ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 23, 2013

Mr. Ronald F. Plackemeier
City Attorney
City of Texas City
P.O. Drawer 2608
Texas City, Texas 77592-2608

OR2013-06669

Dear Mr. Plackemeier:

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# 484800.

The Texas City Police Department (the "department") received a request for all employment records of a named individual. You state the department has provided some information to the requestor. You claim the remaining responsive information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section excepts from disclosure information deemed confidential by statute, such as section 143.089 of the Local Government Code. You state the City of Texas City is 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).[1] *Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex.

[1]Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. See Local Gov't Code §§ 143.051-143.055.

App.—Austin 2003, no pet.). All investigatory materials in a case resulting in disciplinary action are "from the employing department" when they are held by or in possession of the department because of its investigation into a police officer's misconduct, and the department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records are subject to release under the Act. *See* Local Gov't Code § 143.089(f); Open Records Decision No. 562 at 6 (1990). However, information maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Texas Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You inform us the information at issue is contained in a personnel file regarding the named individual, who is a police officer, that is maintained by the department pursuant to section 143.089(g). Based on your representations and our review of the documents at issue, we find the department must withhold the submitted information at issue under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code.[2]

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, 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, toll free, at (888) 672-6787.

Sincerely,

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

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[2]We note section 143.089(g) requires a police department that receives a request for information maintained in a file under section 143.089(g) to refer the requestor to the civil service director or the director's designee. Based on your statements, we understand the department has done so.

Ref: ID# 484800

Enc. Submitted documents

c: Requestor
(w/o enclosures)