



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2011

Mr. Monty Waters
Assistant General Counsel
Texas Department of State Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2011-17073

Dear Mr. Waters:

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# 436974 (DSHS File No. 19391/2011).

The Texas Department of State Health Services (the "department") received a request for a map created in connection with a screening in Frisco, Texas, and any documents related to the creation of the map or any similar maps created using the screening data. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

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. This exception encompasses information other statutes make confidential. You claim section 552.101 in conjunction with section 88.002 of the Health and Safety Code, which provides in part:

- (a) Except as specifically authorized by this chapter, reports, records, and information furnished to a health authority, a regional director, or the department that relate to cases or suspected cases of children with blood lead levels of concern or lead poisoning 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 childhood lead poisoning and children with blood lead levels of concern are not public information under [the Act] and may not be released or made public on subpoena or otherwise except as provided by this chapter.

(c) Medical, epidemiologic, or toxicologic information may be released:

(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, health authorities, regional directors, and public officers of counties and municipalities as necessary to comply with this chapter and related rules;

(4) to appropriate federal agencies, such as the Centers for Disease Control and Prevention of the United States Public Health Service, except that the information must be limited to the information requested by the agency; or

(5) to medical personnel to the extent necessary in a medical emergency to protect the health or life of the child identified in the information.

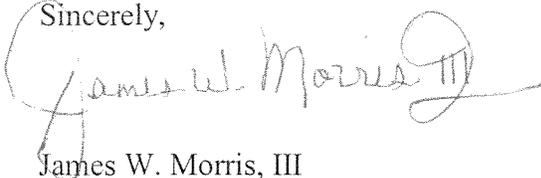
Health & Safety Code § 88.002(a)-(c). You contend the submitted information is confidential under section 88.002. You indicate the information at issue pertains to an investigation by the department of cases or suspected cases of childhood lead poisoning and children with blood lead levels of concern. You also indicate the submitted maps and related documents contain identifying information regarding childhood blood lead levels of concern. You do not indicate any release provision of section 88.002(c) is applicable in this instance. Based on your representations and our review of the information at issue, we conclude the department must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 88.002(b) of the Health and Safety Code.

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,

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,

A handwritten signature in cursive script that reads "James W. Morris III". The signature is written in dark ink and is positioned above the typed name.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 436974

Enc: Submitted documents

c: Requestor
(w/o enclosures)