



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 22, 2017

Ms. Ashley D. Fourt
Assistant Criminal District Attorney
Civil Division
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2017-05821

Dear Ms. Fourt:

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# 650383.

The Southwest Institute of Forensic Science (the "institute") received a request for a information pertaining to a specified chain of custody. You claim the submitted information is excepted from disclosure under section 552.152 of the Government Code and privileged under article 39.14 of the Code of Criminal Procedure.¹ We have considered your claims and reviewed the submitted information.

You seek to withhold the submitted information pursuant to article 39.14 of the Code of Criminal Procedure. We note, however, article 39.14 governs the discovery of information and the testimony of witnesses in criminal proceedings. *See* Crim. Proc. Code art. 39.14. Article 39.14 does not expressly make information confidential for purposes of the Act. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality under section 552.101 must be express, and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public); *see also* Open Records Decision No. 575 at 2 (1990) (explicitly stating discovery privileges are not

¹Although you also raise section 552.101 of the Government Code in conjunction with article 39.14 of the Texas Code of Criminal Procedure, this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002); 575 at 2 (1990).

covered by statutory predecessor to section 552.101). Therefore, we conclude the institute may not withhold any of the submitted information under article 39.14 of the Code of Criminal Procedure.

Section 552.152 of the Government Code provides,

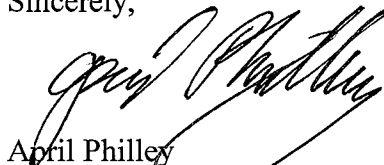
Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.152. You assert the release of the submitted information would make institute employees "a target and place their personal safety at risk". Upon review, we find the institute has demonstrated release of some of the information at issue would subject institute employees to a substantial threat of bodily harm. Accordingly, the institute must withhold the information we have marked under section 552.152 of the Government Code. However, we find you have not demonstrated the release of any of the remaining information would subject an institute employee to a substantial threat of physical harm. Thus, the institute may not withhold any of the remaining information under section 552.152 of the Government Code. The institute 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,



April Philley
Assistant Attorney General
Open Records Division

AP/sb

Ref: ID# 650383

Enc. Submitted documents

c: Requestor
(w/o enclosures)