



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 19, 1998

Mr. Stephen Whitworth
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-2461

Dear Mr. :

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 118891.

The City of San Antonio ("city") received a request for all documents related to *salmonella outbreak at a named restaurant*. You indicate that you will release those medical records which identify the requestor. You claim that the remaining responsive information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. You have submitted a sample of the responsive information for our review.¹

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Chapter 81 of the Health and Safety Code, of which section 81.046 is a part, is commonly referred to as the Communicable Disease Prevention and Control Act. Under section 81.042, various individuals, including health professionals, school and child care administrators, and owners and managers of food handling or processing establishments, are required to make reports to the local health authorities of instances of suspected cases of "reportable diseases," including communicable diseases, and "health conditions." Section 81.046 of the Health and Safety Code provides in pertinent part:

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

(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 [the Open Records Act] and may not be released or made public on subpoena or otherwise except as provided by Subsections (c) and (d).

In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created by the Texas Department of Health during an investigation under chapter 81 is confidential and may not be released unless an exception set out in the statute applies. You explain that the requested information relates to "an investigation undertaken by the San Antonio Metropolitan Health District under Chapter 81 of the Health and Safety Code." The information was "collected in connection [with] an investigation of a possible outbreak of a communicable disease." You state that you have released the medical information identifying the requestor pursuant to the statutory exception. Health & Safety Code § 81.046(c)(2). You explain that none of the other statutory exceptions apply to the requestor. See Health & Safety Code § 81.046(c) and (d). We agree that section 81.046(b) governs the release of the remaining responsive information. We therefore conclude that the city must withhold the requested investigation records.

We are resolving this matter with an 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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 118891

Enclosures: Submitted documents

cc: Ms. Amanda Tabor
1117 Orchard Park Circle
Pflugerville, Texas 78660
(w/o enclosures)