



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 8, 2018

Ms. Mary I. Castillo
Public Information Coordinator
Texas Human and Health Services
P.O. Box 149347
Austin, Texas 78714-9347

OR2018-00468

Dear Ms. Castillo:

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# 688538 (File No. 27524).

The Department of State Health Services (the "department") received a request for specified categories of information for all deaths during a specified time period. You state the department will release some information. You claim portions of the submitted information are excepted from disclosure under section 552.115 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also considered comments submitted by the requestor's attorney. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note you have marked some information as not responsive. This ruling does not address the public availability of the non-responsive information and the department need not release it to the requestor.

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.

Section 552.115 of the Government Code excepts from disclosure death records held either by the department's bureau of vital statistics (the "bureau") or local registration officials. Section 552.115 provides, in relevant part:

(a) A . . . death record maintained by the vital statistics unit of the [department] or a local registration official is excepted from [required public disclosure], 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 vital statistics unit or local registration official, except that if the decedent is unidentified, the death record is public information and available to the public on and after the first anniversary of the date of death;

(3) a general . . . death index established or maintained by the vital statistics unit or a local registration official is public information and available to the public to the extent the index relates to a . . . death record that is public information and available to the public under Subdivision . . . (2); [and]

(4) a summary . . . death index prepared or maintained by the vital statistics unit or a local registration official is public information and available to the public[.]

Gov't Code § 552.115(a)(2)-(4). The submitted information includes the specified categories of information requested. You state the requestor seeks categories of information from death records that are confidential under section 552.115. The requestor informs us, however, and you acknowledge, in *Patrick Walsh v. Texas Dep't of State Health Services, et al.*, Cause No. D-1-GN-11-001290, the 200th Judicial District Court of Travis County, Texas ruled on the same categories of information at issue in the present request in response to this office's ruling in Open Records Letter No. 2011-04298 (2011).² After a hearing on the merits, the court ruled the information requested in that ruling was subject to public disclosure, and ordered the department to disclose the information at issue to the requestor. Accordingly, based upon our review, we conclude you have failed to establish the information at issue is excepted from disclosure under section 552.115 of the Government Code. As you raise no further arguments against disclosure, the department must release the information at issue to the requestor.

²We note that in Open Records letter No. 2011-04298, this office ruled on certain categories of information pertaining to decedents for the years 2009 and 2010. The current request is for the same categories of information for the years 2016 and 2017.

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,

A handwritten signature in black ink, appearing to read "Ramsey A. Abarca", with a long, sweeping horizontal flourish extending to the right.

Ramsey A. Abarca
Assistant Attorney General
Open Records Division

RAA/gw

Ref: ID# 688538

Enc. Submitted documents

c: Requestor
(w/o enclosures)