



December 18, 2015

Mr. Robert J. Davis
Counsel for the Collin County District Clerk's Office
Matthews, Shiels, Pearce, Knott, Eden & Davis, L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

OR2015-26762

Dear Mr. Davis:

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# 591520 (File No. 1600/66641).

The Collin County District Clerk's Office (the "district clerk's office"), which you represent, received a request for (1) information pertaining to "a personnel action involving a deputy clerk and involving [a specified grand jury;]" and (2) the local rules, procedures, or guidelines governing the grand jury process in Collin County. You state the district clerk's office has provided and made available some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.107(2) of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.107(2) of the Government Code provides that information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). You have submitted a copy of a court order that provides in part:

The Court ORDERS that, pursuant to Article 19.42 of the Code of Criminal Procedure, the name and personal information of each grand juror of the 416th District Court, July Term 2015, collected by the court, court personnel, district clerk, or prosecuting attorney, are confidential and may not be

¹Although you do not cite to section 552.107(2) of the Government Code in your brief, we understand you to raise this exception based on your argument.

disclosed by the court, court personnel, district clerk, or prosecuting attorney without prior permission of the Court.

Order Securing the Names and Personal Information of the Grand Jurors (416th Dist. Ct., Collin County, Tex., June 25, 2015). You explain portions of the submitted information consist of the names and personal information of the grand jurors specified in the submitted court order. Based on your representations and our review, we agree a court by order has prohibited disclosure of the information at issue. Accordingly, the district clerk's office must withhold the information at issue, which we have marked, under section 552.107(2) of the Government Code.

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. Section 552.101 encompasses information that other statutes make confidential, such as section 1703.306 of the Occupations Code, which provides:

(a) A polygraph examiner, trainee, or employee of a polygraph examiner, or a person for whom a polygraph examination is conducted or an employee of the person, may not disclose information acquired from a polygraph examination to another person other than:

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the person that requested the examination;

(3) a member, or the member's agent, of a governmental agency that licenses a polygraph examiner or supervises or controls a polygraph examiner's activities;

(4) another polygraph examiner in private consultation; or

(5) any other person required by due process of law.

(b) The [Texas Department of Licensing and Regulation] or any other governmental agency that acquires information from a polygraph examination under this section shall maintain the confidentiality of the information.

(c) A polygraph examiner to whom information acquired from a polygraph examination is disclosed under Subsection (a)(4) may not disclose the information except as provided by this section.

Occ. Code § 1703.306. We have marked portions of the remaining information that were acquired from a polygraph examination and are, therefore, within the scope of

section 1703.306. It does not appear the requestor falls into any of the categories of individuals who are authorized to receive the polygraph information under section 1703.306(a). Accordingly, the district clerk's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. However, we find the district clerk's office has not established any of the remaining information was acquired from a polygraph examination. Thus, we conclude the district clerk's office failed to establish the remaining information is confidential under section 1703.306, and the district clerk's office may not withhold any of it under section 552.101 on that basis.

In summary, the district clerk's office must withhold the information we have marked under section 552.107(2) of the Government Code. The district clerk's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 1703.306 of the Occupations Code. The district clerk'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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/sdk

Ref: ID# 591520

Enc. Submitted documents

c: Requestor
(w/o enclosures)