



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 19, 2013

Mr. Jeffrey W. Giles  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2013-20151

Dear Mr. Giles:

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# 506141 (GC No. 20835).

The Houston Fire Department (the "department") received a request for a list of complaints and grievances against a named department employee during a specified time period and information related to backing apparatus during a particular period of time.<sup>1</sup> You state the department will make some responsive information available to the requestor. You claim some of 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.

Initially, we note you have marked some of the submitted information as not responsive to the instant request. This ruling does not address the public availability of information not responsive to the request, and the department is not required to release such information in response to this request.

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<sup>1</sup>You inform this office the department requested and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request).

Section 552.101 of the Government Code exempts 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. You state the city is a civil service city under chapter 143 of the Local Government Code. Section 143.1214 provides in relevant 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 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.

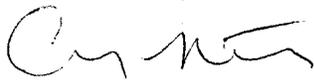
Local Gov't Code § 143.1214(b)-(c). You inform us the responsive information relates to internal affairs division investigations of alleged misconduct by a department firefighter. You state the investigations involve allegations that were not sustained and no disciplinary action was taken. You further state the requestor does not represent another law enforcement agency or fire department or a district or United States attorney's office. You assert the information at issue does not meet the requirements of section 143.1214(c) for inclusion in the firefighter's civil service personnel file. *See id.* § 143.1214(c); *see also id.* § 143.089(a)-(g). Thus, based on your representations and our review, we conclude the information pertaining to investigations involving allegations of misconduct that were not

sustained and in which no disciplinary action was taken must be withheld under section 552.101 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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/som

Ref: ID# 506141

Enc. Submitted documents

c: Requestor  
(w/o enclosures)