



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2019

Mr. Mark Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap, 9th Floor
Fort Worth, Texas 76196-0201

OR2019-17617

Dear Mr. Kratovil:

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# 772484.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for grand jury transcripts and information pertaining to the grand jurors regarding a specified case. You inform us, due to the retention policies of the district attorney's office, the district attorney's office does not maintain information responsive to a portion of the request.¹ 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.

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 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

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990).

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. However, article 19.42 applies only to grand juror selections made on or after September 1, 1999. *See* Act of May 30, 1999, 76th Leg., R.S., ch. 1777, § 4, 1999 Tex. Sess. Law Serv. 1777. The information at issue pertains to grand jurors selected before September 1, 1999. Thus, the information is not confidential under article 19.42, and the district attorney's office may not withhold it under section 552.101 on that basis. Therefore, the district attorney's office must release the submitted information.

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/be

Ref: ID# 772484

Enc. Submitted documents

c: Requestor
(w/o enclosures)