



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 18, 2022

Mr. Joe D. Gonzales
Civil Division – Open Records
Bexar County Criminal District Attorney’s Office
101 West Nueva Street
San Antonio, Texas 78205

OR2022-01399

Dear Mr. Gonzales:

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# 926348 (DA File No. 10274; ME 21-2344).

The Bexar County Medical Examiner’s Office (the “medical examiner’s office”) received a request for the autopsy report for a named decedent. The medical examiner’s office claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception medical examiner’s office claims and reviewed the submitted representative sample of information.¹

Section 552.101 of the Government Code excepts “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 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.

¹ We 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.

(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), (c-1), (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 in the statute applies. *See id.* § 81.046(b)-(d), (f); ORD 577. The medical examiner's office states the information at issue relates to the investigation of a case or suspected case of a contagious disease; thus, section 81.046 governs the release of the information at issue. The medical examiner's office also states the release provisions of section 81.046 are not applicable. Accordingly, the medical examiner's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 81.046(b) of the Health and Safety Code. However, we find the medical examiner's office has failed to establish the remaining information is confidential pursuant to section 81.046. Thus, the remaining information may not be withheld under section 552.101 on that basis. Consequently, the medical examiner's office 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/jxd

Ref: ID# 926348

Enc. Submitted documents

c: Requestor
(w/o enclosures)