



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 9, 2009

Ms. Evelyn Njuguna  
Assistant City Attorney  
City of Houston Legal Department  
P.O. Box 368  
Houston, Texas 77001-0368

OR2009-14283

Dear Ms. Njuguna:

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# 357891.

The City of Houston (the "city") received a request for information regarding all completed investigations conducted by the Office of the Inspector General (the "OIG") regarding complaints filed by female fire fighters from 1990 to the present. 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. This section encompasses information protected by other statutes. The city is a civil service city under chapter 143 of the Local Government Code. Section 143.1214 of the Local Government Code provides in relevant part:

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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 that those records contain substantially different types of information than that submitted to this office.

(b) The department shall maintain an investigatory file that relates to a disciplinary action against a fire fighter or police officer that was overturned on appeal, or any document in the possession of the department that relates to a charge of misconduct against a fire fighter or police officer, regardless of whether the charge is sustained, only in a file created by the department for the department's use. The department may only release information in those investigatory files or documents relating to a charge of misconduct:

- (1) to another law enforcement agency or fire department;
- (2) to the office of a district or United States attorney; or
- (3) in accordance with Subsection (c).

(c) The department head or the department head's designee may forward a document that relates to disciplinary action against a fire fighter or police officer to the director or the director's designee for inclusion in the fire fighter's or police officer's personnel file maintained under Sections 143.089(a)-(f) only if:

- (1) disciplinary action was actually taken against the fire fighter or police officer;
- (2) the document shows the disciplinary action taken; and
- (3) the document includes at least a brief summary of the facts on which the disciplinary action was based.

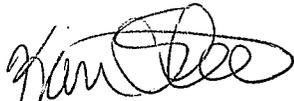
Local Gov't Code § 143.1214(b)-(c). You state Exhibit 2 consists of an internal investigation by the OIG of alleged misconduct by two fire fighters and a city employee. You also state none of the allegations of misconduct against the fire fighters resulted in disciplinary action. Thus, you indicate that Exhibit 2 is maintained in the fire department's investigatory files and is not part of the fire fighters' civil service personnel file. *See id.* § 143.1214(c); *see also* Local Gov't Code § 143.089(a)-(g). Further, you state the information does not contain any documents that meet the requirements of section 143.1214(c) for inclusion in the police officer's civil service personnel file. *See id.* § 143.1214(c); *see also id.* § 143.089(a)-(g). You assert the allegations against the two fire fighters are so intertwined with the allegations against the other city employee in the investigation that the information cannot be easily separated. We note the requestor is not another law enforcement agency or fire department or the office of a district or United States attorney. *See id.* § 143.1214(b)(1)-(2). Based on your representations and our review, we conclude that Exhibit 2 is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code. *See*

*also* Open Records Decision No. 642 (1996) (concluding that files relating to investigations of Houston Fire Department personnel by Public Integrity Review Group of Houston Police Department were confidential under section 143.1214).

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Karen E. Stack  
Assistant Attorney General  
Open Records Division

KES/cc

Ref: ID# 357891

Enc. Submitted documents

c: Requestor  
(w/o enclosures)