



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 18, 1996

Mr. Charles Weir
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-0974

Dear Mr. Weir:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 40458.

The City of San Antonio (the "city") received a request for copies of "all San Antonio Police Officer disciplinary suspensions and/or reprimands and/or counseling on file for the years 1986, 1987, 1988, 1989, 1990, 1991, and 1992." You assert that the information at issue is excepted from disclosure pursuant to section 552.103(a) of the Government Code.

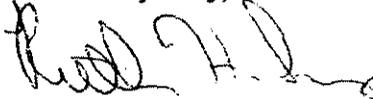
We note initially that section 143.089 of the Local Government Code provides guidelines concerning a police officer's civil service file and a police department's internal personnel file. Sections 143.089(a) and (b) of the Local Government Code requires that certain documents must be maintained in a police officer's civil service file. This includes information relating to evaluations, sustained misconduct charges and disciplinary actions. Information maintained in civil service files must be released unless some provision of chapter 552 of the Government Code, such as section 552.103(a), permits the civil service commission to withhold the information. Local Gov't Code § 143.089(f); Gov't Code §§ 552.006, .021; Open Records Decision No. 562 (1990) at 6 (construction of Local Gov't Code § 143.089(f) provision requiring release of information as required by law). We assume from your letter that the information at issue is in the civil service files.¹

¹We note, however, that if any of the information at issue, such as counseling records, is in the police department internal file, it may not be released. Internal files maintained pursuant to section 143.089(g) are confidential and not subject to disclosure. *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946 (Tex. App.—Austin 1993, writ denied); Open Records Decision No. 562 (1990) at 7.

To show that section 552.103(a) is applicable, a governmental body must show that (1) litigation is pending or reasonably anticipated and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex.App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. You have provided information showing that litigation is pending and have provided this office a representative sample of a disciplinary document.² We believe that the city has met its burden under section 552.103(a) of showing that the records at issue are related to pending litigation. Thus, the requested information may be withheld from disclosure pursuant to section 552.103(a).³

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 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 40458

Enclosures: Submitted documents

cc: Ms. Barbara Woodward
417 San Pedro
San Antonio, Texas 78212-5554
(w/o enclosures)

²We 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). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

³Generally, the applicability of section 552.103(a) ends if the other party to the anticipated litigation obtains the information or when the litigation concludes. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 350 (1982) at 3, 349 (1982) at 2. However, if any of the information at issue is made confidential by other law, it may not be disclosed even after the litigation has concluded.