



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2011

Ms. Jana Duty
Williamson County Attorney
Williamson County Justice Center
Second Floor
405 Martin Luther King, Box 7
Georgetown, Texas 78626

OR2011-05497

Dear Ms. Duty:

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# 415135.

The Williamson County Attorney (the "county attorney") received a request for an unredacted copy of a specified letter from the county attorney to a named judge. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code.¹ We also understand you to claim that the submitted information constitutes judicial records not subject to the Act. We have considered your claims and reviewed the submitted information.

Initially, we address your claim that the submitted information should be withheld under rule 12.5(k) of the Rules of Judicial Administration. Rule 12 of the Rules of Judicial Administration governs the public disclosure of judicial records, which are not subject to the Act. TEX. R. JUD. ADMIN. 12.1, 12.3; Gov't Code §§ 552.003(a)(B), .0035(a). Rule 12.2 of

¹Although you initially raised sections 552.101 through 552.1425 of the Government Code, you have not submitted arguments, other than under section 552.101, explaining the applicability of the claimed exceptions. Therefore, we presume you have withdrawn the remaining exceptions. See Gov't Code §§ 552.301, 302.

the Rules of Judicial Administration defines a “judicial record” as “a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function[.]” TEX. R. JUD. ADMIN. 12.2(d). In this instance, the submitted information consists of a letter written and maintained by the county attorney. The county attorney is not a court or judicial agency. Because this information was created and is maintained by the county attorney, it does not constitute a judicial record subject to the Rules of Judicial Administration. Therefore, the submitted information is subject to the Act and may only be withheld if it is excepted from disclosure under the Act. *See* Gov’t Code §§ 552.002(a)(1) (defining “public information” as information “collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body”), .003(1)(B) (Act’s definition of “governmental body” does not include judiciary).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and encompasses information made confidential by other statutes. Gov’t Code § 552.101. You contend that the submitted information is confidential under rule 2.16 of the Texas Rules of Disciplinary Procedure, which provides that certain records of a grievance committee of the State Bar of Texas (the “state bar”) are confidential.² TEX. R. DISCIPLINARY P. 2.16, *reprinted in* Gov’t Code tit. 2, subtit. G, app. A-1. Section 81.033(a) of the Government Code provides that records of the state bar pertaining to grievances that are confidential under the Texas Rules of Disciplinary Procedure are not subject to the Act. *See* Gov’t Code § 81.033(a). We note that rule 2.16 and section 81.033(a) apply to records of the state bar. Gov’t Code § 81.033(a); TEX. R. DISCIPLINARY P. 2.16. The submitted information consists of records of the county attorney. We find that rule 2.16 and section 81.033(a) are not applicable to the submitted information in the hands of the county attorney. We therefore determine that the submitted information is not confidential pursuant to rule 2.16 and may not be withheld under section 552.101 of the Government Code on that basis. Accordingly, the submitted information must be released to the requestor.

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

²We note that the rules of the state bar have the same effect as statutes. *See Board of Law Examiners v. Stevens*, 868 S.W.2d 773 (Tex. 1994).

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/em

Ref: ID# 415135

Enc. Submitted documents

c: Requestor
(w/o enclosures)