

Tex. Atty. Gen. Op. OR2014-10057 (Tex.A.G.), 2014 WL 3407457

Office of the Attorney General

State of Texas

Informal Letter Ruling No. OR2014-10057

June 11, 2014

*1 Ms. Ashley D. Fourn
Assistant Criminal District Attorney
Office of the Criminal District Attorney
Tarrant County
401 West Belknap, 9th Floor
Fort Worth, Texas 76196-0201

Dear Ms. Fourn:

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# 525577.

The Tarrant County District Attorney's Office (the “district attorney's office”) received a request for the names and races of grand jury forepersons selected by the 213th District Court of Tarrant County from a specified period of time regarding presentments of indictments. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code and protected under rule 12 of the Rules of Judicial Administration. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note most of the submitted information is not responsive to the instant request for information because it does not consist of the requested the names and races of grand jury forepersons. Thus, the only responsive submitted information is the names of grand jury forepersons. 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.

You argue the responsive information is exempt from disclosure under rule 12.5(f) of the Rules of Judicial Administration. Rule 12 governs the public disclosure of judicial records, which are not subject to the Act. TEX. R. JUD. ADMIN. 12.1, 12.3; Gov't Code §§ 552.003(a)(B), .0035(a). Rule 12.2 of the Rules of Judicial Administration defines a “judicial record” as “a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function[.]” TEX. R. JUD. ADMIN. 12.2(d). In this instance, the responsive information consists of information held by the district attorney's office. Because this information is maintained by the district attorney's office, it does not constitute a judicial record subject to the Rules of Judicial Administration and instead is information subject to the Act. *Id.*; Gov't Code §§ 552.002(a), .003(1)(A)(iii). Rule 12 does not apply to records or information to which access is controlled by the Act. TEX. R. JUD. ADMIN. 12.3(a)(4). Therefore, as the submitted information is subject to the Act, it may only be withheld if it is excepted from disclosure under an exception in the Act.

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:

*2 (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 of names of grand jury forepersons 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.

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,

Sarah Casterline
Assistant Attorney General
Open Records Division

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