



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 5, 2022

Mr. Siang L. Sang  
Assistant City Attorney  
City of Fort Worth  
200 Texas Street, 3rd Floor  
Fort Worth, Texas 76102

OR2022-12908

Dear Mr. Sang:

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# 942067 (PIR No. E001238-012622).

The Fort Worth Police Department (the "department") received a request for all records pertaining to a named individual, including information pertaining to eight specified report numbers. You state the department will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 261.201(a) of the Family Code, which provides:

[T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

- (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and
- (2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working

papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find the submitted information was used or developed in an investigation of alleged or suspected child abuse conducted by the department under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code); *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261 of the Family Code as person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes). Accordingly, we find this information is subject to section 261.201 of the Family Code. As you do not indicate the department has adopted a rule that governs the release of this type of information, we assume no such regulation exists. Given that assumption, we conclude the submitted information is confidential pursuant to section 261.201. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

We note, however, the requestor is an investigator with the civil division of the Special Prosecution Unit of the State of Texas (the “SPU”), and indicates her office is seeking the information at issue pursuant to chapter 841 of the Health and Safety Code, which 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). Upon notice and recommendation of the multi-disciplinary review team, the Texas Department of Criminal Justice shall assess whether an individual suffers from a behavioral abnormality making the individual likely to engage in a predatory act of sexual violence and provide notice of the assessment to the attorney representing the state in the county where the individual was convicted of the sexually violent offense. *See id.* §§ 841.023, .022(c), .002(1) (defining “attorney representing the state”). The attorney representing the state may file a petition alleging the individual is a sexually violent predator. *See id.* § 841.041(a). Section 841.042 of the Health and Safety Code provides “the special prosecution unit shall provide legal, financial, and technical assistance to the attorney for a civil commitment proceeding conducted under [chapter 841].” *Id.* § 841.042. Thus, the civil division of the special prosecution unit is an

entity charged with assisting the attorney representing the state in making an assessment or determination under chapter 841 of the Health and Safety Code. We understand an attorney representing the state in a proceeding being conducted under chapter 841 has requested the assistance from the SPU. The requestor indicates the SPU seeks the civil commitment of a sexually violent predator, and she states she is assigned to a case involving the individual named in the present request. Therefore, the requestor has a right of access to the submitted information pursuant to section 841.142.

Although the submitted information is confidential under section 261.201 of the Family Code, section 841.142 of the Health and Safety Code provides the requestor with a right of access to the submitted information, regardless of whether the information is otherwise confidential. We note section 841.142 was enacted after section 261.201. Act of May 31, 1999, 76th Leg., R.S., ch. 1188, § 4.01 (codified as Health & Safety Code § 841.142); Act of April 10, 1995, 74th Leg., R.S., ch. 20, § 1 (codified as Fam. Code § 261.201). When the legislature enacts a statute, it is presumed to do so “with complete knowledge of the existing law and with reference to it.” *Acker v. Tex. Water Comm’n*, 790 S.W.2d 299, 301 (Tex. 1990); *CenterPoint Energy Houston Elec., LLC v. Gulf Coast Coalition of Cities*, 263 S.W.3d 448, 461 (Tex. App.—Austin 2008), *aff’d sub nom. Texas Indus. Energy Consumers v. CenterPoint Energy Houston Elec., LLC*, 342 S.W.3d 95 (Tex. 2009). Accordingly, we conclude the department must release the submitted information to this requestor pursuant to section 841.142 of the Health and Safety Code.<sup>1</sup>

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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/mo

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<sup>1</sup> As noted above, the requestor has a special right of access to the information being released in this instance. See Health & Safety Code § 841.142. Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)