



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 9, 2012

Ms. Melanie Barton
Assistant District Attorney
Dallas County
411 Elm Street, Fifth Floor
Dallas, Texas 75202

OR2012-18078

Dear Ms. Barton:

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# 470514.

Dallas County (the "county") received a request for information concerning the county's decision to conduct aerial spraying to prevent the spread of the West Nile virus. 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 submitted representative sample of information.¹ We have also considered comments submitted by the Texas Department of State Health Services. *See* Gov't Code § 552.304 (interested party may submit comments to this office stating why the information at issue should or should not be released).

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 section 81.046 of the Health and Safety Code, which provides in part:

¹We assume 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 those records contain substantially different types of information than those submitted to this office.

(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.

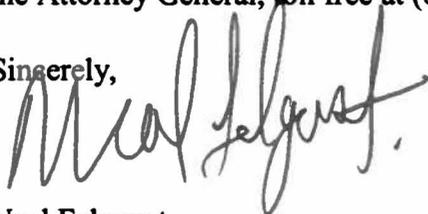
(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

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. *See id.* § 81.046(b)–(d), (f); ORD 577. You state the requested information was gathered or created during an investigation of a West Nile virus outbreak that was conducted by Dallas County Health and Human Services pursuant to the provisions of chapter 81. Based on your representations and our review, we agree section 81.046 governs the release of this information. None of the release provisions of section 81.046 appears to be applicable. Accordingly, we determine the county 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.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 470514

Enc. Submitted documents

**c: Requestor
(w/o enclosures)**

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(w/o enclosures)**