



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 29, 2022

Mr. Mark G. Mann  
Senior Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2022-09146

Dear Mr. Mann:

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# 940049 (ORR# 22-0023).

The Garland Police Department (the "department") received a request for a photograph of a named officer. The department claims the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the claimed exception 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 section 143.090 of the Local Government Code. We understand the City of Garland 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:

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<sup>1</sup> We note the department did not comply with the requirements of section 552.301 of the Government Code. See Gov't Code § 552.301(b), (e). Nevertheless, section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301.

- (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. The department informs us the submitted information consists of a photograph of the named officer. However, we understand the officer at issue may have been charged with an offense by indictment or by information. *See id.* § 143.090(1). Thus, we must rule conditionally. If the named officer has not been charged with an offense by indictment or by information, then the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 143.090 of the Local Government Code. However, if the named officer has been charged with an offense by indictment or by information, then the department may not withhold the submitted information under section 552.101 in conjunction with section 143.090 but, instead, must release it to the requestor. *See id.*

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/be

Ref: ID# 940049

Enc. Submitted documents

c: Requestor  
(w/o enclosures)