ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 20, 2014

Ms. Evelyn W. Kimeu
Staff Attorney
City of Houston Police Department
1200 Travis
Houston, Texas 77002-6000

OR2014-04743

Dear Ms. Kimeu:

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# 517276 (HPD ORU No. 13-7933).

The Houston Police Department (the "department") received a request for a copy of all written statements made by two named individuals regarding a complaint against a named department police officer. 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 protected by other statutes. You state the City of Houston is a civil service city under chapter 143 of the Local Government Code. Section 143.1214 of the Local Government Code provides in part the following:

> (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 state the submitted information consists of records of an internal investigation of alleged misconduct by a department police officer. You state the officer was exonerated and no disciplinary action was taken. You also state the information does not meet the requirements of section 143.1214(c) for inclusion in the officer's civil service personnel file. *See id.* § 143.1214(c); *see also id.* § 143.089(a)-(g). You indicate the submitted information is maintained in the department's investigatory files. You inform us the requestor is not a representative of another law enforcement agency, a fire department, or the office of a district or United States attorney. *See id.* § 143.1214(b)(1)-(2). Based on your representations and our review, we agree the submitted information is confidential under section 143.1214 of the Local Government Code and the department must withhold it from release under section 552.101 of the Government Code on that ground.

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,

Britni Fabian
Assistant Attorney General
Open Records Division

BF/tch

Ref: ID# 517276

Enc. Submitted documents

c: Requestor
(w/o enclosures)