



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 29, 2009

Ms. Kristina Laurel Hale  
Assistant City Attorney  
City of Laredo  
P.O. Box 579  
Laredo, Texas 78042-0579

OR2009-08941

Dear Ms. Hale:

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# 347480.

The City of Laredo (the "city") received a request for five categories of information pertaining to the requestor's client, a department officer. You state you have released the personnel files to the requestor. You claim that the submitted information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We understand the city to be a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files: a police officer's civil service file that the civil service director is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). In cases in which a police department investigates a police officer's misconduct and takes disciplinary action against an 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).<sup>1</sup> *Abbott v. City of 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

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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 §§ 143.051-143.055.

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). We note, and you acknowledge, that the entirety of the submitted information pertains to an investigation in which disciplinary action was taken against the named police officer. Thus, this information must be placed in the officer's civil service file pursuant to section 143.089(a)(2). In this instance, the requestor is the attorney for the officer whose information is at issue. Thus, because the submitted information must be maintained in the officer's civil service file, the requestor has a right of access to the submitted information under section 143.089(e). Further, although you seek to withhold the submitted information under section 552.103 of the Government Code, this office has found that a statutory right of access overcomes general exceptions to disclosure under the Act. Thus, the city may not withhold the information at issue pursuant to section 552.103. *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). As you raise no other exception to disclosure of the submitted information, it must be released to the requestor pursuant to section 143.089(e) of the Local Government Code.<sup>2</sup>

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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/eeg

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<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).

Ref: ID# 347480

Enc. Submitted documents

c: Requestor  
(w/o enclosures)