



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 15, 2010

Mr. K. Jefferson Bray
Senior Legal Advisor
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2010-00833

Dear Mr. Bray:

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# 367385.

The Plano Police Department (the "department") received a request for an e-mail or memorandum between two named department officers regarding the number of issued traffic citations by one officer, and information related to that e-mail or memorandum.¹ You provide documentation showing the department has made some records available to the requestor.² You claim the submitted information is excepted from disclosure under

¹You provide documentation showing the department sought and received clarification from the requestor regarding this request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²Section 143.089(g) requires a police department that receives a request for information maintained in a file under section 143.089(g) to refer that requestor to the civil service director or the director's designee. In this instance, you provide documentation reflecting the civil service file has been made available to the requestor.

sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.³

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. This section encompasses section 143.089 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. Local Gov't Code § 143.089(a), (g). In *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946 (Tex. App.—Austin 1993, writ denied), the court addressed a request for information contained in a police officer's personnel file maintained by the police department for its use and the applicability of section 143.089(g) to that file. The records included in the departmental personnel file related to complaints against the police officer for which no disciplinary action was taken. The court determined that section 143.089(g) made the records confidential. *See id.* at 949; Attorney General Opinion JC-0257 at 6-7 (2000) (addressing functions of section 143.089(a) and (g) files). This confidentiality extends to any records maintained in the internal file that reasonably relate to the police officer's employment relationship. *See City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.—San Antonio 2000, pet. denied).

You inform this office the City of Plano is a civil service city under chapter 143 of the Local Government Code. You represent the submitted records are maintained in the involved officer's departmental personnel file. The investigation at issue did not result in disciplinary action against the officer for purposes of section 143.089(a)(2).⁴ We additionally find these records relate to the officer's employment relationship with the department. Based on your representations and our review, we agree the department must withhold the submitted records under section 143.089(g) of the Local 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

³We 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.

⁴Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See id.* §§ 143.051-.055.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Davis", with a long horizontal flourish extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 367385

Enc. Submitted documents

cc: Requestor
(w/o enclosures)