



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 6, 2016

Mr. Bill Delmore  
Chief  
Legal Services Bureau  
9th Judicial District  
207 West Phillips, 2nd Floor  
Conroe, Texas 77301

OR2016-22458

Dear Mr. Delmore:

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# 630106.

The 9th Judicial District Attorney's Office (the "district attorney's office") received a request for a complete copy of a specified file. You state you will release some information, including basic information pertaining to the submitted incident report. *See* Gov't Code § 552.108(c) (basic information about an arrest, arrested person, or crime not excepted from disclosure under section 552.108). You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note some of the submitted information consists of grand jury testimony. The judiciary is expressly excluded from the requirements of the Act. *Id.* § 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 submitted information as an agent of the grand jury, such information consists of records of the judiciary that are not subject to disclosure under the Act. Thus, 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 your arguments 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. *See* 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 has concluded in a final result other than a conviction or deferred adjudication. *See id.*; *see also id.* § 552.301(e)(1)(A). You state the submitted information pertains to a criminal case that concluded in a result other than conviction or deferred adjudication. Based on your representation and our review, we find the district attorney's office may withhold the submitted information from disclosure under section 552.108(a)(2).<sup>1</sup>

In summary, to the extent the district attorney's office holds the submitted information 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. However, to the extent the submitted information is not held by the district attorney's office as an agent of the grand jury, the district attorney's office may withhold the submitted information from disclosure 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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/bhf

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

Ref: ID# 630106

Enc. Submitted documents

c: Requestor  
(w/o enclosures)