



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 8, 2015

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

OR2015-13799

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# 570883 (ORU No. 15-2501).

The Houston Police Department (the "department") received a request for information related to two specified complaints and the disciplinary history of two named police officers. You state the department will release some 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. 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 . . . 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 . . . 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 . . . 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.

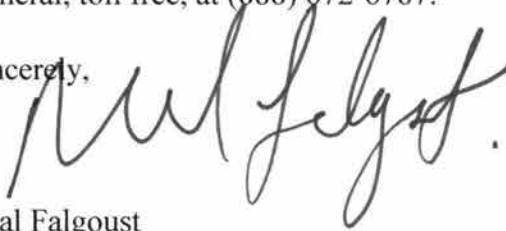
Local Gov't Code § 143.1214(b)–(c). You explain the information in Exhibits 2 and 3 and the information you marked in Exhibits 4 and 5 consist of records of internal investigations of alleged misconduct on the part of department police officers. You state the allegations related to this information were not sustained and no disciplinary action was taken. You inform us the information at issue is maintained in the department's investigatory files and is not part of the officers' civil service files. You state 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 these 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. The department must release the remaining information in Exhibits 4 and 5.

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 "Neal Falgoust". The signature is written in a cursive style with a large initial "N" and "F".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/bhf

Ref: ID# 570883

Enc. Submitted documents

c: Requestor
(w/o enclosures)