ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 19, 2013

Ms. Alexis G. Allen
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
500 North Akard Street, 1800 Ross Tower
Dallas, Texas 75201

OR2013-22184

Dear Ms. Allen:

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# 513954 (NJDHS File Reference No. 63734).

The City of Duncanville (the "city"), which you represent, received a request for three categories of information pertaining to the Duncanville Police Department. You state the city has released some of the responsive information. 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. This section encompasses information made confidential by other statutes, such as section 143.090 of the Local Government Code. You state the city is a civil service city under chapter 143 of the Local Government Code. Section 143.090 provides as follows:

> A department, [the Fire Fighters' and Police Officers' Civil Service Commission], or municipality may not release a photograph that depicts a police officer unless:
>
> > (1) the officer has been charged with an offense by indictment or by information;

(2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;

(3) the photograph is introduced as evidence in a judicial proceeding; or

(4) the officer gives written consent to the release of the photograph.

Local Gov't Code § 143.090. You state the submitted photographs depict police officers. You inform us the police officers depicted in the submitted photographs have not provided the city with written consent regarding the release of the photographs. You further inform us none of the remaining exceptions under section 143.090 are applicable. Therefore, the city must withhold the submitted photographs under section 552.101 of the Government Code in conjunction with section 143.090 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,

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/tch

Ref: ID# 513954

Enc. Submitted documents

c: Requestor
(w/o enclosures)