



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 26, 2020

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

OR2020-26809

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# 850687 (PIA# 2020-0026).

The Texas Civil Commitment Office (the "TCCO") received a request for certain information related to civil commitment trial proceedings regarding a named individual.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.107(2), and 552.134 of the Government Code.² We have considered the claimed exceptions and reviewed the submitted information.

Section 552.107(2) of the Government Code provides information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). Section 841.143(a) of the Health and Safety Code, which relates to the civil commitment of sexually violent predators, requires a court to maintain, as part of the court record, all psychological reports, drug and alcohol reports, treatment records, diagnostic reports, medical records, and victim impact statements submitted to the court under Chapter 841. *See* Health & Safety Code § 841.143(a). Section 841.143(b) states a report, record,

¹ You state the TCCO sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² We understand the TCCO to raise section 552.107(2) of the Government Code based on the substance of its argument.

or statement submitted to the court pursuant to this chapter “must be sealed and may be opened only: (1) on order of a judge; (2) as provided by this chapter; or (3) in connection with a criminal proceeding as otherwise provided by law.” *See id.* § 841.143(b). The information at issue consists of psychological reports and treatment records maintained by a court pursuant to chapter 841. You state “[t]he information contained within the evaluation is confidential information intended for the court’s use in making a determination whether, beyond a reasonable doubt, the person is a sexually violent predator.” You also state “[t]he information contained within the packets is confidential information intended for the court’s use in making a determination regarding the [sexually violent predator’s] status and continuing need for commitment.” There is no indication the exceptions listed in section 841.143(b) apply. You also indicate section 841.143 of the Health and Safety Code requires these documents to be sealed. As these documents have been sealed by a court pursuant to section 841.143(b), we conclude the TCCO must withhold the submitted information under section 552.107(2) of the Government Code.³

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/be

Ref: ID# 850687

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.