



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1995

Mr. Kevin W. Kapitan
Assistant City Attorney
Police Legal Advisor
City of Fort Worth
350 West Belknap
Fort Worth, Texas 76102

OR95-1346

Dear Mr. Kapitan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32991.

The City of Fort Worth (the "city") received a request for various records concerning the employment of a Fort Worth police officer. You claim that the requested information is excepted from disclosure under section 143.089 of the Local Government Code as applied through section 552.101 of the Government Code, and sections 552.102, 552.108, 552.111, and 552.117 of the Government Code. We have considered the exceptions you claimed and have reviewed the documents at issue.

Section 143.089 of the Local Government Code works in conjunction with section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information deemed confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 143.089 of the Local Government Code contemplates two different types of personnel files, one that the police department is required to maintain as part of the police officer's civil service file, and one that the police department may maintain for its own internal use. Local Gov't Code § 143.089(a), (g). You inform us that the documents submitted to this office for review are files maintained by the Fort Worth police department for its own use pursuant to section 143.089(g).

Section 143.089(g) provides:

A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

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 city police department for its use and addressed the applicability of section 143.089(g) to that file. The court determined that section 143.089(g) made these records confidential. *City of San Antonio*, 851 S.W.2d at 949.

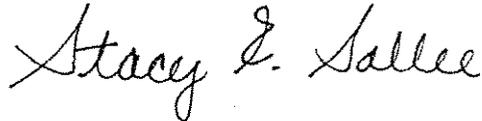
We note that if there are any documents in which the police department took disciplinary action against the police officer, the police department is required by section 143.089(a)(2) to place records relating to the investigation and disciplinary action in the personnel files maintained under section 143.089(a). Such records may not be withheld under section 552.101 of the act. Local Gov't Code § 143.089(f); Open Records Decision No. 562 (1990) at 6.

We have reviewed the submitted documents and find that they are reasonably related to the police officer's employment relationship with the police department. See Open Records Decision No. 562 (1990) at 7. We therefore conclude that the city may withhold the requested information from required public disclosure under section 143.089(g) of the Local Government Code. We note that if any internal affairs investigations resulted in disciplinary action against the police officer who is the subject of the request, "any record, memorandum, or document relating to" the disciplinary action must be placed in the personnel files maintained by the civil service commission under section 143.089(a) and must be released by the civil service commission under section 143.089(f) of the Local Government Code.¹ As we have held that the city may withhold all of the requested information from disclosure, we need not address your other claimed exceptions.

¹We note that 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. You inform us that the city has made this reference to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/rho

Ref.: ID# 32991

Enclosures: Submitted documents

cc: Mr. Alex Gonzalez, Jr.
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Fort Worth, Texas 76107
(w/o enclosures)