



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 12, 2015

Ms. June Harden
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2015-23821

Dear Ms. Harden:

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# 589405 (OAG PIR No. 15-42424).

The Office of the Attorney General (the "OAG") received a request for a specified motion to recuse and a specified request for a district attorney pro-tem related to a specified case. You state the OAG does not possess some of the requested information.¹ You claim the remaining requested 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.

¹The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Section 552.101 of the Government Code excepts 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 section 261.201 of the Family Code, which provides, in relevant part, as follows:

(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 [chapter 261 of the Family Code] 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 [chapter 261 of the Family Code] or in providing services as a result of an investigation.

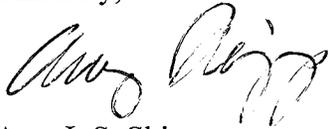
Fam. Code § 261.201(a). You state the submitted information pertains to a criminal prosecution that will be handled by the OAG’s Criminal Prosecutions Division. You explain this information was developed in a prosecution of alleged or suspected abuse under chapter 261 of the Family Code. Accordingly, we agree this information falls within the scope of section 261.201 of the Family Code. *See id.* §§ 101.003(a) (defining “child” for the purposes of this section as a 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); 261.001(1) (defining “abuse” for purposes of chapter 261 of the Family Code). You state the OAG has not adopted a rule governing the release of this type of information. Therefore, we conclude the submitted information is confidential pursuant to section 261.201 of the Family Code, and the OAG must withhold it under section 552.101 of the Government Code on that basis.

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,

A handwritten signature in black ink, appearing to read "Amy Shipp". The signature is written in a cursive style with a large initial "A".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/akg

Ref: ID# 589405

Enc. Submitted documents

c: Requestor
(w/o enclosures)