



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2009

Ms. Myrna S. Reingold
Staff Attorney
Galveston County Legal Department
County Courthouse
722 Moody, 5th Floor
Galveston, Texas 77550-2317

OR2009-14672

Dear Ms. Reingold:

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# 358991.

The Galveston County Criminal District Attorney's Office (the "district attorney") received a request for (1) the district attorney's "procedures/policies . . . for a private citizen to follow in order to present a case directly to a grand jury in Galveston" and (2) the "names of members of all grand juries currently empaneled in the county of Galveston." You state the district attorney does not have any information responsive to the first part of the request.¹ You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.107 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim the submitted information is protected under section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. However,

¹We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. 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), 452 at 3 (1986), 362 at 2 (1983).

you have not directed our attention to any law, nor are we aware of any law, that makes any of the submitted information confidential under section 552.101. *See, e.g.*, Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). Therefore, the district attorney may not withhold any of the submitted information under section 552.101 of the Government Code.

Section 552.107(2) of the Government Code provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You have submitted a copy of a court order that provides in part:

IT IS HEREBY ORDERED THAT THE GALVESTON COUNTY DISTRICT CLERK, DISTRICT ATTORNEY AND THEIR RESPECTIVE STAFFS, ARE TO KEEP ANY RECORD(S) OF THE 10TH JUDICIAL DISTRICT COURT GRAND JURY FOR THE JULY TERM, 2009, INCLUDING BUT NOT LIMITED TO GRAND JUROR NAMES, ADDRESSES AND PHONE NUMBERS, SEALED AND PRIVATE UNTIL SUCH TIME AS THEIR TERM HAS ENDED.

Order Sealing Names, Addresses and Any Personal Information of Grand Jurors (10th Dist. Ct., Galveston County, Tex., August 13, 2009). You have submitted another copy of a court order stating in part:

IT IS HEREBY ORDERED THAT THE GALVESTON COUNTY DISTRICT CLERK, DISTRICT ATTORNEY AND THEIR RESPECTIVE STAFFS, ARE TO KEEP ANY RECORD(S) OF THE 405TH JUDICIAL DISTRICT COURT GRAND JURY FOR THE JULY TERM, 2009, INCLUDING BUT NOT LIMITED TO GRAND JUROR NAMES, ADDRESSES AND PHONE NUMBERS, SEALED AND PRIVATE UNTIL FURTHER ORDER FROM THE COURT MANDATING OTHERWISE OR UNTIL SUCH TIME AS THEIR TERM HAS ENDED.

Order Sealing Names, Addresses and Any Personal Information of Grand Jurors (405th Dist. Ct., Galveston County, Tex., August 13, 2009). We note that the submitted orders are specifically made applicable to the district attorney. You state that the submitted information consists of the names of the currently impaneled grand jurors and do not indicate that the term has ended. Therefore, based on your representations and our review of the court orders, we conclude that the district attorney must withhold the requested names of grand jurors under section 552.107(2) of the Government Code.

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, 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/jb

Ref: ID# 358991

Enc. Submitted documents

c: Requestor
(w/o enclosures)