



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2015

Mr. Mark LaForge
Assistant District Attorney
Fort Bend County District Attorney's Office
301 Jackson, Room 101
Richmond, Texas 77469

OR2015-23428

Dear Mr. LaForge:

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# 586360.

The Fort Bend County District Attorney's Office (the "district attorney's office") received a request for the names of the members of the grand jury, the number of grand jurors, the race and gender of the grand jurors, and the grand jury minutes for three specified cases. You indicate the district attorney's office has no information responsive to the request for grand jury minutes.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.

Initially, we note the requestor asks the district attorney's office to answer a number of questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good-faith effort to relate a request to any responsive information that is within its possession or control. Open Records Decision Nos. 561 at 8-9 (1990), 555 at 102. We assume the district attorney's office has made a good-faith effort to do so.

¹The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Economic 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), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Next, we note the requestor only seeks the requested names of the members of the grand jury, the number of grand jurors, the race and gender of the grand jurors, and the grand jury minutes. Thus, we find the grand jurors' addresses and telephone numbers are not responsive to the instant request. 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.

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 responsive 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). As you raise no further exceptions to disclosure, the district attorney's office must release the responsive 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,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/akg

Ref: ID# 586360

Enc. Submitted documents

c: Requestor
(w/o enclosures)