



February 3, 2015

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

OR2015-02100

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# 552608.

The Dallas County Health and Human Services Department (the "department") received a request for all e-mails and text messages sent or received by a named individual during a specified time period that include a specified term, as well as the named individual's schedule and phone call log for the specified time period. You state you will release some information to the requestor. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

Initially, we note 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), 2015-00728 (2015), 2015-01044 (2015), 2015-01045 (2015), 2015-01051 (2015), and 2015-01059 (2015). There is no indication the law, facts, and

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.

circumstances on which the prior rulings were based have changed. Accordingly, for the requested information that is identical to the information previously requested and ruled upon by this office, we conclude the department may continue to rely on Open Records Letter Nos. 2014-23041, 2014-23231, 2014-23277, 2015-00197, 2015-00210, 2015-00212, 2015-00220, 2015-00395, 2015-00437, 2015-00728, 2015-01044, 2015-01045, 2015-01051, and 2015-01059 as previous determinations and withhold or release the identical information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior rulings were based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general rulings, rulings are addressed to same governmental body, and rulings conclude information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by these previous rulings, we address your argument against disclosure.

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 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 appear to be applicable. Accordingly, 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 specifically relates to cases or suspected cases of diseases or health conditions for purposes of section 81.046. Therefore,

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.

In summary, the department may continue to rely on Open Records Letter Nos. 2014-23041, 2014-23231, 2014-23277, 2015-00197, 2015-00210, 2015-00212, 2015-00220, 2015-00395, 2015-00437, 2015-00728, 2015-01044, 2015-01045, 2015-01051, and 2015-01059 as previous determinations and withhold or release the identical information in accordance with those rulings. To the extent the submitted information is not encompassed by these previous rulings, 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, and 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,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/akg

Ref: ID# 552608

Enc. Submitted documents

c: Requestor
(w/o enclosures)