



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2009

Mr. Ronald J. Bounds  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2009-05927

Dear Mr. Bounds:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 341859.

The City of Corpus Christi (the "city") received a request for the arbitrator's award pertaining to the reinstatement of a named city police officer. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 143.089 of the Local Government Code. You state that the city is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files: a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. *See* Local Gov't Code § 143.089(a), (g). In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an officer, it is required by section 143.089(a)(2) to place all investigatory records relating to the investigation and subsequent disciplinary action in the police officer's civil service file maintained under section 143.089(a), which is generally subject to public

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<sup>1</sup>Although you initially raised section 552.102 and 552.108 of the Government Code for the submitted information, in a letter dated March 9, 2009, you inform us that you no longer assert these exceptions.

release.<sup>2</sup> *Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). However, section 143.089(c) states that a document relating to alleged misconduct or disciplinary action against an officer must be removed from the officer's civil service file if it is found that the disciplinary action was taken without just cause. *See* Local Gov't Code § 143.089(c). Information removed from the civil service file may then be placed in a police department's internal file maintained pursuant to section 143.089(g). This information 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).

In this instance, you inform us that the submitted information pertains to an arbitration hearing regarding an appeal of disciplinary action against the officer in question. You explain that the submitted information documents an arbitration hearing that overturned this disciplinary action. Accordingly, you indicate that the submitted information has been removed from the officer's civil service file and placed in the city police department's internal personnel file, which is maintained under section 143.089(g). Based on your representations, we agree that the submitted information is confidential under section 143.089(g) of the Local Government Code and must be withheld under section 552.101 of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/rl

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<sup>2</sup>Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-143.055.

Ref: ID# 341859

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)