



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 19, 2019

Mr. John B. Strong
Assistant City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102-6311

OR2019-32586

Dear Mr. Strong:

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# 797298 (ORR# W089067).

The City of Fort Worth (the "city") received a request for information pertaining to the requestor's client.¹ The city states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.101, 552.117, and 552.130 of the Government Code.² We have considered the claimed exceptions 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." Gov't Code § 552.101. This section encompasses section 143.089 of the Local Government Code. The city represents it is a civil service city under chapter 143 of the Local Government Code. Section 143.089 contemplates two different types of personnel files: a

¹ After receiving the request, the city sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). The city states it received the deposit on August 27, 2019. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date that governmental body receives deposit or bond).

² We understand the city to raise sections 552.117 and 552.130 based on its markings.

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).³ *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 city states the submitted information is contained within the internal file of the city's police department that is maintained pursuant to section 143.089(g) of the Local Government Code. Upon review, we find the information at issue pertains to allegations of misconduct against the requestor's client that resulted in discipline. Although this information may be kept in the internal file maintained under subsection 143.089(g), it must also be kept in the civil service personnel file maintained under subsection 143.089(a). *See* Local Gov't Code § 143.089(a)(2). The request was received by the city, which has access to the files maintained under both subsections 143.089(a) and 143.089(g). Therefore, the request encompasses both of these files. Accordingly, 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.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 or section 552.1175 of the Government Code.⁴ Gov't Code § 552.117(a)(2). The information that the city has marked under section 552.117 pertains to the requestor's client. Because section 552.117 protects personal privacy, the requestor has a right of access to her client's information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a) (“person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual

³ Chapter 143 prescribes the following types of disciplinary actions: removal, suspension, demotion, and uncompensated duty. *See* Local Gov't Code §§ 143.051-.055.

⁴ “Peace officer” is defined by article 2.12 of the Code of Criminal Procedure.

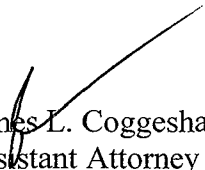
requests information concerning herself). Thus, the city may not withhold any of the submitted information under section 552.117(a)(2).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The city must release the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jxd

Ref: ID# 797298

Enc. Submitted documents

c: Requestor
(w/o enclosures)