

Tex. Atty. Gen. Op. OR2015-11096 (Tex.A.G.), 2015 WL 3932605

Office of the Attorney General

State of Texas

Informal Letter Ruling No. OR2015-11096

June 5, 2015

*1 Mr. G. Brian Garrison
Assistant District Attorney
Dallas County District Attorney's Office
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207-4399

Dear Mr. Garrison:

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# 566286.

The Dallas County District Attorney's Office (the "district attorney's office") received two separate requests from two different requestors for the names of current grand jurors in Dallas County, including with which court each grand jury is affiliated and the names of the forepersons and vice forepersons. 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.

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant requests for information because they consist of information beyond the requested names of grand jurors, grand jury forepersons, vice forepersons, and the court with which each grand jury is affiliated. This ruling does not address the public availability of non-responsive information, and the district attorney's office is not required to release non-responsive information in response to this request.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information that other statutes make confidential. You raise section 552.101 in conjunction with article 19.42 of the Code of Criminal Procedure, which provides as follows:

(a) Except as provided by Subsection (b), information collected by the court, court personnel, or prosecuting attorney during the grand jury selection process about a person who serves as a grand juror, including the person's home address, home telephone number, social security number, driver's license number, and other personal information, is confidential and may not be disclosed by the court, court personnel, or prosecuting attorney.

(b) On a showing of good cause, the court shall permit disclosure of the information sought to a party to the proceeding.

Crim. Proc. Code art. 19.42. Article 19.42 makes confidential certain "personal information" pertaining to individuals who served on grand juries, effective September 1, 1999. This office has determined that article 19.42 does not make the names of such individuals confidential. *See Attorney General Opinion GA-0422* at 3 (2006) (grand jurors' identities are not "personal information" for purposes of Crim. Proc. Code art. 19.42); Open Records Decision No. 433 (1986) ("As a practical matter...the names of the impaneled grand jurors will already have been publicly divulged, since the impaneling will have taken place in open court."). Therefore, we conclude that the district attorney's office may not withhold the requested names under section 552.101 of the Government Code in conjunction with article 19.42 of the Code of Criminal Procedure. *See Open Records Decision Nos. 658 at 4* (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be

implied from statutory structure), 649 at 3 (1996) (language of confidentiality provision controls scope of its protection), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public). As no further exceptions to disclosure are raised, the responsive information must be released.

*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,

Katelyn Blackburn-Rader
Assistant Attorney General
Open Records Division

Footnotes

- 1 As our determination that this information is not responsive to the request is dispositive, we need not address your constitutional and common-law privacy arguments for this information.

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