



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 21, 2011

Mr. Mark D. Kennedy
Assistant District Attorney
Hays County District Attorney's Office
110 East Martin Luther King
San Marcos, Texas 78666

OR2011-03564A

Dear Mr. Kennedy:

Our office issued Open Records Letter No. 2011-03564 (2011) on March 15, 2011. In your request for this ruling, you represented that the request for information was received by the Hays County District Attorney's Office (the "district attorney"). Because your claimed exception, section 552.115 of the Government Code, applies to records maintained only by specific entities, we concluded the district attorney could not withhold the submitted death certificates under section 552.115(a). As you raised no further exceptions to disclosure for the information, we concluded the certificates had to be released. In a subsequent communication with our office, you provided an affidavit from the County Clerk of Hays County who states that her office received the request for information and the responsive certificates were provided to the district attorney for the sole purpose of requesting an open records ruling on her office's behalf. Accordingly, you ask our office to reconsider the previously issued ruling. Thus, based on these new representations, we will reconsider the previously issued ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on March 15, 2011. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")).

You ask whether certain information is subject to required public disclosure under the Act, chapter 552 of the Government Code. Your request was assigned ID# 419644.

The Hays County Clerk's Office (the "county clerk") received a request for the cause of death of a named individual and the name of the justice of the peace who declared the method of death. You claim the submitted death certificates are 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 of the Government Code excepts from disclosure “[a] birth or death record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official[.]” *Id.* § 552.115(a). This section is applicable only to information maintained by the bureau of vital statistics or local registration officials. *See* Open Records Decision No. 338 (1982) (finding that statutory predecessor to section 552.115 excepted only those birth and death records which are maintained by the bureau of vital statistics and local registration officials). In this instance, the county clerk explains it is the custodian of record for all death certificates recorded in Hays County. Thus, we find the submitted certificates are death records maintained by a local registration official pursuant to section 552.115(a). We note that none of the exceptions listed in section 552.115(a) appear to apply in this case. Therefore, based on the county clerk’s representations and our review, we conclude the certificates may be withheld under section 552.115(a).

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eeg

Ref: ID# 419644

c: Requestor