



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2009

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2009-14551

Dear Mr. Walker:

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# 358359.

The Montgomery County District Clerk's Office (the "district clerk") received a request for the names of "newly empaneled Grand Jury members for Montgomery County." You claim that the submitted information is not subject to the Act. Alternatively, you claim that the submitted information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered your arguments and reviewed the submitted information.

You assert that the submitted information is maintained by the district clerk as an agent of the judiciary and is therefore not subject to the Act. The Act applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business . . . by a governmental body." Gov't Code § 552.002(a)(1). However, a "governmental body" under the Act "does not include the judiciary." *Id.* § 552.003(1)(B). Information that is "collected, assembled or maintained by . . . the judiciary" is not subject to the Act, but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035). In addition, information that is "collected, assembled, or maintained . . . for the judiciary" by a governmental body acting

as an agent of the judiciary is not subject to the Act. Gov't Code § 552.0035(a); *cf.* Attorney General Opinions DM-166 (1992), H-826 (1976); Open Records Decision Nos. 610 (1992), 572 (1990), 513 (1988), 433 (1986), 274 (1981). Generally, in performing its duties, we determine that the district clerk acts as an agent of the judiciary.

You state that the district clerk maintains the requested list of the grand jurors on behalf and at the direction of the judiciary, and that the list was created and is maintained solely for judicial purposes. Based on these representations, we conclude that the submitted information constitutes records maintained for the judiciary under section 552.0035(a) of the Government Code. Consequently, the submitted information is not subject to disclosure under the Act. Because our determination on this issue is dispositive, we need not address your arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 358359

Enc. Submitted documents

c: Requestor  
(w/o enclosures)