



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2013

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

OR2013-11874

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# 492990 (Houston GC No. 20466).

The Houston Fire Department (the "department") received a request for all photographs and video provided by a named individual in a complaint concerning the requestor. 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 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 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.

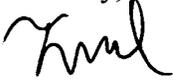
Local Gov't Code § 143.1214(b)–(c). You state the City of Houston is a civil service city under chapter 143 of the Local Government Code. You explain the submitted information pertains to an Internal Affairs Division investigation conducted by the department into allegations of misconduct by a department employee, and that the information is maintained in the department's investigatory files for the department's use. You state the requestor is not the employee of another law enforcement agency or fire department acting in his official capacity, or the employee of the office of a district or United States attorney. Further, we note the information at issue does not fall within the scope of section 143.1214(c). *See id.* § 143.1214(b)(3), (c). Based on your representations and our review, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code.

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.texasattorneygeneral.gov/open/>

[orl_ruling_info.shtml](#), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Neal".

Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 492990

Enc. Submitted documents

c: Requestor
(w/o enclosures)