



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 20, 2018

Mr. Zachary Brown  
Assistant City Attorney  
City of Austin  
P.O. Box 1088  
Austin, Texas 78767-8828

OR2018-03942

Dear Mr. Brown:

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# 696808 (PIR No. 38443).

The City of Austin (the "city") received a request for three categories of information pertaining to two Austin-Travis County Emergency Medical Services Department ("department") employees. You indicate you will release some of the responsive information. 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 representative sample of information.<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. Section 552.101 encompasses section 143.089 of the Local Government Code. You state the city is a civil service city under chapter 143 of the Local Government Code. *See* Local Gov't Code §§ 143.401, .403(c) (each provision of chapter 143 applies to emergency medical services personnel covered by subchapter K). Section 143.089 requires

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

a civil service city to maintain two different types of personnel files relating to emergency medical services (“EMS”) personnel: a civil service file that the civil service director is required to maintain and an internal file that the department may maintain for its own use. *Id.* § 143.089(a), (g). Information that reasonably relates to an EMS personnel’s employment relationship with the department is maintained in the department’s internal file pursuant to section 143.089(g) and is confidential and must not be released. *See id.* § 143.089(g); *see also 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).

We note section 143.021(b) of the Local Government Code provides that “[e]xcept for the department head and a person the department head appoints in accordance with Section 143.014 or 143.102, each fire fighter and police officer is classified as prescribed by this subchapter and has civil service protection.” Local Gov’t Code § 143.021(b). Section 143.003 of the Local Government Code defines “department head” as “the chief or head of a fire or police department or that person’s equivalent, regardless of the name or title used.” *Id.* § 143.003(2); *see id.* § 143.403(c). Thus, information maintained by the department pertaining to the department head as defined by section 143.003 and a person the department head appoints in accordance with section 143.014 or section 143.102 is not confidential under section 143.089(g) of the Local Government Code.

The submitted information consists of a professional conduct complaint. You state the submitted information is maintained by the department in a confidential internal file pursuant to section 143.089(g). However, we are unable to tell whether the individual at issue is a department head as defined by section 143.003 or a person the department head appointed in accordance with section 143.014 or section 143.102. Thus, we must rule conditionally. If the submitted information is from a file that belongs to an individual who is not a department head as defined by section 143.003 and is not a person the department head appointed in accordance with section 143.014 or section 143.102, then the submitted information is confidential under section 143.089(g) of the Local Government Code. In this instance, the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code. Conversely, if the submitted information is from a file that belongs to an individual who is a department head as defined by section 143.003 or a person the department head appointed in accordance with section 143.014 or section 143.102 of the Local Government Code, then the submitted information is not confidential under section 143.089(g) of the Local Government Code. In this instance, the city may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 143.089(g) of the Local Government Code and the submitted information must be released.

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,

A handwritten signature in black ink, appearing to read "Michelle Garza". The signature is fluid and cursive, with a large initial "M" and "G".

Michelle Garza  
Assistant Attorney General  
Open Records Division

MG/eb

Ref: ID# 696808

Enc. Submitted documents

c: Requestor  
(w/o enclosures)