



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 25, 2017

Ms. Kristie L. Lewis
Staff Attorney
Houston Police Department
1200 Travis, 21ST Floor
Houston, Texas 77002-6000

OR2017-21930

Dear Ms. Lewis:

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# 676892 (ORU Nos. 17-06489 and 17-06587).

The Houston Police Department (the "department") received two requests from different requestors for the case file for a specified internal affairs investigation. 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 state the submitted information consists of an investigation conducted by the department's internal affairs division. The submitted documentation reflects the allegations were sustained and you state disciplinary action was taken against the police officers. You inform us all documents meeting the requirements of section 143.1214(c) were forwarded to the appropriate police officers' personnel files maintained under section 143.089(a) of the Local Government Code. *See id.* § 143.1214(b)(3), (c)(1)–(3). You further inform us the submitted information is maintained in the department's investigatory files and is not part of the officers' civil service files.¹ We note the requestors are not representatives 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 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.

¹We understand the department will direct the requestors to the City of Houston Human Resources Department for further responsive information.

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 that reads "Britni Ramirez". The signature is written in a cursive, flowing style.

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/gw

Ref: ID# 676892

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)