



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2012

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
5805 North Lamar Boulevard, Box 4087
Austin, Texas 78773-0001

OR2012-20422

Dear Ms. Cost:

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# 474436 (DPS PIR# 12-3355).

The Texas Department of Public Safety (the "department") received a request for all information related to a named organization. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions 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. This section encompasses information protected by other statutes. Part 23 of title 28 of the Code of Federal Regulations 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 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 the following:

(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 state the submitted information was “acquired and maintained as part of a criminal intelligence system operated pursuant to 28 C.F.R. § 23.20.” Thus, we conclude the submitted information is confidential under section 23.20 and 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 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. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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.oag.state.tx.us/open/index_orl.php,

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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Lindsay E. Hale". The signature is written in a cursive style with a large initial "L".

Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/tch

Ref: ID# 474436

Enc. Submitted documents

c: Requestor
(w/o enclosures)