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OPEN RECORDS DIVISION

OFFICE OF COURT ADMINISTRATION

RQ-0380-GA

CARL REYNOLDS
Administrative Director

August 17, 2005

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By Certified Mail, Return Receipt Requested

AUG 23 2005

The Honorable Greg Abbott
Attorney General of Texas
P. O. Box 12548
Austin, Texas 78711-2548

FILE # ML-44339-05 ~~OPINION COMMITTEE~~
I.D. # 44339

Re: Request for Opinion concerning the Confidentiality of Petit Jury Lists and Grand Jury Lists

Dear Attorney General Abbott:

A question has arisen among clerks and judges regarding the confidentiality of petit jury lists and grand jury lists. The only information about a juror that is contained on these lists is the juror's name. Three statutes are relevant to our inquiry: Section 62.0132 of the Government Code; Article 35.29 of the Code of Criminal Procedure; and Article 19.42 of the Code of Criminal Procedure.

Section 62.0132 of the Government Code concerns petit juror questionnaires and applies to both civil and criminal cases. In pertinent part, the statute provides as follows:

- (f) Except as provided by Subsection (g), information contained in a completed questionnaire is confidential and is not subject to Chapter 552.
- (g) The information contained in a completed questionnaire may be disclosed to:
 - (1) a judge assigned to hear a cause of action in which the respondent to the questionnaire is a potential juror;
 - (2) court personnel; and
 - (3) a litigant and a litigant's attorney in a cause of action in which the respondent to the questionnaire is a potential juror.

Article 35.29 of the Code of Criminal Procedure applies to criminal cases and reads as follows:

Information collected by a court or by a prosecuting attorney during the jury selection process about a person who serves as a juror, including the juror'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, the prosecuting attorney, the defense counsel, or

any court personnel except on application by a party in the trial or on application of a bona fide member of the news media acting in such capacity to the court in which the person is serving or did serve as a juror. On a showing of good cause, the court shall permit disclosure of the information sought.

Your office has recognized that the foregoing statutes make personal information about petit jurors confidential (at least as to third parties such as the media). Op. Tex. Att'y Gen. No. JC-0405 (2001). Clerks and judges still are uncertain, however, whether petit jury lists may be released. For example, at the conclusion of a recent capital murder case in which the defendant was sentenced to death, the clerk and the judge were uncertain whether they should comply with a news media request for a copy of the jury list.

Clerks and judges similarly are uncertain about the release of grand jury lists. Article 19.42 of the Code of Criminal Procedure 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.

I respectfully request your opinion on the two questions set out below:

1. Are petit jury lists confidential?
2. Are grand jury lists confidential?

Please address the duties of the judges and clerks to protect any confidentiality of these lists for release to the parties in a case, counsel for the parties in a case, and third parties such as the media. Additionally, please address any differences in the confidentiality of these lists at different points in time, such as during voir dire, during trial, and after trial. Thank you for your assistance.

Sincerely,



Carl Reynolds
Administrative Director