



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 25, 2016

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

OR2016-09263

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# 607054.

The Travis County District Attorney's Office (the "district attorney's office") received a request for all information pertaining to a specified case.<sup>1</sup> You state you have released some information. You claim some of the submitted information is not subject to the Act, or in the alternative, excepted from disclosure under sections 552.101, 552.108, and 552.137 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>You state you sent the requestor an estimate of charges pursuant to section 552.2615 of the Government Code. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You inform us the requestor paid the deposit on February 2, 2016. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

<sup>2</sup>We 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, you assert 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. 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). 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 this information, which you have marked, in response to the instant request.<sup>3</sup>

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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 information at issue pertains to a criminal case that concluded in a result other than conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is applicable to the information at issue and the district attorney's office may withhold it on this basis.<sup>4</sup>

In summary, the information you have marked consists of records of the judiciary that are not subject to release under the Act, and the district attorney's office need not release this information in response to the instant request. 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/>

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<sup>3</sup>As we are able to make this determination, we need not address the remaining argument against disclosure of this information.

<sup>4</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

[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 black ink that reads "Mili Gosar". The signature is written in a cursive, flowing style.

Mili Gosar  
Assistant Attorney General  
Open Records Division

MG/akg

Ref: ID# 607054

Enc. Submitted documents

c: Requestor  
(w/o enclosures)