



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 14, 2010

Ms. Ashley D. Fourt  
Assistant District Attorney  
Tarrant County Criminal District Attorney's Office  
401 West Belknap  
Fort Worth, Texas 76196-0201

OR2010-08601

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# 382607.

The Tarrant County Public Health Department (the "department") received a request for all documents and e-mails relating to a specified incident as well as the investigative files of any other complaints for a named restaurant for the past five years. You claim that 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.

Initially, we note you have not submitted information responsive to the portion of the request seeking the investigative files of other complaints for a named restaurant for the past five years. To the extent any additional information responsive to the instant request existed when the request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 made confidential by other statutes, like section 81.046 of the Health and Safety Code, which provides in part:

- (a) Reports, records, and information received from any source, including from a federal agency or from another state, furnished to a public health district, a health authority, a local health department, or the [Texas

Department of State Health Services] 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 Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(a), (b). In Open Records Decision No. 577 (1990), this office concluded that any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception set out in the statute applies. You indicate the submitted information was gathered or created during investigations conducted by the department pursuant to the provisions of chapter 81; thus, we agree that section 81.046(b) governs the release of this information. You state none of the release provisions of section 81.046 are applicable in this instance. Accordingly, based upon your representations and our review of the submitted information, we agree that the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/eeg

Ms. Ashley D. Fourt - Page 3

Ref: ID# 382607

Enc. Submitted documents

c: Requestor  
(w/o enclosures)