



October 23, 2000

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

OR2000-4106

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# 140652.

The City of San Antonio (the "city") received two requests from the same requestor for 1) the date of death and the primary and contributing causes of death for those found in the city's mortuary registry, or for a copy of the death certificates, and 2) the list of individuals in Bexar County who have died over the last 10 years from Amyotrophic Lateral Sclerosis ("ALS"). 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 representative sample of information.¹

Section 552.115 provides:

(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

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). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than those submitted to this office.

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

Gov't Code § 552.115(a)(2). You indicate that the San Antonio Metropolitan Health District (the "SAMHD"), which maintains the documents, is the local registrar for the city, as well as Bexar County, for the purposes of section 552.115(a) of the Government Code. You believe that this section does not allow the city to release the requested information until the person has been deceased for twenty five years. After reviewing your assertions and the submitted documents, we conclude that the city must not release the requested information to the requestor pursuant to section 552.115(a)(2) of the Government Code.

The city also states that section 191.051(a) of the Texas Health and Safety Code allows the state registrar to release, subject to broad rules controlling the accessibility of vital records, to a properly qualified applicant, a certified copy of a record or part of a record, of a birth, death or fetal death. See Health and Safety Code § 191.051(a). The state registrar is the director of the bureau of vital statistics. Health and Safety Code § 191.004. We find that the present request was made to the local registrar. Therefore, we conclude that section 191.051 is not applicable to the present request. Accordingly, as we concluded above, the requested information is excepted from public disclosure under section 552.115(a)(2) 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

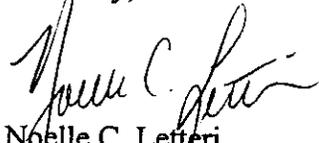
one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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 Department of Public 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 the General Services 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. 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,



Noelle C. Letteri
Assistant Attorney General
Open Records Division

NCL/pr

Ref: ID# 140652

Encl. Submitted documents

cc: Ms. Katerina Neuhauser
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(w/o enclosures)