



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 12, 2016

Mr. Bryan Scott McWilliams
Assistant City Attorney
Legal Department
City of Amarillo
P.O. Box 1971
Amarillo, Texas 79105-1971

OR2016-08125

Dear Mr. McWilliams:

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# 605479.

The Amarillo Police Department (the "department") received a request for "[c]omplete records of . . . all formal complaints file to [the department during 2015], as well as any reports (internal or external) produced in response to said complaints, including but not limited to investigatory records, dispositions of said complaints and records of subsequent disciplinary action." The department states it has made some of the requested information available to the requestor, but claims some of the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the department submitted portions of a report titled "Annual Report: Investigations[.]" but no other information responsive to the request, including internal affairs or offense reports. Thus, we find the submitted information is not representative of the other types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the type of information you have submitted for our review. This ruling does not authorize the department to withhold any information that is substantially different from the type of information you submitted to this office. *See* Gov't Code § 552.302. Accordingly, to the extent any information responsive to the remainder of

the request for information existed in the possession of the department when it received the request, we assume the department has released that information to the requestor. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If the department has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

We next note the department has marked some of the submitted information as being unresponsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” *Id.* § 552.101. This section encompasses section 143.089 of the Local Government Code. The department states the City of Amarillo 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. 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).

The department informs us the information it has marked under section 143.089(g) pertains to investigations that did not result in disciplinary actions against the officers at issue. The department states this information is maintained in the police department’s internal files concerning the officers at issue. Based on these representations and our review of the documents at issue, we agree the department must withhold the information it has marked

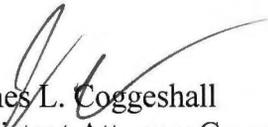
¹Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov’t Code §§ 143.051-.055.

under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. The department must release the remaining responsive information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bhf

Ref: ID# 605479

Enc. Submitted documents

c: Requestor
(w/o enclosures)