



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2016

Mr. Naved Qazi
Assistant District Attorney
Office of the District Attorney
County of Nueces
901 Leopard, Room 206
Corpus Christi, Texas 78401-3681

OR2016-17546

Dear Mr. Qazi:

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# 621458.

The Nueces County District Attorney's Office (the "district attorney's office") received a request for the names and certain demographic information related to grand jurors and transcripts related to grand jury proceedings. 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 some of the submitted information, which you have marked, is not responsive to the request for information because it does not consist of the names or demographic information of grand jurors or transcripts related to the grand jury proceedings. This ruling does not address the public availability of any information that is not responsive to the request, and the district attorney's office is not required to release this information in response to this request.

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 section encompasses information protected by other statutes, such as article 20.02 of the Code of Criminal Procedure, which provides "[t]he proceedings of the

grand jury shall be secret.” Crim. Proc. Code art. 20.02(a). In construing article 20.02 of the Code of Criminal Procedure, the types of “proceedings” Texas courts have generally stated are secret are testimony presented to the grand jury and the deliberations of the grand jury. *See In re Reed*, 227 S.W.3d 273, 276 (Tex. App.—San Antonio 2007, orig. proceeding). Upon review, we find no portion of the submitted information reveals grand jury testimony or deliberations of the grand jury. Therefore, we conclude the district attorney’s office may not withhold any of the responsive information under section 552.101 in conjunction with article 20.02(a) of the Code of Criminal Procedure. *Cf.* Open Records Decision No. 513 at 4 (1988) (fact that information collected or prepared by another person or entity is submitted to grand jury does not necessarily mean that such information is confidential in possession of district attorney).

Section 552.101 of the Government Code also encompasses 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.

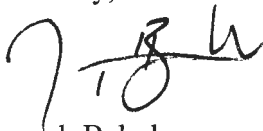
(b) On a showing of good cause, the court shall permit disclosure of the information sought to a party to the proceeding.

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 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.

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 black ink, appearing to read 'J. Behnke', with a stylized flourish at the end.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 621458

Enc. Submitted documents

c: Requestor
(w/o enclosures)