



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 7, 2016

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

OR2016-00551

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# 593197 (ORU No. 15-6959).

The Houston Police Department (the "department") received a request for the results of a specified complaint filed by the requestor. 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 requestor only seeks the results of the specified complaint. However, you have submitted additional information which is not responsive to the instant request. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

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, such as 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.

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 explain the submitted information consists of records of an internal investigation of alleged misconduct on the part of a department police officer. You state the allegations at issue were sustained, disciplinary action was taken, and all documents meeting the requirements of section 143.1214(c) were forwarded to the police officer's personnel file maintained under section 143.089(a). *See id.* § 143.1214(b)(3), (c)(1)-(3). You inform us the information at issue is maintained in the department's investigatory files and is not part of the officer's civil service file.¹ There is no indication the 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 these representations, we conclude the department must withhold the responsive information under section 552.101 in conjunction with section 143.1214.

¹You state the department will direct the requestor to the City of Houston Human Resources Department for further responsive information.

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 593197

Enc. Submitted documents

c: Requestor
(w/o enclosures)