



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 28, 1998

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

OR98-2311

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# 118337.

The San Antonio Metropolitan Health District (the "health district") received a request for copies of all documents that refer to D.W. Brooks Funeral Home. You indicate that the only documents the health district has identified as responsive to this request are death certificates. You contend that the death certificates are excepted from disclosure pursuant to section 552.115 of the Government Code. You also argue that the death certificates are excepted from disclosure by section 552.101 of the Government Code in conjunction with section 191.051 of the Health and Safety Code. We have considered the exceptions you claim and have reviewed a representative sample of the documents at issue.¹

Section 552.115 of the Government Code provides as follows:

A birth or death record maintained by the bureau of vital statistics of the Texas Department of Health is excepted from [required public disclosure], except that:

- (1) a birth record is public information and available to the

¹We 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 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 that those records contain substantially different types of information than that submitted to this office.

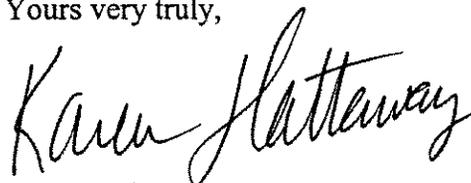
public on and after the 50th anniversary of the date on which the record is filed with the bureau of vital statistics or local registration official; and

(2) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the bureau of vital statistics or local registration official.

Gov't Code § 552.115. In Open Records Letter No. 97-2716 (1997), this office concluded that birth or death records held by local registration officials are excepted from required public disclosure under section 552.115 of the Government Code. You state that the "health district's registrar of vital statistics is the local registrar for the City of San Antonio." Death certificates must be released to the public on or after the 25th anniversary of the date on which the death certificate is filed with the health district. Gov't Code § 552.115(2). However, the health district should withhold from the requestor any death certificates that have not been on file with the health district for at least 25 years.²

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.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/mjc

Ref: ID# 118337

Enclosures: Submitted document

²We note that section 191.051 of the Health and Safety Code does not make birth and death records confidential; rather it governs the release of *certified copies* of birth and death records. Open Records Letter No. 96-0772 (1997). Section 191.051 guarantees that a "properly qualified applicant" shall be entitled to a certified copy of a birth or death record.

cc: Mr. Edward J. Batis, Jr.
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(w/o enclosures)