



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 2, 2017

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

OR2017-17324

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# 669202 (COSA File No. W168442).

The City of San Antonio (the "city") received a request for two specified offense reports. The city claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the requestor is with the Texas Department of Criminal Justice Sex Offender Rehabilitation Program and states the information is needed in order to complete a sex offender risk assessment. Chapter 841 of the Health and Safety Code relates to the civil commitment of sexually violent predators. Section 841.142 of the Health and Safety Code provides in pertinent part:

- (a) To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making an assessment or determination under [chapter 841].

...

(e) Information subject to release or exchange under this section includes information relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

Health & Safety Code § 841.142(a), (e). As previously noted, the requestor states her office needs the requested information in order to proceed with a review of a possible civil commitment of the offender by a multidisciplinary team. Section 841.022 of the Health and Safety Code provides in pertinent part:

(a) The executive director of the Texas Department of Criminal Justice shall establish a multidisciplinary team to review available records of a person referred to the team under [chapter 841]. The team must include:

...

(2) two persons from the Texas Department of Criminal Justice as follows:

(A) one person from the victim services division; and

(B) one person from the sex offender rehabilitation program in the rehabilitation programs division[.]

...

(c) Not later than the 60th day after the date the multidisciplinary team receives notice under [chapter 841], the team shall:

(1) assess whether the person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release;

(2) give notice of that assessment to the Texas Department of Criminal Justice; and

(3) recommend the assessment of the person for a behavioral abnormality, as appropriate.

Id. § 841.022(a)(2), (c). Thus, the multidisciplinary team is an entity charged with making an assessment or determination as to civil commitments under chapter 841 of the Health and Safety Code. Therefore, the requestor has a right of access to the submitted information

pursuant to section 841.142 of the Health and Safety Code. Although the city raises section 552.101 of the Government Code in conjunction with common-law privacy, we note a statutory right of access prevails over the common law. *See Collins v. Tex. Mall, L.P.*, 297 S.W.3d 409, 415 (Tex. App.—Fort Worth, 2009, no pet.) (statutory provision controls and preempts common law only when statute directly conflicts with common-law principle). Thus, we conclude the city must release the submitted information to this requestor pursuant to section 841.142 of the Health and Safety Code.¹

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/tdw

Ref: ID# 669202

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As noted, the requestor has a special right of access, beyond that of the general public, to the information being released in this instance. Therefore, if the city receives another request for this information from a different requestor, it must again seek a ruling from this office.