



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2019

Mr. Rahat Huq
Assistant City Attorneys
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2019-13163

Dear Mr. Huq:

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# 765844 (GC Nos. 25806 and 25821).

The City of Houston (the "city") received two requests from different requestors for information pertaining to the city's Independent Police Oversight Board ("IPOB"), including information regarding cases and disciplinary action reviewed by the IPOB and information pertaining to public meetings and community outreach during stated periods of time. 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.

Initially, we note the first request seeks specified information pertaining to the IPOB from 2015 to 2018. We also note the second request seeks specified information pertaining to the IPOB from January 1, 2018 to present. Thus, the city need not release information to either requestor that is not responsive to their respective requests.

Next, we note you have not submitted information responsive to the portions of the requests seeking information pertaining to public meetings or community outreach conducted by the IPOB. Additionally, you do not inform us the city has released this information. Although the city states it has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestors seek access. Please be advised, this open records letter ruling applies only to the

types of information the city has submitted for our review. This ruling does not authorize the city to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any information responsive to the remaining categories of the requests existed on the date the city received the requests, we assume the city has released such responsive information to the requestors. If the city has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Section 552.101 of the Government Code excepts from public 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 under 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 is a civil service city under Chapter 143 of the Local Government Code. You state the submitted information consists of records pertaining to reviews conducted by the IPOB regarding investigations of police officers of the Houston Police Department (the "department") conducted by the department's internal affairs division. You inform us the information at issue is maintained solely in the department's investigatory files and is not included in any other files maintained by the department. We note neither requestor is 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 conclude the city 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.

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,



Blake Brennan
Attorney
Open Records Division

BB/gw

Ref: ID# 765844

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)