



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2009

Ms. Evelyn Njuguna
Assistant City Attorney
City of Houston - Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR2009-07707

Dear Ms. Njuguna:

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# 349865.

The Houston Fire Department (the "department") received a request for an investigative report and any disciplinary reprimands received by firefighters relative to a specified incident. You state the department will provide the requestor with a portion of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by statute. You contend the submitted information is excepted from disclosure under section 552.101 in conjunction with section 143.089 of the Local Government Code.¹ Section 143.089 contemplates two different types of personnel files: a fire fighter's civil service file that the civil service director 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). The fire fighter's civil service file must contain certain specified items, including commendations, periodic evaluations by the fire fighter's supervisor, and documents from the employing department relating to any misconduct in which the department took disciplinary action against the fire fighter under

¹We understand that the City of Houston is a civil service city under chapter 143 of the Local Government Code.

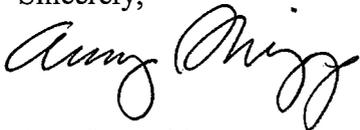
chapter 143 of the Local Government Code.² *Id.* § 143.089(a)(1)-(2). Information maintained in a fire department's personnel file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You explain that the submitted information is maintained in the department's internal personnel file and consists of documents that pertain to the respective fire fighter's employment relationship with the department. Therefore, based on your representation and our review of the information at issue, we conclude that the submitted information must be withheld under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. As our ruling is dispositive, we do 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, 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,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/fl

Ref: ID# 349865

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-.055.