



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 17, 1997

Mr. Robert J. Gervais
Assistant City Attorney
Legal Department
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR97-0861

Dear Mr. Gervais:

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# 106113.

The City of Galveston (the "city"), through its police department, received a request for "all written complaints and investigative reports" from June 1996 to January 1997, pertaining to a particular city police officer. You assert that the requested information is excepted from required public disclosure based on section 552.101 of the Government Code. We have considered your argument and have reviewed the information submitted.

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 works in conjunction with section 552.101 of the Government Code. You inform us that the city has adopted chapter 143 of the Local Government Code. Section 143.089 of the Local Government Code contemplates two different types of personnel files, one that the city's police department is required to maintain as part of the police officer's civil service file, and one that the city's police department may maintain for its own internal use. Local Gov't Code § 143.089(a), (g).

Subsection (g) authorizes city police and fire departments to maintain for their own use a file on a police officer or fire fighter that is separate from the file maintained by the city civil service commission. "The department may not release any information contained in the department file to any agency or person," but instead "the department shall refer to the director [of the civil-service commission] 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." Local Gov't Code § 143.089(g).

In cases in which a city's police department takes disciplinary action against a police officer, it is required by Local Government Code section 143.089(a)(2) to transfer records relating to the investigation and disciplinary action to the civil service commission. Such records may not be withheld under section 552.101 of the Government Code. Local Gov't Code § 143.089(f); Open Records Decision No. 562 (1990) at 6.

You state that the city has taken no disciplinary action against the named police officer to date, although some of the submitted documents relate to a "pending investigation."¹ Therefore, based upon your statements concerning the pending investigation, we conclude that the city must withhold the requested information from disclosure at this time under section 143.089(g) of the Local Government Code in conjunction with section 552.101 of the Government Code. However, the city's police department shall refer the person requesting such information to the director of the civil service commission. Local Gov't Code § 143.089(g).

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,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/alg

Ref.: ID# 106113

Enclosures: Submitted documents

cc: Deni B. Mize
3919 Ave. Q
Galveston, TX 77550
(w/o enclosures)

¹We understand that the city has taken no disciplinary action as defined and authorized by chapter 143 of the Local Government Code.