



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 11, 2016

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767-1748

OR2016-00722

Dear Ms. Sheely:

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# 600614.

The Travis County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified investigation. You claim some of the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Further, you state release of some of the submitted information may implicate the proprietary interests of the University of Texas at Austin (the "university"). Accordingly, you state, and provide documentation showing, you notified the university of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released.¹ *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released). We have considered your arguments and reviewed the submitted representative sample of information.²

¹As of the date of this letter, we have not received comments from the university explaining why the submitted information should not be released.

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

Initially, the district attorney's office asserts some of the submitted information is not subject to the Act because it consists of records obtained pursuant to a grand jury subpoena 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. *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, because the information at issue is held by the district attorney's office as an agent of the grand jury, 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 information you have marked in response to the instant request.³

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the remaining information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the basic "front-page" offense and arrest information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the district attorney's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.⁴

In summary, the information the district attorney's office has marked consists of records of the judiciary not subject to disclosure under the Act, and the district attorney's office is not

³As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

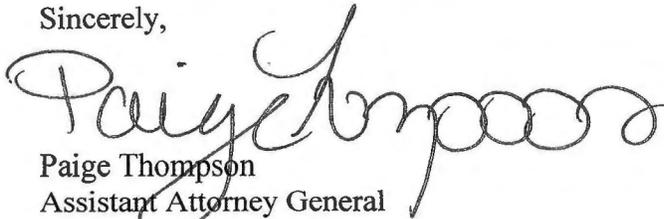
⁴As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

required to release this information in response to the instant request. With the exception of basic information, the district attorney's office may withhold the remaining information 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, 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,

A handwritten signature in cursive script that reads "Paige Thompson". The signature is written in black ink and is positioned above the typed name and title.

Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 600614

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Patricia Ohlendorf
Vice President of Legal Affairs
The University of Texas at Austin
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(w/o enclosures)