KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 28, 2019

Ms. Alexandra Golden and Ms. Mary Cheline Shine
Assistant District Attorneys
Brazoria County
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2019-08518

Dear Ms. Golden and Ms. Shine:

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# 764848 (Ref.## 19-0307 and 19-0308).

The Brazoria County Criminal District Attorney's Office (the "district attorney's office") received two requests from a single requestor for information pertaining to case numbers 66218, 66218-A, 73524, and 80524-CR. You state you have released some information. You claim the submitted information is not subject to the Act pursuant to section 552.003 of the Government Code because it consists of records of the judiciary. We have considered your claim and reviewed the submitted information.

Initially, we note 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). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). The fact that information collected or prepared by another person or entity is submitted to the grand jury does not necessarily mean that such information is in the grand jury's constructive possession when the same information is also held in the other person's or entity's own capacity. Information held by another person or entity but not produced at the direction of the grand jury may well

be protected under one of the Act's specific exceptions to disclosure, but such information is not excluded from the reach of the Act by the judiciary exclusion. *See* ORD 513. You state the submitted information consists of information obtained pursuant to a grand jury subpoena. You explain this information is held by the district attorney's office as an agent for the grand jury. Based on this representation, we conclude the submitted information is held by the district attorney's office as an agent for the grand jury, and it is not subject to the Act. Our ruling does not address the public availability of this information, and the district attorney's office need not release it in response to this request.

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,

Jesse Harvey
Assistant Attorney General
Open Records Division

JH/mo

Ref: ID# 764848

Enc. Submitted documents

c: Requestor
(w/o enclosures)