



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2004

Ms. Karmen Binka  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2004-6219

Dear Ms. Binka:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 205718.

The Office of the Local Registrar for the City of San Antonio (the "registrar") received a request for "[d]eath [c]ertificate information for all adult females who died in Bexar County at Wilford Hall Medical Center between the dates of January 5-13, 2004." You claim that the requested information is excepted from disclosure under section 552.115 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.115 excepts from disclosure birth and death records held by the bureau of vital statistics of the Texas Department of Health, as well as local registration officials. Section 552.115 states in part:

(a) A birth or death record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official is excepted from the requirements of Section 552.021, except that:

....

(2) a death record is public information and available to the public on and after the 25th anniversary of the date of death as shown on the

record filed with the bureau of vital statistics or local registration official[.]

Gov't Code § 552.115(a)(2). You argue that the requested information “only becomes public information and available to the public on and after the 25<sup>th</sup> anniversary of the date of death” and that the requested information “does not contain a date of death which occurred 25 or more years ago.” After reviewing your assertions and the submitted information, we conclude that section 552.115(a) applies to the submitted information. We note that none of the exceptions in either section 552.115 of the Government Code or section 191.051 of the Texas Health and Safety Code apply in this instance. Accordingly, the requested information must be withheld under section 552.115(a) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Lauren E. Kleine  
Assistant Attorney General  
Open Records Division

LEK/seg

Ref: ID# 205718

Enc. Submitted documents

c: Ms. Dionne Anglin  
KENS TV  
5400 Fredericksburg  
San Antonio, Texas 78229  
(w/o enclosures)