



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 24, 2017

Ms. Melinda Brewer
Assistant District Attorney
Civil Division
Collin County District Attorney's Office
2100 Bloomdale Road, Suite 100
McKinney, Texas 75071

OR2017-24202

Dear Ms. Brewer:

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# 681746.

The Collin County District Attorney's Office (the "district attorney's office") received a request for specified information pertaining to a specified court case. You state the district attorney's office does not possess some of the requested information.¹ You claim the submitted information is not subject to the Act. Alternately, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The district attorney's office asserts the submitted information is not subject to the Act because it was prepared by the grand jury and is held by the district attorney's office as an agent of the grand jury. 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


¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

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, based on your representation the information at issue is held by the district attorney's office as an agent of the grand jury, we conclude this information consists of records of the judiciary not subject to disclosure under the Act. Therefore, the district attorney's office is not required to release the submitted information in response to the instant request.²

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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/sb

Ref: ID# 681746

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your argument against disclosure.