



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 4, 1997

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR97-1286

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 106293.

The City of Garland Police Department (the "city") received a request for a copy of "[t]he Internal Affairs Division's report into the Feb. 15 shooting of Officer Michael David Moore at Bank One on West Centerville Road." You assert that the Internal Affairs Report is excepted from disclosure under section 143.089(g) of the Local Government Code as applied through section 552.101 of the Government Code and section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information at issue.

We understand that Garland is a civil service city under Chapter 143 of the Texas Local Government Code. 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). Information contained in a police department's internal files is confidential and must not be released.<sup>1</sup> *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied). Information contained in civil service files is subject to release under chapter 552 of the Government Code.

You state that the "Internal Affairs Unit investigation report" generated in connection with the particular investigation in the instant matter was not placed in the officer's civil

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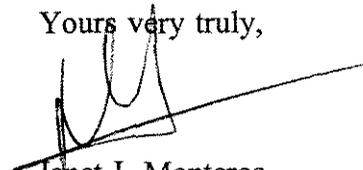
<sup>1</sup>A request for information in the internal file must be referred to the civil service director or his designee. Local Gov't Code § 143.089(g). We observe that you have complied with the provision.

service personnel file, but was placed in a separate personnel file maintained by the Garland Police Department for its use. The department's investigation into the action taken by an officer in connection with his handling of a particular call yielded the result of no misconduct. Consequently the investigation did not result in any disciplinary action against the officer.

In *City of San Antonio*, 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 records included in the personnel file related to complaints against the police officer for which no disciplinary action was taken. The court determined that section 143.089(g) made these records confidential. *City of San Antonio*, 851 S.W.2d at 949. Because the documents you submitted to us for review are properly part of the files maintained by the police department under section 143.089(g), the city must withhold the requested information.<sup>2</sup>

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 any questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/alg

Ref: ID# 106293

Enclosures: Submitted documents

cc: Mr. Michael Saul  
The Dallas Morning News  
Communications Center  
P.O. Box 655237  
Dallas, Texas 75265  
(w/o enclosures)

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<sup>2</sup>Because our ruling under sections 143.089(g) and 552.101 is dispositive, we need not address the city's claim under section 552.108.