



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 26, 1995

Ms. Barbara L. Quirk  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR95-502

Dear Ms. Quirk:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33467.

The City of San Antonio (the "city") received an open records request for copies of various documents in the possession of the San Antonio Metropolitan Health District ("SAMHD") related to suspected and confirmed cases of Legionnaires' disease in the city during 1992 through 1994. You have submitted for our review copies of all of the related documents. You contend that the records submitted for our review are deemed confidential by section 81.046(a) and (b) of the Health and Safety Code and thus must be withheld from the public pursuant to section 552.101 of the Government Code. Additionally, you argue that Open Records Decision No. 577 (1990) "extends the prohibition [of disclosure] to all information related to an investigation, including written memoranda, notes, telephone logs of complaints, copies of any reports or records on inspections or testing of samples and the results of interrogation of employees."

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 81.046 of the Health and Safety Code, the confidentiality provision for information about reportable diseases, provides as follows:

- (a) Reports, records, and information furnished to a health authority or the department that relate to cases or suspected cases of diseases or health conditions are confidential and may be used only for the purposes of this chapter.

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

A "public health district" is a district created under chapter 121 of the Health and Safety Code. *Id.* § 81.003(6). The SAMHD is a local public health district as defined by section 81.003(6) of the Health and Safety Code. *Id.* §§ 121.031, 121.033. In the case of a city that has established a local health department, the health authority for the city is the physician appointed as director of the department. *Id.* The quoted provision is a broad confidentiality provision that encompasses any information relating to reportable diseases or health conditions that are in possession of a health authority. *See* Open Records Decision No. 577 (1990). Section 81.046(c) provides exceptions when information may be disclosed which include

- (1) for statistical purposes if released in a manner that prevents the identification of any person;
- (2) with the consent of each person identified in the information;
- (3) to medical personnel, appropriate state agencies, or county and district courts to comply with the chapter and related rules relating to the control and treatment of communicable diseases and health conditions;
- (4) to appropriate federal agencies, such as the Centers for Disease Control of the United States Public Health Service . . . ; [and]
- (5) to medical personnel to the extent necessary in a medical emergency to protect the health and life of the person identified in the information.

You contend that all of the submitted documents are part of an investigation of suspected cases of a disease subject to the section 81.046 confidentiality provisions. After reviewing the submitted documents, we conclude that these records are part of the investigative file compiled by the SAMHD concerning the actual or suspected cases of Legionnaire's disease.<sup>1</sup> Access to these records is governed by section 81.046. Open Records Decision No. 577 (1990). The information you submitted does not indicate that

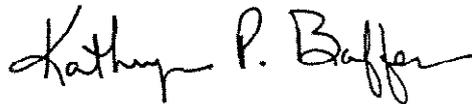
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<sup>1</sup>Some information appears to have been compiled by DHS or shared with DHS. These records are also confidential under section 81.046.

any of the exceptions to confidentiality are applicable. Section 81.046, in conjunction with section 552.101 of the Government Code, makes this information confidential. Consequently, the city may not disclose the records at issue.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes  
Assistant Attorney General  
Open Government Section

KPB/RHS/rho

Ref: ID# 33467

Enclosures: Submitted documents

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