



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 21, 2016

Ms. Leslie O. Haby
Assistant Criminal District Attorney
Bexar County Criminal District Attorney's Office
101 West Nueva, 7th Floor
San Antonio, Texas 78205

OR2016-14060

Dear Ms. Haby:

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# 615126.

The Bexar County District Attorney's Office (the "district attorney's office") received a request for the names, ages, sexes, and races of grand jurors and grand jury transcripts and minutes related to specified indictments. You claim the submitted information is not subject to the Act.¹ We have considered your arguments and reviewed the submitted representative sample of information.² We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note you have only submitted grand jury subpoenas and information obtained pursuant to grand jury subpoenas for our review. Thus, although you state the district

¹Although you also raise sections 552.101 and 552.108 of the Government Code, you have not provided any arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the submitted information. *See* Gov't Code §§ 552.301, .302.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

attorney's office has submitted a representative sample of the requested information, we find the submitted information is not representative of the requested names, ages, sexes, and races of grand jurors. Please be advised this open records letter ruling applies only to the type of information you have submitted for our review. This ruling does not authorize the district attorney's office to withhold any type of information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of section 552.301, information at issue is presumed to be public). Therefore, we presume the district attorney's office has released the requested information pertaining to the grand jurors involved in the specified indictments, to the extent such information existed when the district attorney's office received this request for information. If not, then the district attorney's office must release any such information immediately. *See id.* §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

Next, we note grand jury subpoenas and records obtained pursuant to the subpoenas are not responsive to the instant request because this information does not pertain to the names, ages, sexes, and races of grand jurors and grand jury transcripts and minutes related to specified indictments. This ruling does not address the public availability of the non-responsive information, and the district attorney's office need not release it in response to the request.

The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary and is therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, records kept by a governmental body acting as an agent for a grand jury are considered records in the constructive possession of the grand jury, and are also not subject to the Act. *See* Open Records Decisions Nos. 513 (1988), 411, 398 (1983). You indicate the district attorney's office holds the requested grand jury transcripts and minutes as an agent of the grand jury. Thus, because the requested grand jury transcripts and minutes are held by the district attorney's office as an agent of the grand jury, this information consists of records of the judiciary not subject to disclosure under the Act. Accordingly, the district attorney's office is not required to release this information in response to the instant request.

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 'Ian Lancaster', written in a cursive style.

Ian Lancaster
Assistant Attorney General
Open Records Division

IML/akg

Ref: ID# 615126

Enc. Submitted documents

c: Requestor
(w/o enclosures)