



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 6, 2012

Ms. Candice M. Gambrell
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-12249

Dear Ms. Gambrell:

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# 461088 (Houston GC No. 19713).

The Houston Police Department (the "department") received a request for all jail footage from one specified area from 2:00 to 3:30 and from another specified area from 3:00 to 6:00 on December 4, 2011.¹ You claim the submitted information is excepted from disclosure under section 552.101 the Government Code. We have considered the exception you claim and reviewed the submitted information.²

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

¹We note the department sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); see also *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

²We 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.

Code § 552.101. This exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 143.1214 of the Local Government Code, which provides in part:

(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 a disciplinary action against a fire fighter or police officer to the [civil service] 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) [of the Local Government Code] 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).³ You state, and have provided documentation confirming, the submitted videos were part of an internal affairs investigation in which the allegations were not sustained and which did not result in disciplinary action. *See id.* § 143.1214(b)(3), (c). You note the requestor is not a representative of a law enforcement agency, a fire department, or a district or United States attorney's office authorized to obtain the videos pursuant to section 143.1214(b). *See id.* 143.1214(b)(1)-(2). Therefore, based on your representations and our review, we conclude the department must withhold the submitted videos under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code. *See Open Records Decision*

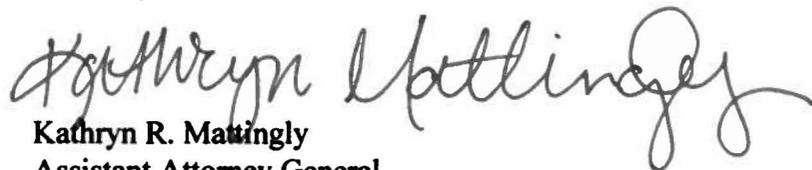
³We understand the City of Houston is a civil service city under chapter 143 of the Local Government Code.

No. 642 (1996) (files relating to investigations of Houston Fire Department personnel by Public Integrity Review Group of Houston Police Department were confidential under Local Gov't Code § 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, 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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/bhf

Ref: ID# 461088

Enc. Submitted documents

c: Requestor
(w/o enclosures)