



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 7, 2012

Ms. Danielle R. Folsom  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2012-14225

Dear Ms. Folsom:

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# 464260 (GC No. 19798).

The Houston Police Department (the "department") received a request for all documents pertaining to IRF No. 33608-2009. You claim the submitted information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim 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. Section 552.101 encompasses section 143.1214 of the Local Government Code, which provides:

(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). We understand the City of Houston is a civil service city under Chapter 143 of the Local Government Code. You explain the submitted information pertains to an internal investigation into allegations of misconduct by a department officer. We note some of the allegations were sustained and disciplinary action was taken against the department officer under chapter 143 of the Local Government Code. The department must forward the documents meeting the requirements of section 143.1214(c) to the police officer's personnel file maintained under section 143.089(a). *See id.* § 143.089(a)-(f). You indicate the submitted information is maintained in the department's investigatory files. You state the requestor is not another law enforcement agency, fire department, or the office of a district or United States attorney. Based on your representations and our review, we conclude the department must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code.<sup>1</sup>

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

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett".

Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/tch

Ref: ID# 464260

Enc. Submitted documents

c: Requestor  
(w/o enclosures)