



November 1, 1999

Mr. Bill Turner
District Attorney
Brazos County District Attorney's Office
300 E. 26th Street, Suite 310
Bryan, Texas 77803

OR99-3083

Dear Mr. Turner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 128540.

The Brazos County District Attorney's Office (the "district attorney") received a request for information regarding an investigation of the requestor that was brought before the grand jury. You claim that the requested 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 documents.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You contend that the information is confidential under article 20.02 of the Code of Criminal Procedure. Article 20.02(a) of the Code of Criminal Procedure states that "[t]he proceedings of the grand jury shall be secret." Thus, information that reveals the proceedings of the grand jury is confidential under article 20.02(a) of the Code of Criminal Procedure and excepted from disclosure under section 552.101 of the Government Code. Additionally, in Open Records Decision No. 513 (1988), this office concluded that grand juries are not subject to the Public Information Act, and that records within the constructive possession of grand juries are not public information subject to disclosure under the Public Information Act. *See Gov't Code § 552.003.* You explain that some of the requested information was "gathered at the direction of a duly constituted grand jury." Based upon these considerations, we conclude that the district attorney must withhold the requested information from disclosure if the district attorney is maintaining the information on behalf of the grand jury.

It is unclear whether the memorandum, prosecutor's notes, and reports, for which you assert a section 552.108 claim, are records of the grand jury. Thus, we will address your section 552.108 claim as to these records. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(2). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ljp

Ref: ID# 128540

Encl. Submitted documents

cc: Mr. Swiki A. Anderson
1805 Hondo
College Station, Texas 77840
(w/o enclosures)