



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 22, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2009-00904

Dear Mr. Phillips:

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# 334164 (Public Information Request No. 0582-09).

The City of Fort Worth (the "city") received a request for the requestor's own civil service file. You state the city is releasing some of the responsive information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

Gov't Code § 552.108(a)(1). We note, however, you have submitted information that is maintained by the city's Civil Service Commission pursuant to section 143.089(a) of the Local Government Code. The police 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 department took disciplinary action against the police officer under chapter 143 of the Local Government Code. Local Gov't Code § 143.089(a)(1)-(2).<sup>1</sup> In cases in which a police department investigates a peace officer's misconduct and takes disciplinary action against a police 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. Corpus Christi*, 109 S.W.3d 113, 122 (Tex. App.—Austin 2003, no pet.). Section 143.089(e) grants a right of access to a police officer for "any letter, memorandum, or document placed in the person's personnel file." *See* Local Gov't Code § 143.089(e). This office has interpreted this provision to grant a police officer an affirmative right of access to the information in his or her personnel file maintained under section 143.089(a). *See* Open Records Decision No. 650 at 2 n.2 (1996). In this instance, the requestor is the officer whose information is at issue. Because the requestor has a statutory right of access to her personnel file, the city may not withhold the information at issue under section 552.108 of the Government Code. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, the submitted information must be released to the requestor pursuant to section 143.089(e) of the Local Government Code.<sup>2</sup>

We note you inform us you have redacted certain Texas-issued motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you are withholding social security numbers under section 552.147 of the Government Code. *See* Gov't Code § 552.147(b). However, because the requestor in this instance has a statutory right of access to the information at issue, the city may not withhold any of this information from the requestor on these bases, and it must be released. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in the Act generally inapplicable to information that statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).

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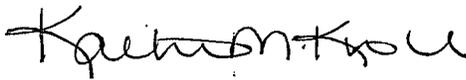
<sup>1</sup>Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-.055. An oral or written reprimand does not constitute discipline under chapter 143.

<sup>2</sup>Should the city receive another request for these same records from a person who would not have a statutory right of access to the information, the city should resubmit this same information and request another ruling from this office. *See* Gov't Code § 552.301(a).

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 at (512) 475-2497.

Sincerely,



Katherine M. Kroll  
Assistant Attorney General  
Open Records Division

KMK/eeg

Ref: ID# 334164

Enc. Submitted documents

c: Requestor  
(w/o enclosures)