



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 21, 2019

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2019-23306

Dear Mr. Kopp:

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# 781639 (COSA File No. W267464)

The City of San Antonio (the "city") received a request for information pertaining to gang databases used by the city's police department, including related policies, guidelines, and training materials. 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 you have submitted only a gang database. You have not submitted information responsive to the remainder of the request. Although you state the city has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the city to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any information responsive to the remainder of the request existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if

governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 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). We understand the submitted information is maintained in an intelligence database as prescribed by chapter 67 of the Code of Criminal Procedure. We understand the requestor is not entitled to obtain the information under article 67.101. Therefore, we conclude the city must withhold the submitted information under section 552.101 of the Government Code in conjunction with article 67.101 of the Code of Criminal Procedure.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open

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.

Mr. James Kopp - Page 3

Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/gw

Ref: ID# 781639

Enc. Submitted documents

c: Requestor
(w/o enclosures)