

TY CLEVENGER

Attorney at Law
1095 Meadow Hill Drive
Lavon, Texas 75166

telephone: 979.985.5289
facsimile: 979.530.9523

tyclevenger@yahoo.com
Texas Bar No. 24034380

July 13, 2015

The Hon. Chris Oldner, Judge
416th District Court of Collin County
Via email: cwatson@collincountytx.gov

The Hon. John Roach, Jr., Judge
296th District Court of Collin County
Via email: 296@collincountytx.gov

The Hon. Greg Willis, District Attorney
Collin County
Via fax: (214) 491-4860

The Hon. Brian Wice, District Attorney *Pro Tem*
Collin County
Via fax: (713) 236-7768

The Hon. Kent Shaffer, District Attorney *Pro Tem*
Collin County
Via fax: (713) 228-0034

Re: Names of grand jurors

Gentlemen:

I write concerning the orders signed by Judge Chris Oldner on June 25, 2015 and Judge John Roach, Jr. on July 8, 2015 wherein they sealed the names of grand jurors. I have attached a copy of a 2006 opinion from the Office of the Attorney General explaining that grand juror names are public information. You may also wish to refer to *Barnhart v. State*, Case No. 13-08-00511-CR, 2010 WL 3420823 (Tex.App.-Corpus Christi 2010, no pet.).

Judge Roach's order is dated the same day that I faxed a letter to the district clerk requesting the names of the grand jurors, and it appears that both orders are referring to me (albeit not by name). You should know that I obtained the names of previous grand jurors in response to a March 20, 2015 letter that I faxed to Judge Angela Tucker and District Clerk Andrea Stroh Thompson (attached). Although I reported evidence of crimes directly to some of the previous grand jurors, I did not reveal their names publicly,

nor did anyone else. Accordingly, any claim that the orders are intended to protect the privacy of the current grand jurors rings hollow.

I am particularly surprised by the second sentence of the orders, which states that “information was received outside the grand jury process and in violation of the laws of the [S]tate of Texas.” This reflects a fundamental misunderstanding of the law. While someone might be criminally charged for trying to obtain confidential information from a grand juror, *see, e.g., State v. Newton*, 158 S.W.3d 582 (Tex.App.-San Antonio 2005, reh'g overruled), there is no law whatsoever that prohibits citizens from sending information to grand jurors. That is particularly true where citizens are attempting to report crimes to the grand jury. And that is exactly what I did.

In fact, the appointment of the special prosecutors in the Ken Paxton matter would never have happened if I had not bypassed the DA's office and sent evidence directly to the grand jury. As I have explained in detail on my blog (LawFlog.com), the Collin County DA's office repeatedly tried to bury the Paxton case, and District Attorney Greg Willis did not recuse himself until *after* I informed the grand jurors that Mr. Willis had undisclosed business relationships with Mr. Paxton. After grand jurors “went rogue” by requesting information directly from the Travis County district attorney's office about the Paxton matter, Mr. Willis finally recused himself. As you probably know, I had asked the grand jury to investigate one of the business relationships involving Mr. Willis and Mr. Paxton, namely, the purchase and sale of the present site of the Collin Central Appraisal District Building.

I have to wonder whether that is the real impetus for the orders sealing the names of the grand jurors. I have attached a copy of a May 12, 2015 letter from the Lone Star Project to Gail Leyko, the chief of the felony intake division in the Collin County DA's office. The letter provides new information about the suspicious appraisal district transaction, *i.e.*, the transaction involving both the district attorney and Mr. Paxton. The letter clearly was intended for grand jurors, but I have since learned that it was not delivered to the grand jury. In other words, the DA's office blocked delivery of a letter to the grand jurors that implicitly requested an investigation of the DA himself.

I was also planning to report new information to the grand jury about that transaction, but now that is impossible. If I send something in care of the district clerk, she just gives it to the district attorney's office, thus the prosecutors get to decide whether I can ask the grand jury to investigate their boss. This creates an extraordinary conflict of interest, and it undermines the lawful role of grand juries: “In consideration of the importance of the place occupied by the grand jury in our system of government, Texas courts have long described the grand jury as a separate tribunal, independent of the control of judges and prosecutors, whose proceedings are secret, vested with broad inquisitorial powers.” *Whittington v. State*, 680 S.W.2d 505, 512 (Tex.App. - Tyler 1984, *pet. denied*). As a result of the June 25 and July 8 orders, the grand juries are now very much under “the control of judges and prosecutors.” Whereas grand jurors are supposed to be free to “act on their own knowledge and ... [are] free to make their presentments or indictments on such information as they deem satisfactory,” *Costello v. U.S.*, 350 U.S. 359, 361 (1956) (cited with approval in *Whittington*, 680 S.W.2d at 511), those orders

indicate that grand jurors are supposed to receive all of their information from the DA's office. If the Supreme Court is right, then those orders are wrong.

According to the *Dallas Morning News*, other prominent residents of Collin County were involved in the suspicious appraisal district transaction, and we know that Mr. Paxton has a history of recruiting other Collin County elected officials as participants in his business ventures. However, most of the investors in the appraisal district venture are still unknown. Thus I must ask Judge Oldner and Judge Roach the following questions: Were you an investor in the appraisal district transaction? What about your friends or family? Do you have other business relationships with Mr. Paxton or Mr. Willis? These are not unreasonable questions, as Mr. Willis participated in the appraisal district transaction while he was a judge.

Finally, pursuant to the Texas Public Information Act and Judicial Rule of Administration 12, I request the opportunity to view and copy the following documents or records, regardless of format (*e.g.*, emails, paper, etc.):

1. All correspondence, documents, or records wherein any person or entity asked Judge Chris Oldner or Judge John Roach, Jr. to seal the names of grand jurors. This request includes, but is not limited to, motions, letters, and emails, as well as document drafts. For example, if any person or entity sent a proposed or draft version of the orders sealing grand juror names, that information should be produced, even if it is just an envelope or sticky note addressed to the judge.
2. All correspondence, documents, or records (*e.g.*, memoranda) explaining how sending information to a grand juror is a "violation of the laws of the [S]tate of Texas."

Meanwhile, I request that Judge Oldner and Judge Roach rescind their orders, or at least provide the public with some reasonably reliable means of presenting information directly to the grand juries.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Ty Clevenger". The signature is stylized with a large, looped "T" and "C".

Ty Clevenger