



January 7, 2015

Ms. Melanie Barton  
Assistant District Attorney  
Dallas County District Attorney's Office  
411 Elm Street, Fifth Floor  
Dallas, Texas 75202-3317

OR2015-00220

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# 549223.

Dallas County (the "county") received a request for any memoranda regarding Ebola (1) prepared by the Dallas County Health Department, (2) sent to or from Dallas County Judge Clay Jenkins, or (3) sent to or from the county's office of emergency management since September 28, 2014. You state the county will provide some of the requested information to the requestor. You claim the remaining information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code. You have also notified the City of Dallas, the Texas Department of State Health Services ("DSHS"), and the Centers for Disease Control and Prevention of the request for information and of their rights to submit comments to this office. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from DSHS. We have considered the submitted arguments and reviewed the submitted representative sample of information.<sup>1</sup>

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<sup>1</sup>We 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 that submitted to this office.

Initially, we note the requested information may have been the subject of previous requests for rulings, in response to which this office issued Open Records Letter Nos. 2014-23041 (2014), 2014-23231 (2014), 2014-23277 (2014), 2015-00197 (2015), 2015-00210 (2015), and 2015-00212 (2015). We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Thus, the county must continue to rely on Open Records Letter Nos. 2014-23041 (2014), 2014-23231 (2014), 2014-23277 (2014), 2015-00197 (2015), 2015-00210 (2015), and 2015-00212 (2015) as previous determinations, and withhold or release the requested information that is identical to the information that was at issue in those rulings in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the requested information is not encompassed by the previous rulings, we will consider whether it is excepted under the Act.

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).

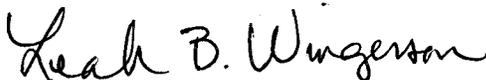
Health & Safety Code § 81.046(a), (b). In Open Records Decision No. 577 (1990), this office concluded any information acquired or created during an investigation under chapter 81 of the Health and Safety Code is confidential and may not be released unless an exception set out in the statute applies. *See id.* § 81.046(b)-(d), (f); ORD 577. You state the submitted information was furnished to or created by the county during an investigation under chapter 81 of an Ebola virus outbreak. Based on your representations and our review, we agree section 81.046 governs the release of the submitted information. None of the release provisions of section 81.046 appear to be applicable. Accordingly, we determine the

county must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.<sup>2</sup>

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.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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/akg

Ref: ID# 549223

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive, we need not address the remaining arguments against disclosure.

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