



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 29, 2010

Mr. David M. Davis, Jr.
Lieutenant
Rockwall County Sheriff's Office
972 T. L. Townsend Drive
Rockwall, Texas 75087

OR2010-14822

Dear Mr. Davis:

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# 395193.

The Rockwall County Sheriff's Office (the "sheriff") received two requests for ten categories of information pertaining to a specified accident. You state that the sheriff has released some of the requested information. You claim the submitted telephone records are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

You inform us that the sheriff obtained the submitted telephone records pursuant to a grand jury subpoena. The judiciary is expressly excluded from the requirements of the Act. *See* Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary and is therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, records kept by another person or entity acting as an agent for a grand jury are considered to be records in the constructive possession of the grand jury and therefore are not subject to the Act. *See* Open Records Decisions Nos. 513 (1988), 398 (1983). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). Upon review, we find that the submitted telephone records are in the grand jury's constructive possession and are not subject to the Act. Therefore, the submitted information need not be released in response to this request. As we are able to make this determination, we do not address your argument against disclosure.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Sterner", written over a horizontal line.

Christopher D. Sterner
Assistant Attorney General
Open Records Division

CDSA/eeg

Ref: ID# 395193

Enc. Submitted documents

c: Requestor
(w/o enclosures)