



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 7, 2015

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P. O. Box 839966
San Antonio, Texas 78283

OR2015-06546

Dear Mr. Kopp:

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# 561758 (City of San Antonio File# W061522).

The San Antonio Police Department (the "department") received a request for the following information related to a specific citation: (1) training records for the citing officer, (2) the officer's daily log for the date of the citation, (3) the name, model, and serial number of the speed measuring device used for the citation, (4) maintenance and certification records for the speed measuring device used for the citation, (5) a copy of the Federal Communication Commission license related to the speed measuring device, (6) a copy of the citation, and (7) other documents related to the citation at issue. You claim the submitted 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.

Initially, we note you have not submitted any information responsive to parts 3, 4, or 7 of the request for information. To the extent any information responsive to these portions of the request existed on the date the department received the request, we assume the department has released it. If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses section 143.089 of the Local Government Code. Section 143.089 provides for the maintenance of two different types of personnel files relating to a police officer: one that must be maintained as part of the officer’s civil service file and another that the police department may maintain for its own internal use. *See* Local Gov’t Code § 143.089(a), (g). Under section 143.089(a), 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)(1)–(2). Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *Id.* §§ 143.051–.055; *see* Attorney General Opinion JC-0257 (2000) (written reprimand is not disciplinary action for purposes of Local Gov’t Code chapter 143). 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, information that reasonably relates to a police 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. *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. Tex. Attorney Gen.*, 851 S.W.2d 946, 949 (Tex. App.—Austin 1993, writ denied). The City of San Antonio is a civil service city under chapter 143 of the Local Government Code.

In this instance, because the requestor broadly asks for information about a specific citation, responsive information includes both the citing officer’s personnel file and information maintained separately for law enforcement purposes. You imply the submitted information is maintained in an internal department personnel file pursuant to section 143.089(g). However, the department may not engraft the confidentiality afforded to records under section 143.089(g) to records that exist independently of the internal files. Accordingly, we find the information that is maintained solely in the department’s internal file is confidential under section 143.089(g) and must be withheld under section 552.101 of the Government Code. However, information related to the citation and the speed measuring device used for the citation that is also maintained independently of the department’s internal personnel file, is not confidential under section 143.089(g) and may not be withheld under section 552.101 of the Government Code on that basis.

In summary, with the exception of the information we have marked for release, the submitted information is confidential under section 143.089(g) of the Local Government Code and

must be withheld under section 552.101 of the Government Code.¹ The remaining submitted information, which is maintained separate and apart for law enforcement purposes, must be released.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.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,



Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/eb

Ref: ID# 561758

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note that section 143.089(g) 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. You inform us that you have done so and the civil service file has been released to the requestor.

²We note the requestor has a special right of access to some of the information being released. Gov't Code § 552.023.