



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 14, 2020

Mr. Joe R. Zapata  
HPD Administrative Supervisor  
Houston Police Department  
1200 Travis Street, 10th Floor  
Houston, Texas 77002

OR2020-13713

Dear Mr. Zapata:

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# 828414 (ORU No. 20-02230).

The Houston Police Department (the "department") received a request for all memorandums sent to any department police officer containing specified keywords during a specified time period. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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 part 23 of title 28 of the Code of Federal Regulations, which was established to regulate intelligence databases pertaining to certain criminal activities, such as drug trafficking and extortion, that involve a large number of participants over a broad geographical area. *See* 28 C.F.R. § 23.2 (providing background of part 23). The policy standards of part 23 are applicable to all criminal intelligence

---

<sup>1</sup> Although the department also raises section 552.108 of the Government Code, it makes no arguments to support this exception. Therefore, we assume the department has withdrawn its claim that this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

<sup>2</sup> We 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 that those records contain substantially different types of information than that submitted to this office.

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, as follows:

(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 governmental 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 “date 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 maintained within the Houston Regional Intelligence Surveillance Center (the “center”). We understand the center is a criminal intelligence system operated pursuant to part 23 of title 28 of the Code of Federal Regulations. You state the submitted information consists of criminal intelligence information. Upon review, we agree the submitted information constitutes criminal intelligence information subject to section 23.20. Thus, the information may be released only in accordance with that section. You state the requestor is not a member of a law enforcement authority. *See id.* § 23.20(f)(1). You further state the department does not believe disclosure to the requestor is necessary to avoid imminent danger to life or property. *Id.* § 23.20(f)(2). Therefore, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 23.20 of title 28 of the Code of Federal Regulations.

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 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,

Kimbell Kesling  
Assistant Attorney General  
Open Records Division

KK/be

Ref: ID# 828414

Enc. Submitted documents

c: Requestor  
(w/o enclosures)