



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 19, 2022

Mr. Ryan Brooke  
Assistant City attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2022-14402

Dear Mr. Brooke:

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# 948314 (Ref. No. P000491-030122).

The Lubbock Police Department (the "department") received a request for the death investigation report pertaining to a named individual. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

Initially, we note the requestor is a representative of the Texas Department of State Health Services ("DSHS") Texas Maternal Mortality and Morbidity Review Committee (the "review committee"). The requestor asserts the review committee has a right of access to the requested information under section 34.008 of the Health and Safety Code. The review committee is a multidisciplinary advisory committee administered by DSHS that studies and reviews information related to cases of pregnancy-related deaths and severe maternal morbidity. *See* Health & Safety Code §§ 34.002(a)-(b), .005. Pursuant to section 34.007, DSHS determines a statistically significant number of pregnancy-related death cases and randomly selects such cases for review by the review committee, and analyzes aggregate data of severe maternal morbidity to identify trends and, if feasible, selects severe maternal morbidity cases for review. *See id.* § 34.007. Section 34.008 provides, in relevant part, the following:

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<sup>1</sup> Although the department also raises section 552.101 of the Government Code, the department has not provided any arguments to support this exception. Therefore, we assume the department has withdrawn its claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

(a) On selecting a case of pregnancy-related death or severe maternal morbidity for review, [DSHS] shall, in accordance with this section, obtain information relevant to the case to enable the review committee to review the case. [DSHS] shall provide the information to the review committee.

...

(c) On the request of [DSHS], a hospital, birthing center, or other custodian of the requested information shall provide the information to [DSHS]. The information shall be provided without the authorization of the patient or, if the patient is deceased, without the authorization of the patient's family.

*Id.* § 34.008(a), (c). Thus, DSHS has a right of access to information pertaining to cases of pregnancy-related death or severe maternal morbidity. Section 34.001 of the Health and Safety Code provides, in relevant part, the following:

(8) "Maternal morbidity" means a pregnancy-related health condition occurring during pregnancy, labor, or delivery or within one year of delivery or end of pregnancy.

...

(12) "Pregnancy-related death" means the death of a woman while pregnant or within one year of delivery or end of pregnancy, regardless of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes.

(13) "Severe maternal morbidity" means maternal morbidity that constitutes a life-threatening condition.

*Id.* § 34.001(8), (12), (13). Upon review, we find the requestor has not demonstrated, and we are unable to determine, the submitted information is relevant to a case of pregnancy-related death or severe maternal morbidity. Consequently, we conclude the requestor has not established a right of access to the submitted information under section 34.008 of the Health and Safety Code. Therefore, we will address the department's arguments against disclosure of the submitted information.

Section 552.108(a)(2) of the Government Code exempts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should

apply to information requested). The department states the submitted information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/jxd

Ref: ID# 948314

Enc. Submitted documents

c: Requestor  
(w/o enclosures)