



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 17, 2019

Mr. Roberto Maldonado
Counsel for the City of Pleasanton
Maldonado Law Group, P. L. L. C.
310 South Saint Mary's Street, Suite 1710
San Antonio, Texas 78205

OR2019-13250

Dear Mr. Maldonado:

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# 766048.

The City of Pleasanton (the "city"), which you represent, received a request for all records during a defined time period pertaining to two specified categories and twenty-six keywords. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ Additionally, we understand you notified the San Antonio Police Department (the "department") of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the department. We have considered the submitted arguments 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 part 23 of title 28 of the Code of Federal

¹We note the city did not comply with the requirements of section 552.301(b) of the Government Code in providing the information at issue. *See* Gov't Code § 552.301(b). Nonetheless, we note the interests of a third-party can provide compelling reasons to overcome the presumption of openness. Accordingly, we will consider third party interests for the submitted information. *See id.* §§ 552.007, .302, .352.

Regulations, which was established to regulate intelligence databases pertaining to certain criminal activities that involve a large number of participants over abroad 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 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). We understand the submitted information is collected and maintained by the Southwest Texas Fusion Center (the “center”). The department explains the center is a criminal intelligence system operated pursuant to part 23 of title 28 of the Code of Federal Regulations to gather, document, process, analyze, and share information about behavior-related suspicious activities that potentially have a nexus to terrorism. The department states the information at issue consists of criminal intelligence information that was developed by the center. Thus, we conclude the information at issue is confidential under section 23.20 and may be released only in accordance with that section. The requestor is not a law enforcement authority and does 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, the department states it does not believe disclosure of the information at issue to the requestor 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/jxd

Ref: ID# 766048

Enc: Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

²As our ruling is dispositive, we need not address the remaining arguments against disclosure.