



January 20, 2015

Ms. Lacey Lucas
Assistant District Attorney
Dallas County Criminal District Attorney
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2015-01044

Dear Ms. Lucas:

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# 550491.

The Dallas County Department of Health and Human Services (the "department") received a request for all e-mails from three named individuals regarding Ebola since July 1, 2014. The department claims the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹

Initially, we note some of the requested information may have been the subject of previous requests for information, 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), 2015-00212 (2015), 2015-00220 (2015), 2015-00395 (2015), 2015-00437 (2015), and 2015-00728 (2015). We have no indication the law, facts, and circumstances on which these prior rulings were based have changed. Accordingly, to the extent the information in the current request is identical to the information previously

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 that submitted to this office.

requested and ruled upon by this office, we conclude the department must continue to rely on these rulings as previous determinations and withhold or release the information in accordance with them. To the extent the submitted information is not subject to these rulings, we will address your argument against disclosure.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses section 81.046 of the Health and Safety Code, which provides in relevant part the following:

(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 department 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). You state the submitted information was furnished to or created by the department 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 portions of the submitted information. None of the release provisions of section 81.046 appears to be applicable. Accordingly, we determine the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code. However, we find none of the remaining information consists of reports, records, and information that relate to cases or suspected cases of diseases or health conditions for purposes of section 81.046. Accordingly, the department may not withhold any of the remaining information under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code.

Section 552.117(a)(1) of the Government Code exempts from disclosure the home address and telephone number, emergency contact information, social security number, and family member information of a current or former employee or official of a governmental body who requests this information be kept confidential under section 552.024 of the Government Code.² See Gov't Code § 552.117(a)(1). We note section 552.117 is also applicable to personal cellular telephone numbers, provided the cellular telephone service is not paid for

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. See Open Records Decision Nos. 481 (1987), 480 (1987), 470.

by a governmental body. *See* Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Whether a particular item of information is protected by section 552.117(a)(1) must be determined at the time of the governmental body's receipt of the request for the information. *See* Open Records Decision No. 530 at 5 (1989). Thus, information may be withheld under section 552.117(a)(1) only on behalf of a current or former employee or official who made a request for confidentiality under section 552.024 prior to the date of the governmental body's receipt of the request for the information. Information may not be withheld under section 552.117(a)(1) on behalf of a current or former employee or official who did not timely request confidentiality under section 552.024. Therefore, the department must withhold the cellular telephone number we have marked under section 552.117(a)(1) of the Government Code if the employee at issue timely requested confidentiality under section 552.024 of the Government Code and if a governmental body does not pay for the cellular telephone service. However, the department may not withhold this information under section 552.117(a)(1) if either the employee at issue did not timely request confidentiality under section 552.024 or if a governmental body pays for the cellular telephone service.

The remaining information contains e-mail addresses of members of the public. Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See* Gov't Code § 552.137(a)-(c). Section 552.137 does not apply to a government employee's work e-mail address because such an address is not that of the employee as a "member of the public," but is instead the address of the individual as a government employee. The e-mail addresses at issue do not appear to be of a type specifically excluded by section 552.137(c). The department does not inform us a member of the public has affirmatively consented to the release of any e-mail address contained in the submitted materials. Therefore, the department must withhold the e-mail addresses of members of the public we have marked in the remaining information under section 552.137 of the Government Code.

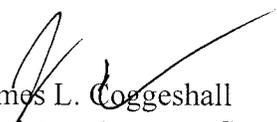
To conclude, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office in Open Records Letter Nos. 2014-23041, 2014-23231, 2014-23277, 2015-00197, 2015-00210, 2015-00212, 2015-00220, 2015-00395, 2015-00437, and 2015-00728, the department must continue to rely on these rulings as previous determinations and withhold or release the information in accordance with them. To the extent the submitted information is not subject to these rulings, the department must withhold (1) the information we have marked under section 552.101 of the Government Code in conjunction with section 81.046 of the Health and Safety Code, (2) the cellular telephone numbers we have marked under section 552.117(a)(1) of the Government Code if the employee at issue timely requested confidentiality under section 552.024 of the Government Code and if a governmental body

does not pay for the cellular telephone service, and (3) the information we have marked under section 552.137 of the Government Code, but 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 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/akg

Ref: ID# 550491

Enc. Submitted documents

c: Requestor
(w/o enclosures)