

CITY OF SAN ANTONIO

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December 8, 2020

Office of the Attorney General
Open Government Section
P.O. Box 12548
Austin, Texas 78711-2548

Via First Class Mail

Re: Request for Ruling
Requestor: Emma Best
Date request received: June 9, 2020
Date request effectively received: November 23, 2020
COSA File No. W322645

Dear Assistant Attorney General:

June 9, 2020, the City of San Antonio received a public information request from Emma Best, which requested information related to civic unrest [**Attachment 1**]. Due to the COVID-19 pandemic, the Governor of Texas declared a public health emergency and disaster and issued an Executive Order for people to "Stay Home," to mitigate the spread of the virus and protect the health and safety of Texans by limiting gatherings and restricting work activities to those that are essential and support critical infrastructure. City of San Antonio administrative departments were closed to in-person contact. Many departments were on skeleton crews while remaining staff was working remotely or was present but involved directly in the public health or epidemic response. Few employees had the access to records necessary to respond to Public Information Act requests. Therefore in accordance with the guidance issued by the Office of the Texas Attorney General, effective **April 6, 2020**, the City of San Antonio was not operating under a "business day" for the purpose of Chapter 552 of the Texas Government Code, the Public Information Act. Therefore, all PIA related processes were paused, except for those records for which the information was readily available to those working remotely. On **November 23, 2020**, the City resumed "business days" under more normal operations, and all previously received requests resumed processing. Any requests submitted during the skeleton crew day period were officially noted as being received on the day the city resumed normal operations.

This notice was published on the City's website and notification was sent to each requestor with pending or new requests. During the period the notice was posted, the City of San Antonio was not considered to be open for business for the purpose of time deadlines under the Texas Public Information Act.

Because this request was submitted while city offices were closed due to the pandemic, this request was effectively submitted on **November 23, 2020**. City offices were closed November 26th and 27th, for the Thanksgiving holiday. By this Request for a Ruling, the city now submits a representative sample of the records at issue, and legal argument supporting the application of the exceptions claimed [**Attachment 2**].

Arguments and Authorities

552.101 (Gov't Code Section 418.176)(Homeland Security)

The attached requested information, that relates to police tactics during times of civic unrest, is protected from disclosure by Section 552.101 of the Public Information Act, in conjunction with Section 418.176 of the Government Code, which provides that certain information is confidential if it is maintained "for the purpose of preventing, detecting, responding to, or investigate an act of terrorism or related criminal activity and:

- (1) relates to staffing requirements of an emergency response provider, including a law enforcement agency ...;
- (2) relates to a tactical plan of the provider...."

The attached information falls within both exceptions to disclosure under Section 418.176 of the Government Code. The city suggests that release of any of this information, which includes warnings that it is for official law enforcement use only, would reveal the type of information that is shared, the organizations that are sharing information, information about specific types of threats, and responses to specific types of threats . This information is maintained to prevent, detect, respond to, and investigate an act of criminal activity or terrorism. The city suggest that this information therefore must be withheld. *See* OR2017-22613.

Conclusion

For the reasons set forth in this letter, the city seeks a ruling from the Office of the Attorney General to protect the enclosed records from disclosure.

Sincerely,

James Kopp
Assistant City Attorney

cc: Emma Best

Via E- Mail (without enclosures)