



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 23, 2015

Ms. Lynn R. Garcia
General Counsel
Texas Forensic Science Commission
1700 North Congress Avenue, Suite 445
Austin, Texas 78701

OR2015-05492

Dear Ms. Garcia:

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# 557195.

The Texas Forensic Science Commission (the "commission") received a request for the report regarding the commission's investigation of a specified crime laboratory. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim 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." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as section 10 of article 38.01 of the Code of Criminal Procedure, which provides the following:

Information that is filed as part of an allegation of professional misconduct or professional negligence or that is obtained during an investigation of an allegation of professional misconduct or professional negligence is not subject to release under [the Act], until the conclusion of an investigation by the commission under Section 4.

Crim. Proc. Code art. 38.01, § 10. The commission contends the exhibits are excepted from disclosure under section 10 and asks whether the draft report is subject to section 10. The

commission is responsible for investigating allegations of professional misconduct or professional negligence that would substantially affect the integrity of the results of forensic analyses at crime laboratories. *See id.* § 4(a)(3). The submitted information consists of a draft report and attached exhibits. The commission states the exhibits were obtained from external resources during an investigation of professional misconduct or professional negligence involving the specified crime laboratory. Based on the commission's representations and our review, we find the submitted exhibits, which we have marked, are subject to section 10. Therefore, the commission must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 10 of article 38.01 of the Code of Criminal Procedure. However, the remaining information consists of a draft report created by the commission as a result of an investigation. Accordingly, we find the remaining information is not subject to section 10 and the commission may not withhold it under section 552.101 of the Government Code in conjunction with section 10 of article 38.01 of the Code of Criminal Procedure. As you raise no further exceptions to disclosure, the remaining information must be released.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 557195

Enc. Submitted documents

c: Requestor
(w/o enclosures)