



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 19, 2019

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2019-19756

Dear Ms. Pemberton:

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# 776059 (Request# W028708).

The City of Killeen (the "city") received a request for all reports for a specified address during a certain time period. You state the city has released some information. You claim some of 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.

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. Section 552.101 encompasses chapter 67 of the Code of Criminal Procedure, which addresses intelligence information pertaining to street gangs.¹ Article 67.051(a) provides, in part, "a criminal justice agency . . . shall compile criminal information into an intelligence database for the purpose of investigating or prosecuting the criminal

¹Although you raise section 552.101 of the Government Code in conjunction with chapter 61 of the Code of Criminal Procedure, we note the 85th Legislature repealed this chapter effective January 1, 2019. *See* Act of May 30, 2017, 85th Leg., R.S., ch. 1058, § 5.01(4), 2017 Tex. Sess. Law Serv. We understand you to raise chapter 67 of the Code of Criminal Procedure. *See* Act of May 30, 2017, 85th Leg., R.S., ch. 1058, § 1.04, 2017 Tex. Sess. Law Serv.

activities of criminal combinations or criminal street gangs.” Crim. Proc. Code art. 67.051(a). Article 67.101(a) reads as follows:

A criminal justice agency may release on request information maintained under this chapter to:

- (1) another criminal justice agency;
- (2) a court; or
- (3) a defendant in a criminal proceeding who is entitled to the discovery of the information under Chapter 39[.]

Id. art. 67.101(a). Further, article 67.103 of the Code of Criminal Procedure provides release of this information to a person who is not entitled to the information is a Class A misdemeanor. *See id.* art. 67.103(b). Upon review, we find the city has failed to demonstrate any of the information at issue was obtained from an intelligence database as prescribed by Chapter 67 of the Code of Criminal Procedure. Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with article 67.101 of the Code of Criminal Procedure. The city must release the submitted 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,



Kelly McWethy
Assistant Attorney General
Open Records Division

KSM/mo

Ref: ID# 776059

Enc. Submitted documents

c: Requestor
(w/o enclosures)