



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 2, 2010

Ms. Julia Gannaway
Lynn, Pham, & Ross, L.L.P.
306 West Broadway Avenue
Fort Worth, Texas 76104

OR2010-01585

Dear Ms. Gannaway:

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# 369078.

The City of Forest Hill (the "city") received a request for: 1) a copy of "complaints against [a named officer] which resulted in disciplinary action against him while employed by the [city], and a copy of any documentation of such disciplinary action being imposed upon him" and 2) a copy of "Citizen Complaints, Personnel Complaints, or similar documents alleging that [a named officer] committed misconduct, and a copy of any document which reflects whether the allegations were founded, unfounded, sustained, or similar description of determination" during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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

¹We assume 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 those records contain substantially different types of information than that submitted to this office.

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). The officer's civil service file must contain certain specified items, including commendations, periodic evaluations by the police officer's supervisor, and documents relating to any misconduct in which the department took disciplinary action against the officer under chapter 143 of the Local Government Code.² *Id.* § 143.089(a)(1)-(2). 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 state the City of Forest Hill is a civil service city under chapter 143 of the Local Government Code. You also state the city has no information responsive to the request for complaints which resulted in disciplinary action that would be maintained in the officer's civil service file pursuant to section 143.089(a). You represent the submitted complaints and related documents in Exhibit B were taken from the city's police department's internal files as authorized under section 143.089(g). Based on these representations and our review of the information at issue, we agree the documents in Exhibit B are confidential pursuant to section 143.089(g). Accordingly, the city must withhold the documents in Exhibit B under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code.

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

²Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See id.* §§ 143.051-.055.

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 369078

Enc. Submitted documents

c: Requestor
(w/o enclosures)