



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 24, 2014

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

OR2014-21387

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# 552164 (ORU No. 14-6005).

The Houston Police Department (the "department") received a request for information pertaining to a specified internal affairs investigation and a specified criminal investigation. The department claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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. Exhibit 2 contains CR-3 accident report forms that were completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c) or (e), accident reports are privileged and confidential. *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of

information specified by the statute. *Id.* The requestor has not provided the department with two of the three pieces of information. Thus, the department must withhold the accident reports in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.¹

Section 552.101 of the Government Code also encompasses section 143.1214 of the Local Government Code, which provides in relevant 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.

Id. § 143.1214(b)-(c). You explain the remaining information in Exhibit 2 consists of records of an internal investigation of alleged misconduct on the part of a department police officer. You state the allegation was sustained, disciplinary action was taken, and all documents meeting the requirements of section 143.1214(c) were forwarded to the police

¹As our ruling is dispositive, we do not address your argument to withhold this information.

officer's personnel file maintained under section 143.089(a) of the Local Government Code. *See id.* § 143.1214(b)(3), (c)(1)-(3). You inform us the remaining information in Exhibit 2 is maintained in the department's investigatory files and is not part of the officer's civil service file.² 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, we conclude the department must withhold the remaining information in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The department states Exhibit 3 pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold Exhibit 3 under section 552.108(a)(2) of the Government Code.

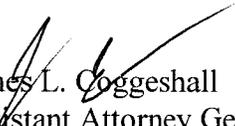
To conclude, the department must withhold the accident reports in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The department must withhold the remaining information in Exhibit 2 under section 552.101 of the Government Code in conjunction with section 143.1214 of the Local Government Code. With the exception of basic information, which the department must release, the department may withhold Exhibit 3 under section 552.108(a)(2) of the 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.

²You state the department will direct the requestor 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

Ref: ID# 552164

Enc. Submitted documents

c: Requestor
(w/o enclosures)