



December 19, 2001

Mr. Michael R. Little
District Attorney
County of Chambers
P.O. Box 1409
Anahuac, Texas 77514

OR2001-5969

Dear Mr. Little:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156369.

The Chambers County District Attorney ("your office") received a written request for the following information:

1. The names of all Grand Jurors for Chambers County, Texas, for the period of January 1994 through September 2001; [and]
2. The names of all Grand Jury Commissioners for Chambers County, Texas, for the period of January 1994 through September 2001.

You state that your office does not possess the requested names of grand jury commissioners; accordingly, you need not comply with this aspect of the request. *See* Open Records Decision No. 445 (1986) (governmental body not required to obtain information not in its possession or to prepare new information in response to records request). You state that you have released to the requestor the names of grand jury members for the period of January 1994 through August of 1999. You contend, however, that the names of grand jury members impaneled since September 1, 1999 are made confidential under article 19.42 of the Code of Criminal Procedure, and thus must be withheld from the public pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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.

Article 19.42 makes confidential certain "personal information" pertaining to individuals who served grand juries, effective September 1, 1999. This provision does not, however, make confidential the names of such individuals. *See* Open Records Decision No. 478 (1987) (as a general rule, statutory confidentiality requires express language making particular information confidential); *see also* 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.") Accordingly, we conclude that you must release all of the requested names of grand jurors to the requestor.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the

requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/RWP/sdk

Ref: ID# 156369

Enc: Submitted documents

c: Mr. David W. Kiatta
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(w/o enclosures)