



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 27, 2010

Mr. Reg Hargrove
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2010-16313

Dear Mr. Hargrove:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 398180 (PIR No. 10-28698).

The Office of the Attorney General (the "OAG") received a request for information concerning remarks allegedly made by an investigator for the State Commission on Judicial Conduct (the "commission") on June 27, 2009. The OAG asserts the information is excepted from disclosure under sections 552.101, 552.107, and 552.116 of the Government Code. We have considered the OAG's claimed exceptions to disclosure and have reviewed the submitted information. We have also received and considered the requestor's comments. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested 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." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 33.032 of the Government Code, which states "[e]xcept as otherwise provided by this section and [s]ection 33.034, the papers filed with and proceedings before the commission are confidential prior to the filing of formal charges." *Id.* § 33.032(a). Chapter 33 governs the actions of and proceedings before the commission, *see, e.g., id.* §§ 33.002 (establishing commission), .021 (stating powers of commission), and section 33.032 authorizes the

commission to withhold information it maintains for investigative proceedings and other actions.

The OAG explains that pursuant to section 33.030 of the Government Code, the commission requested the OAG conduct the investigation at issue, which pertains to a commission investigation into alleged judicial misconduct. *See id.* § 33.030(a) (on commission's request, OAG shall act as its counsel in particular investigation). Because the OAG conducted the instant investigation on behalf of the commission, gathered the requested information as part of the investigation, and the commission has yet to file formal charges, we conclude the information is confidential under section 33.032(a). Thus, the OAG must withhold Exhibit B. Because section 552.101 is dispositive, we do not address the OAG's other assertions.

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,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/bs

Ref: ID# 398180

Enc: Submitted documents

c: Requestor
(w/o enclosures)