



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 24, 2016

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

OR2016-19168

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# 623805 (PIR No. 16-44470).

The Office of the Attorney General (the "OAG") received a request for information pertaining to a specified case. The OAG states it will release some information, including basic information in accordance with section 552.108(c) of the Government Code. The OAG claims the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

Initially, we note some of the submitted information consists of a grand jury subpoena and information obtained pursuant to the grand jury subpoena. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined for Act, a grand jury is a part of the judiciary and therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, 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 OAG holds the information at issue as an agent of the grand jury, such information consists of records of the

¹We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The OAG states the information at issue pertains to a concluded criminal investigation conducted by the OAG's Criminal Prosecutions Division. We understand the investigation did not result in conviction or deferred adjudication. Upon review, we agree section 552.108(a)(2) is applicable to the information at issue, and the OAG may withhold it on that basis.

In summary, to the extent the OAG holds the grand jury subpoena and information obtained pursuant to the grand jury subpoena as an agent of the grand jury, the OAG is not required to release that information in response to the instant request. The OAG may withhold the remaining requested information at issue under section 552.108(a)(2) of the Government 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, 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 623805

Enc. Submitted documents

c: Requestor
(w/o enclosures)