



September 27, 2001

Mr. Kuruvilla Oommen  
Assistant City Attorney  
City of Houston - Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR2001-4339

Dear Mr. Oommen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 152439.

The City of Houston (the "city") received a request for copies of a specified 911 recording, specified internal investigation report, and a specified letter. You state that you will release a copy of the requested 911 tape. You claim, however, that the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

You claim that Exhibit 2 is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code.<sup>1</sup> Chapter 143 of the Local Government Code encompasses civil service rules for municipal fire and police departments. Subchapter G of chapter 143 is applicable to a municipality with a population of 1.5 million or more, including the City of Houston. Subchapter G includes section 143.1214 of the Local Government Code, which provides in relevant part:

(b) The department shall maintain . . . any document in the possession of the department that relates to a charge of misconduct against a firefighter . . . that

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<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. Section 552.101 encompasses information made confidential by other statutes.

the department did not sustain, only in a file created by the department for the department's use. The department may not release those documents to any agency or other person except another law enforcement agency or fire department.

Local Gov't Code § 143.1214(b). You explain that Exhibit 2 consists of records of an internal investigation located in the Houston Fire Department Internal Affairs Unit of the Office of Inspector General. You state that this information reflects unsustained allegations of misconduct against a firefighter that is kept solely in the department's investigative file for the fire department's own use. Based on your representations and our review of Exhibit 2, we agree that the information is confidential under section 143.1214(b) of the Local Government Code and, thus, must be withheld from disclosure pursuant to section 552.101 of the Government Code. *See* Open Records Decision No. 642 (1996).

You also claim that Exhibit 3 is excepted from disclosure pursuant to section 552.101 in conjunction with section 773.091 of the Health and Safety Code. Section 773.091 provides:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

Health & Safety Code § 773.091(b). We note that this confidentiality provision "does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services." Health & Safety Code § 773.091(g). Exhibit 3 consists of a summary of the fire department's ambulance records for a specified date. Based on your arguments and our review of Exhibit 3, we conclude that Exhibit 3 is confidential pursuant to section 773.091(b) of the Health and Safety Code, except for information in the document pertaining to the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient. Accordingly, except for this particular information, we conclude that you must withhold Exhibit 3 from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 773.091(b) of the Health and Safety Code.

In summary, the city must withhold Exhibit 2 from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 143.1214(b) of the Local Government Code. Except for information pertaining to the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient, we conclude that the city must also withhold Exhibit 3 from disclosure pursuant to section 552.101 in conjunction with section 773.091(b) of the Health and Safety Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "Ronald J. Bounds". The signature is written in a cursive style with a large initial "R".

Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/seg

Ref: ID# 152439

Enc. Submitted documents

cc: Mr. Donald D. DeGrasse  
Attorney at Law  
3033 Chimney Rock, Suite 600  
Houston, Texas 77058  
(w/o enclosures)