Mr. Bryan's] request." You claim that the training certificates are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 143.089 of the Local Government Code. To the extent that they exist, we assume the department has released all other items responsive to this request. If not, the department must do so. Gov't Code §§ 552.301, .302. We have considered the exception you claim and reviewed the submitted representative sample of the training certificates.¹

Section 552.101 excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 143.089 of the Local Government Code 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). Section 143.089(a) states that an officer's civil service personnel file must contain the following information: 1) a commendation, congratulation, or honor bestowed on the police officer by a member of the

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

public or by the employing department for an action, duty, or activity that relates to the person's official duties; 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 chapter 143 of the Local Government Code; and 3) the periodic evaluation of the police officer by a supervisor. 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 at 6 (1990). 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).

We understand that the City of Bryan is a civil service city under chapter 143 of the Local Government Code. You state that the sample certificate of completion for law enforcement training is maintained in the department's internal file pursuant to section 143.089(g), and that other such certificates are maintained there as well. A training certificate is not information that is required to be maintained in the civil service personnel file. Local Gov't Code § 143.089(a). We therefore conclude that this information is confidential pursuant to section 143.089(g) of the Local Government Code and must be withheld under section 552.101.

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).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

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,



Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 147886

Encl.: Submitted documents

cc: Mr. Travis B. Bryan III
Youngkin, Catlin, Bryan, Stacy & Dillard
P.O. Box 4629
Bryan, Texas 77805
(w/o enclosures)