



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 18, 2015

Mr. Kyle O. Jones  
Assistant District Attorney  
County of Brazoria  
111 East Locust, Suite 408A  
Angleton, Texas 77515

OR2015-17057

Dear Mr. Jones:

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# 576142.

The Brazoria County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case. 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 a portion of the submitted information consists of a grand jury subpoena and information obtained pursuant to a 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 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). 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 district 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 district attorney's office is not required to release that information in response to the instant request. To the extent the district attorney's office does not hold the

information at issue as an agent of the grand jury, we will address the district attorney's argument against its disclosure.

Section 552.108(a)(2) of the Government Code excepts 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 requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The district attorney's office states the information at issue relates to a case that was no-billed by the Brazoria County Grand Jury, and, thus, did not result in conviction or deferred adjudication. Based on the this representation, we conclude section 552.108(a)(2) is applicable to the information at issue.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the district attorney's office may withhold the information at issue under section 552.108(a)(2) of the Government Code.<sup>1</sup>

In summary, to the extent the district attorney's office holds the submitted grand jury subpoena and information obtained pursuant to the grand jury subpoena 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 district attorney's office is not required to release that information in response to the instant request. With the exception of basic information, which the district attorney's office must release, the district attorney's office may withhold the submitted information that is subject to the Act under section 552.108(a)(2) of the Government Code.<sup>2</sup>

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.

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

<sup>2</sup>We note the requestor has a special right of access under section 552.023 of the Government Code to information that would otherwise be withheld to protect his client's privacy. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

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,



Lee Seidlits  
Assistant Attorney General  
Open Records Division

CLS/som

Ref: ID# 576142

Enc. Submitted documents

c: Requestor  
(w/o enclosures)