



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 15, 2014

Ms. Cheryl Elliott Thornton  
Assistant County Attorney  
Harris County  
1019 Congress, 15th Floor  
Houston, Texas 77002

OR2014-00905

Dear Ms. Thornton:

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# 511106 (CAO File No. 13PIA0583).

Harris County Public Health and Environmental Services (the "county") received a request for certain information related to a specified outbreak of salmonella and the requestor's clients. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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, such as 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).

(c) Medical or epidemiological information may be released:

...

(2) with the consent of each person identified in the information[.]

Health & Safety Code § 81.046(a), (b), (c)(2). In Open Records Decision No. 577 (1990), this office concluded 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* ORD 577; Health & Safety Code § 81.046(b)-(d), (f). You state the submitted information was gathered or created by the county during an investigation of a salmonella outbreak pursuant to the provisions of chapter 81. Based on your representations and our review, we find the submitted information is subject to section 81.046. You state the exceptions to confidentiality in subsections 81.046(d) and 81.046(f) are not applicable in this instance.

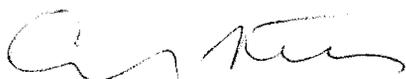
However, we note the requestor is the legal representative of the individuals identified in the information at issue and is asking for the information on his clients' behalf. *See id.* § 81.046(c)(2). In Open Records Decision No. 577, this office concluded section 81.046(c)(2), when read together with the statutory predecessor to section 552.023 of the Government Code, requires a county health department to release to a requestor any medical or epidemiological information it has concerning an individual who has consented to the release. ORD 577 at 3. Along with the request for information, the requestor has submitted to the county Authorization to Disclose Health Information forms signed by the requestor's clients. Therefore, the requestor has a right of access under section 81.046(c)(2) to the medical or epidemiological information pertaining to his clients. Although you contend this information is excepted from disclosure under section 552.103 of the Government Code, we note a statute governing the release of specific information prevails over the exceptions to disclosure found in the Act. Attorney General Opinion DM-146 at 3 (1992); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under Act). Accordingly, the county must release the submitted medical or epidemiological information pertaining to the requestor's clients to this requestor pursuant to section 81.046(c)(2) of the Health and Safety Code.

You also ask this office to issue a previous determination that would permit the county to withhold information subject to section 81.046 of the Health and Safety Code without

requesting a ruling from this office. We decline to issue such a previous determination at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 511106

Enc. Submitted documents

c: Requestor  
(w/o enclosures)