

# CITY OF SAN ANTONIO

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San Antonio, Texas 78207

December 16, 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  
Requestors: Emma Best and Jacob Silverman  
Date requests received: June 30 and August 12, 2020  
Date requests effectively received: November 23, 2020  
COSA File Nos. W326368 and W333844

Dear Assistant Attorney General:

June 30 and August 12, 2020, the City of San Antonio received public information requests from Emma Best and Jacob Silverman, which requested information regarding Blue Leaks [**Attachment 1**]. Because the same information was requested with the same objections, these requests have been consolidated for the convenience of the Attorney General's Office.

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 26<sup>th</sup> and 27<sup>th</sup>,

for the Thanksgiving holiday. On December 9th, the city sent ten-day letters to your office in connection with the requests, which listed the exceptions claimed in this Request for Ruling [Attachment 2]. 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 3].

### **Arguments and Authorities**

#### **A. Section 552.108(a)(1) (Pending Criminal Investigation)**

The requested information constitutes some of the records contained in a criminal investigation file maintained by the San Antonio Police Department, in conjunction with the Federal bureau of Investigation. That investigation is currently open. The release of the requested information would interfere with the detection, investigation, and prosecution of crime. The city believes, then, that the requested information is excepted from required disclosure by section 552.108(a)(1) of the Texas Government Code.

#### **B. 552.101 (Gov't Code Section 418.176)(Homeland Security)**

The attached requested information, that relates to cybersecurity of health care information, is protected from disclosure by Section 552.101 of the Public Information Act, in conjunction with Section 418.176 and .177 of the Government Code, which provides that certain information is confidential if it is “collected, assembled maintained” “for the purpose of preventing, detecting, responding to, or investigate an act of terrorism or related criminal activity and: ...

(2) relates to a tactical plan of the provider (subsection .176) ...”, or

(2) relates to an assessment by or for a governmental entity, or an assessment that is maintained by a governmental entity, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity (subsection .177).”

The attached information falls within both exceptions to disclosure under Sections 418.176 and .177 of the Government Code. The city suggests that this information demonstrates the efforts undertaken in regard to a specific type of threat, vulnerability of certain information, and steps to counter this threat. 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.

#### **C. Section 552.108(b)(1) (Interference with Investigation or Prosecution)**

The requested information contains records and notations of a law enforcement agency that is maintained for internal use in matters relating to law enforcement, and release of the internal record and notation would interfere with law enforcement and prosecution. The city believes, then, that the requested information is excepted from required disclosure by section 552.108(b)(1) of the Texas Government Code.

## **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 and Jacob Silverman

**Via E- Mail (without enclosures)**