



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 29, 1996

Ms. Tamara Armstrong  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR96-1970

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101647.

The Travis County District Attorney's Office received a request for "the log of Grand Jury Witnesses, Travis County, for 1978, 1979, and 1980." You contend that the log is a grand jury record which is not subject to the Open Records Act and, alternatively, state that the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

This office has stated that the Texas Open Records Act does not apply to information within the actual or constructive possession of the grand jury. Open Records Decision No. 513 (1988) at 3. Furthermore, when an individual or entity acts at the direction of a grand jury as the grand jury's agent, information held or collected by the agent is within the grand jury's constructive possession. *Id.* You explain that "[a]lthough the District Attorney does not prepare the Grand Jury log as such, he does take custody and maintain the Grand Jury log." We conclude that the Grand Jury log is in the constructive possession of the grand jury and, therefore, is not subject to the Open Records Act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Todd Reese". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Todd Reese  
Assistant Attorney General  
Open Records Division

RTR/rho

Ref.: ID# 101647

cc: Ms. Mary Roe Aleshire  
P.O. Box 33443  
Austin, Texas 78764