



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 15, 2020

Mr. Ronny Wall
Senior Associate General Counsel
Texas Tech University
P.O. Box 42021
Lubbock, Texas 79409

OR2020-26026

Dear Mr. Wall:

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# 848300.

The Texas Tech University Health Sciences Center (the "university") received a request for e-mails sent or received by a named individual during a specified time period containing a particular search term. You indicate the university will withhold access device numbers pursuant to section 552.136 of the Government Code.¹ Although the university takes no position as to the disclosure of the submitted information, you state you notified the City of Amarillo (the "city") and the United States Public Health Service ("USPHS") of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit

¹ Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

comments stating why information should or should not be released). We have received comments from the city.² We have considered the submitted arguments 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.” *Id.* § 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 relevant part, as follows:

(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), (c-1), (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. The city states some of the submitted information was created or acquired by the city’s public health department during an investigation under chapter 81 of the Health and Safety Code. Based upon these representations and our review, we agree section 81.046 governs the release of this information. Additionally, the city states none of the release provisions of section 81.046 are applicable in this instance. Accordingly, the university must withhold the information we have indicated under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. The university must release the remaining information.

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 <https://www.texasattorneygeneral.gov/open->

² As of the date of this letter, we have not received any comments from USPHS explaining why any portion of the submitted information should not be released to the requestor.

[government/members-public/what-expect-after-ruling-issued](#) or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/gw

Ref: ID# 848300

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: 2 Third Parties
(w/o enclosures)