



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 7, 2010

Ms. Carol Freeman
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056-1918

OR2010-09990

Dear Ms. Freeman:

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# 385903 (League City #10-184).

The City of League City (the "city"), which you represent, received a request for the personnel file of a named former police officer. You state some of the requested information will be released with redactions pursuant to the previous determinations issued in Open Records Decision Nos. 670 (2001) and 684 (2009), as well as social security numbers under section 552.147 of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.114, 552.115, 552.1175, 552.119, 552.122,

¹Open Records Decision No. 670 authorizes a governmental body to withhold the home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision. Open Records Decision No. 684 authorizes a governmental body to withhold ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. We note that Open Records Decision No. 684 is not applicable to motor vehicle title, registration, or vehicle identification numbers. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

552.130, 552.136, 552.137, 552.140 of the Government Code.² 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. This section encompasses section 143.089 of the Local Government Code. The city is a civil service city under chapter 143 of the Local Government Code. Section 143.089 provides for the existence of two different types of personnel files relating to a police officer: one that must be maintained as part of the officer's civil service file and another the police department may maintain for its own internal use. *See* 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. *Id.* § 143.089(a)(1)-(2). Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051-.055; *see* Attorney General Opinion JC-0257 (written reprimand is not disciplinary action for purposes of Local Gov't Code chapter 143). 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 disciplinary action, including background documents such as complaints, witness statements, and documents of like nature from individuals who were not in a supervisory capacity, in the police officer's civil service file maintained under section 143.089(a). *See Abbott v. Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or are in the possession of the department because of its investigation into a police officer's misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file.³ *Id.* Such records may not be withheld under section 552.101 of the Government Code in conjunction with section 143.089 of the Local 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. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You state that the submitted information is held in files maintained by the city's police department under section 143.089(g). We note that these documents include commendations

²Although you also raise section 552.101 of the Government Code in conjunction with section 552.114 of the Government Code, section 552.101 does not encompass other exceptions in the Act.

³Section 143.089(g) requires a police or fire department that receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.

and a periodic evaluation. These commendations and evaluation are subject to sections 143.089(a)(1) and 143.089(a)(3). Consequently, if you have not done so already, this information must also be placed in the officer's civil service file. However, we agree that the information maintained in the police department's internal files is confidential under section 143.089(g) of the Local Government Code and, therefore, the remaining documents must be withheld from disclosure under section 552.101 of the Government Code.⁴

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

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 385903

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

⁴As our ruling is dispositive, we need not address your remaining arguments against disclosure.