



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 3, 2016

Mr. Jim Wheeler
Criminal District Attorney
Wood County
P. O. Box 698
Quitman, Texas 75783

OR2016-12652

Dear Mr. Wheeler:

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# 616041.

The Wood County District Attorney's Office (the "district attorney's office") received a request for specified categories of information, including information that pertains to previous requests for information. The district attorney's office represents it does not have some of the requested information.¹ The district attorney's office states it has made some of the requested information available to the requestor, but claims the submitted information is not subject to the Act. We have considered the submitted arguments and reviewed the submitted representative sample of information.²

The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined a grand jury, for purposes of the Act, is a part

¹The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *See generally Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

²We 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 those records contain substantially different types of information than that submitted to this office.

of the judiciary and, therefore, not subject to the Act. 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. Open Records Decisions Nos. 513 (1988), 411, 398 (1983). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). The district attorney's office states the submitted information is in the constructive possession of the grand jury. Based on this representation, we conclude the submitted information consists of records of the judiciary and is not subject to disclosure under the Act.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 616041

Enc. Submitted documents

c: Requestor
(w/o enclosures)