



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 8, 2020

Mr. Scott A. Merchant
General Counsel
Texas Civil Commitment Office
4616 West Howard Lane, Building 2, Suite 350
Austin, Texas 78728

OR2020-22562

Dear Mr. Merchant:

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# 843963 (PIA# 2020-016).

The Texas Civil Commitment Office (the "office") received a request for a specified policy.¹ You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments 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." *Id.* § 552.101. This section encompasses information made confidential by section 841.0833 of the Health and Safety Code, which provides the following:

- (a) The office shall develop procedures for the security and monitoring of committed persons in each programming tier.

¹ As you have not submitted a copy of the request for information, we take our description from your brief.

² We note the office did not comply with section 552.301 of the Government Code in requesting a ruling from this office. *See* Gov't Code § 552.301(e). Nonetheless, because section 552.101 of the Government Code can provide a compelling reason to overcome the presumption of openness, we will consider its applicability to the submitted information. *See id.* §§ 552.007, .302, .352.

(b) Information regarding the security and monitoring procedures developed under Subsection (a) is confidential and not subject to disclosure under [the Act].

Health & Safety Code § 841.0833. You state the submitted information consists of a policy related to the security and monitoring of sexually violent predators. Upon review, we agree the information at issue consists of a policy related to the security and monitoring of committed persons, which is made confidential under section 841.0833(b) of the Health and Safety Code. Accordingly, the office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 841.0833(b) of the Health and Safety Code.

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,

Kelly McWethy
Assistant Attorney General
Open Records Division

KM/jm

Ref: ID# 843963

c: Requestor