



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 15, 2019

Ms. Kristie L. Lewis
HPD Staff Attorney
City of Houston
1200 Travis, 21st Floor
Houston, Texas 77002-6000

OR2019-13045

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# 765721 (ORR#s 19-02187, 19-02193, 19-02196, and 19-02661).

The Houston Police Department (the "department") received four requests from three requestors for information related to payments made by the department to confidential informants. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

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 part 23 of title 28 of the Code of Federal Regulations, which was established to regulate intelligence databases pertaining to certain criminal activities that involve a large number of participants over a broad geographical area. *See* 28 C.F.R. § 23.2 (background of part 23). The policy standards of part 23 are applicable to all criminal intelligence systems operating through support under the Omnibus Crime

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

Control and Safe Streets Act of 1968, 42 U.S.C. § 3711 *et seq.* *Id.* § 23.3(a). For purposes of part 23, a criminal intelligence system “means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information,” and an intelligence project “means the organizational unit which operates an intelligence system on behalf of and for the benefit of a single agency or the organization which operates an interjurisdictional intelligence system on behalf of a group of participating agencies[.]” *Id.* § 23.3(b)(1), (5). The release of information within these criminal intelligence databases is governed by section 23.20 of part 23, which provides, in relevant part:

(e) A project or authorized recipient shall disseminate criminal intelligence information only where there is a need to know and a right to know the information in the performance of a law enforcement activity.

(f)(1) Except as noted in paragraph (f)(2) of this section, a project shall disseminate criminal intelligence information only to law enforcement authorities who shall agree to follow procedures regarding information receipt, maintenance, security, and dissemination which are consistent with these principles.

(2) Paragraph (f)(1) of this section shall not limit the dissemination of an assessment of criminal intelligence information to a government official or to any other individual, when necessary, to avoid imminent danger to life or property.

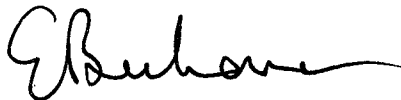
Id. § 23.20(e)-(f). For purposes of section 23.20, “criminal intelligence information” means “data which has been evaluated to determine that it: (i) [i]s relevant to the identification of and the criminal activity engaged in by an individual who or organization which is reasonably suspected of involvement in criminal activity, and (ii) [m]eets criminal intelligence system submission criteria[.]” *Id.* § 23.3(b)(3). You inform us the submitted information is maintained within the Narcotics Division Confidential Informant Database (the “database”). You explain the database is a criminal intelligence system that develops and shares criminal intelligence information with other law enforcement agencies. You state the information at issue consists of criminal intelligence information that was developed by the database. Based on your representations and our review, we conclude the information at issue is confidential under section 23.20 and may be released only in accordance with that section. The requestors are not part of a law enforcement authority and do not have a right to know the information at issue for purposes of section 23.20(e). *See id.* § 23.20(e), (f)(1). In addition, you state the department does not believe disclosure of the information at issue to the requestors is necessary to avoid imminent danger to life or property. *Id.* § 23.20(f)(2). Therefore, we conclude the submitted information must be withheld under section 552.101

of the Government Code in conjunction with section 23.20 of title 28 of the Code of Federal Regulations.²

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,



Emily Buchanan
Attorney
Open Records Division

EB/mo

Ref: ID# 765721

Enc. Submitted documents

c: 3 Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.