



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 9, 2020

Ms. Elizabeth Stevens
Assistant General Counsel
Harris County
500 Jefferson Street, Suite 600
Houston, Texas 77002

OR2020-25422

Dear Ms. Stevens:

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# 847605 (2020.07-0049).

The Harris County District Attorney's Office (the "district attorney's office") received a request for memoranda created by employees pertaining to a named judge during a specified time period and complaints made by any employee to the State Commission on Judicial Conduct (the "commission") against the named judge. You claim some of the submitted information is subject to section 552.117 of the Government Code.¹ You also state you notified the commission and Judge Darrell Jordan ("Judge Jordan") of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from Judge Jordan. We have considered the submitted arguments and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses article V, section 1-a of the Texas Constitution,

¹ We note that although you raise other exceptions to disclosure, including sections 552.101, 552.102, 552.103, 552.107, 552.108, 552.1085, 552.109, 552.110, 552.111, 552.1175, 552.119, 552.129, 552.130, 552.1325, 552.137, 552.147 and 552.152 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim the remaining sections you claim applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

² As of the date of this letter, we have not received comments from the commission.

entitled “Retirement, Censure, Removal and Compensation of Justices and Judges; State Commission on Judicial Conduct; Procedure.” Section 1-a(10) states, in relevant part, “[a]ll papers filed with and proceedings before the [the commission] [. . .] shall be confidential, unless otherwise provided by law, and the filing of papers with, and the giving of testimony before the [c]ommission [. . .] shall be privileged, unless otherwise provided by law.” Tex. Const, art. V, § 1-a(10). We understand Judge Jordan to contend the submitted information is confidential pursuant to section 1-a(10) because the information was filed with the commission for the commission’s consideration. We note section 1-a governs the actions of and proceedings before the commission. *Id.* § 1-a (providing for composition, responsibilities, powers, and proceedings of commission). Section 1-a(10) authorizes only the commission to withhold information it maintains for investigative proceedings and other actions, and does not make records maintained by the district attorney’s office confidential. *See* Open Records Decision Nos. 649 at 3 (1996) (noting express language of confidentiality statute controls scope of statute’s protection), 478 at 2 (1987) (same). Accordingly, we find Judge Jordan has failed to demonstrate the submitted information is confidential under section 1-a(10) and it may not be withheld under section 552.101 on that basis.

Section 552.117(a)(13) of the Government Code excepts from public disclosure the home address, home telephone number, emergency contact information, and social security number of a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters, as well as information that reveals whether the employee has family members, regardless of whether the employee complies with sections 552.024 and 552.1175 of the Government Code. *See* Gov’t Code § 552.117(a)(13). The district attorney’s office must withhold the information we marked under section 552.117(a)(13) of the Government Code. The district attorney’s office must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Jennifer Copeland
Assistant Attorney General
Open Records Division

JC/eb

Ref: ID# 847605

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)