



October 20, 1999

Mr. Patrick Christensen
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR99-2966

Dear Mr. Christensen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130181.

The City of San Antonio (the "city") received a request for various information regarding the city's Continuum of Care Committee's recommendations for funding in connection with the "Housing Opportunities for Persons with AIDS" program. You indicate that the city intends to release most of the information responsive to the request. You submit a "copy of a representative sample of a letter sent to other committee members."¹ You contend that this document is protected from disclosure under section 552.101 of the Government Code.

Section 552.101 requires withholding, *inter alia*, information made confidential by statute or judicial decision. Section 81.103(a) of the Health and Safety Code makes HIV "test results" confidential. "Test result" is defined as "any statement" that an identifiable individual has been tested for HIV or is positive, negative, at risk, or "has or does not have

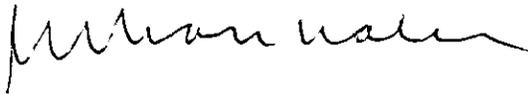
¹In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

a certain level of antigen or antibody.” Health and Safety Code § 81.101 (5). In our opinion, the submitted information does not itself reveal whether any individual has been tested for HIV, is positive or negative or at risk, or has or does not have any level of antigen or antibody. Therefore, the information is not protected by section 81.103(a).

Section 552.101 incorporates the common-law right to privacy. *Industrial Found. of the South v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. The submitted document is not, in our opinion, protected by common law privacy. Nor are we aware of any other law under which the information must be withheld. Therefore, you must release the information at issue.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 130181

Encl. Submitted documents

cc: Ms. Olga Morales Aguirre
Mujeres Project
904 Nolan Street
San Antonio, Texas 78202
(w/o enclosures)