



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 26, 2016

Mr. Timothy J. Mason  
Assistant County Attorney  
Andrews County  
121 Northwest Avenue A  
Andrews, Texas 79741

OR2016-21689

Dear Mr. Mason:

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# 627783.

The Andrews County Attorney's Office (the "county attorney's office") received a request for all documents relating to criminal proceedings against two named individuals, including four specified cases, criminal histories of the two named individuals, and all documents related to the deaths of two different named individuals. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information consists of grand jury subpoenas and information obtained pursuant to grand jury subpoenas. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined for the purposes of the Act, a grand jury is a part of the judiciary and therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Furthermore, records kept by a governmental body that is acting as an agent for a grand jury are considered records in the constructive possession of the grand jury, and are also not subject to the Act. *See* Open Records Decisions Nos. 513 (1988), 411, 398 (1983). Thus, to the extent the county attorney's office holds the information at issue as an agent of the grand jury, such information consists of records of the judiciary that are not subject to disclosure under the

Act and the county attorney's office is not required to release that information in response to the instant request. To the extent the county attorney's office does not hold the information at issue as an agent of the grand jury, we will address the arguments of the county attorney's office against its disclosure.

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

(a) [T]he following information is confidential, is not subject to public release under [the Act], 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). We note the submitted information consists of files, reports, records, communications, audiotapes, videotapes, or working papers used or developed in an investigation of alleged child abuse under chapter 261 of the Family Code. *See id.* §§ 101.003(a) (defining "child" for purposes of section 261.201), 261.001(1), (4) (defining "abuse" and "neglect" for purposes of section 261.201 of Family Code). You do not indicate the county attorney's office has adopted any rules that would permit the release of the responsive information. Accordingly, we find the submitted information is subject to chapter 261 of the Family Code. Therefore, we conclude the submitted information is confidential pursuant to section 261.201(a) of the Family Code and must be withheld under section 552.101 of the Government Code.<sup>1</sup> *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute).

In summary, to the extent the county attorney's office holds the information at issue as an agent of the grand jury, such information consists of records of the judiciary that are not subject to disclosure under the Act and the county attorney's office is not required to release that information in response to the instant requests. To the extent the county attorney's office does not hold the information at issue as an agent of the grand jury, the county attorney's

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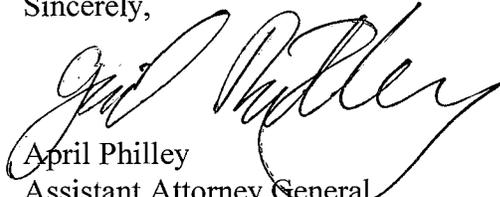
<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

office must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family 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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](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,



April Philley  
Assistant Attorney General  
Open Records Division

AP/akg

Ref: ID# 627783

Enc. Submitted documents

c: Requestor  
(w/o enclosures)