



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 1, 2011

Ms. Leann M. Quinn  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613

OR2011-16026

Dear Ms. Quinn:

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# 434877 (Reference No. 11-766).

The Cedar Park Police Department (the "department") received a request for (1) copies of any documents relating to whether a named officer has been disciplined, suspended from duty, placed on probation, reprimanded, demoted, or if any other action has been taken against him by the department and (2) all complaints filed against the named officer. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.117, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note most of the submitted information, which we have marked, is not responsive to the present request because it does not pertain to whether the named officer has been disciplined, suspended, placed on probation, reprimanded, demoted, or any other action taken against him nor does it consists of complaints filed against him. This ruling does not address the public availability of non-responsive information, and the department need not release such information in response to this request.

You seek to withhold the submitted responsive information under section 143.089 of the Local Government Code. 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 information protected by other statutes, such as section 143.089 of the Local Government Code. You inform us the City of Cedar Park is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files relating to a police officer: 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 police department took disciplinary action against the officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a)(1)-(3). 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. City of 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 in possession of the police department because of its investigation into a police officer’s misconduct, and the police department must forward them to the civil service commission for placement in the civil service personnel file. *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, a document relating to an officer’s alleged misconduct may not be placed in his civil service personnel file if there is insufficient evidence to sustain the charge of misconduct. Local Gov’t Code § 143.089(b). In addition, a document relating to disciplinary action against a police officer that has been placed in the officer’s personnel file as provided by section 143.089(a)(2) must be removed from the officer’s file if the civil service commission finds the disciplinary action was taken without just cause or the charge of misconduct was not supported by sufficient evidence. *See id.* § 143.089(c). Information that reasonably relates to an officer’s employment relationship with the department and that is maintained in an internal file of the department pursuant to section 143.089(g) is confidential and must not be released. *See City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.—San Antonio 2000, pet. denied); *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.—1993, writ denied).

You state the responsive information consists of information maintained in the department's internal files in accordance with chapter 143 of the Local Government Code. We note the incidents at issue did not result in disciplinary action for chapter 143 purposes. Based on your representations and our review, we conclude the responsive information at issue is confidential under section 143.089(g) of the Local Government Code, and must be withheld under section 552.101 of the Government Code on that basis.<sup>1</sup>

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, toll free at (888) 672-6787.

Sincerely,



Kirsten Brew  
Assistant Attorney General  
Open Records Division

KB/em

Ref: ID# 434877

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>We note section 143.089(g) requires a police department who 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.