

Perry Team Wants Grand Jury Transcript Provided

By Terri Langford

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A defiant Texas Governor Rick Perry speaks to supporters after his booking at the Travis County Courthouse on August 19, 2014.

Motion For Transcription of Grand Jury Testimony
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Defense lawyers for Gov. [Rick Perry](#) have asked that a transcript of the grand jury witness testimony that led to his indictment be made in the event there was information provided that could prove his innocence.



The motion filed Friday asks that a transcript be ordered and that visiting Judge Bert Richardson view it privately to determine if grand jurors heard testimony about Perry's actions that might help his case. A transcript would also force the special prosecutor to provide information favorable to Perry to his lawyers as required by law, the defense team argues.

Without a transcript of the witness testimony, "this court will be unable to ascertain whether a pervasive violation" of Perry's right to carry out legislative activity with immunity from prosecution, as protected by the Texas and U.S. Constitutions, has occurred, the governor's lawyers wrote.

Perry faces two felony charges related to his threat to veto funding to the Travis County district attorney's office after DA Rosemary Lehmborg declined to step down following a drunken driving conviction.

Perry's lawyers have said the governor's veto counts as legislative activity, and that any discussions around it should be protected, so he should not be prosecuted.

"The veto and any discussions between the governor and his staff regarding a veto are most certainly covered by the Speech or Debate Clause," the lawyers wrote.

Perry's legal team states that in a previous meeting with special prosecutor Mike McCrum, the San Antonio lawyer said he would not provide a grand jury transcript unless ordered by the court because he was "too busy" to do so. The defense lawyers' motion stressed that the only thing McCrum would have to do is place a call to the court reporter.

Typically, a transcript of grand jury testimony is not released unless a witness who testified before that panel testifies at trial, said Philip H. Hilder, a criminal defense attorney in Houston. However, it's not an unusual request to have the transcript made before a trial begins.

"It's a perfectly acceptable tactic by the defense because it may enlighten the court as to arguments that were made," Hilder said. But Hilder said the judge will likely stick to the law, not what the grand jury testimony shows, when deciding whether the indictment will stand.

"The fact that the testimony itself might be exculpatory isn't going to help the arguments that are already teed up before the court," Hilder said.

The next court date for the Perry case is Monday. Defense attorneys have asked that their client be excused from all pre-trial hearings, but Richardson has so far ruled only that Perry be excused from Monday's meeting in Austin.