



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 13, 2014

Ms. Evelyn Kimeu  
Staff Attorney  
Houston Police Department  
1200 Travis  
Houston, Texas 77002-6000

OR2014-14186

Dear Ms. Kimeu:

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# 532627 (HPD ORU No. 14-3368).

The Houston Police Department (the "department") received a request for information pertaining to a specified traffic ticket number, including the following information: video and audio recordings, police officer notes and log files, training records and information pertaining to traffic tickets issued by specified police officers, the number of traffic tickets issued by the department at a specified location, methods for estimating speed, and the dates of calibration for equipment used during the specified traffic ticket. You state the department will release some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note Exhibit 2 contains peace officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in the commissioner's electronic database and may be used as an access device number on the TCOLE website. Accordingly, we find the officers' TCOLE identification numbers in the submitted information do not constitute public information

under section 552.002 of the Government Code. Therefore, the TCOLE identification numbers are not subject to the Act and need not be released to the requestor.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes such as section 143.089 of the Local Government Code. We understand the City of Houston is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files relating to a police officer: 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). The 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 officer under chapter 143 of the Local Government Code. *Id.* § 143.089(a).

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>2</sup> *Abbott v. City of Corpus Christi*, 109 S.W.3d 113, 122 (Tex. 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 police department because of its investigation into a police officer’s misconduct, and the police department must forward them to the civil service commission for placement in the civil service personnel file. *Id.* Such records may not be withheld under section 552.101 of the Government Code in conjunction with section 143.089 of the Local Government Code. *See* Local Gov’t Code § 143.089(f); Open Records Decision No. 562 at 6 (1990).

However, a document relating to an officer’s alleged misconduct may not be placed in his civil service personnel file if there is insufficient evidence to sustain the charge of misconduct. Local Gov’t Code § 143.089(b). In addition, a document relating to disciplinary action against a police officer that has been placed in the officer’s personnel file as provided by section 143.089(a)(2) must be removed from the officer’s file if the civil service commission finds the disciplinary action was taken without just cause or the charge of misconduct was not supported by sufficient evidence. *See id.* § 143.089(c). Information

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<sup>1</sup>As we are able to make this determination, we need not address your argument against the disclosure of this information.

<sup>2</sup>Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. Local Gov’t Code §§ 143.051-.055; *see, e.g.*, Attorney General Opinion JC-0257 (2000) (written reprimand is not disciplinary action for purposes of Local Government Code chapter 143).

that reasonably relates to an officer's employment relationship with the police department and that is maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released.<sup>3</sup> See *City of San Antonio v. San Antonio Express-News*, 47 S.W.3d 556 (Tex. App.—San Antonio 2000, pet. denied); *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied).

You state the information in Exhibit 2, which consists of the training records for two department police officers, is maintained in the department's internal files pursuant to section 143.089(g). Based on this representation and our review, we conclude the information that is subject to the Act in Exhibit 2 is confidential pursuant to section 143.089(g) of the Local Government Code and must be withheld under section 552.101 of the Government Code.

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. See *id.* §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In your initial brief to this office, you stated Exhibits 3 and 4 relate to a criminal case that is pending prosecution in the City of Houston Municipal Courts. However, you subsequently informed this office the case has since closed and the prosecutor's office does not object to the release of the information at issue. Thus, we conclude section 552.108(a)(1) is not applicable and the department may not withhold Exhibits 3 and 4 on that basis.

Section 552.119 of the Government Code provides as follows:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

- (1) the officer is under indictment or charged with an offense by information;
- (2) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

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<sup>3</sup>We note that section 143.089(g) of the Local Government Code requires a police department who receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

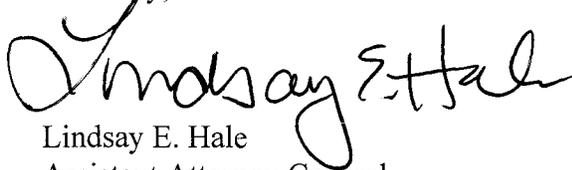
Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if the information does not demonstrate on its face, release of the photograph would endanger the life or physical safety of a peace officer. Upon review of your arguments, we find you have failed to demonstrate release of the video recording at issue would endanger the life or physical safety of a peace officer. Accordingly, we conclude the department may not withhold the information at issue under section 552.119.

In summary, the department must withhold the information that is subject to the Act in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. The department must release Exhibits 3 and 4.

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/akg

Ref: ID# 532627

Enc. Submitted documents

c: Requestor  
(w/o enclosures)