



September 16, 2022

**VIA Electronic Delivery**

Texas Maternal Mortality & Morbidity Review Committee  
P.O. Box 149347 MC 1922  
Austin, TX 78714-9347  
512-776-7373  
MaternalHealth@DSHS.texas.gov

**Re: Request Pursuant to Texas Public Information Act**

Dear Public Information Officer,

Pursuant to the Texas Public Information Act, Tex. Gov't Code §§ 552.001–552.376, Democracy Forward Foundation, submits this request for records.

***Records Requested***

On September 13, 2022, the *Houston Chronicle* published a report that the September 1, 2022 release of maternal mortality data would be delayed until summer of 2023, after the midterms and the next biennial legislative session.<sup>1</sup> In an effort to understand and clarify the facts surrounding this delay, Democracy Forward Foundation requests the following records:

1. Any findings or aggregate data produced by the Texas Maternal Mortality and Morbidity Review Committee in conjunction with the preparation of the 2022 Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report. This request does not seek confidential information as defined in Texas Health and Safety Code section 34.009.
2. Any recommendations made by the Texas Maternal Mortality and Morbidity Review Committee to DSHS in conjunction with the preparation of the 2022 Texas Maternal Mortality and Morbidity Review Committee and Department of State Health Services Joint Biennial Report.

***Scope of Search***

Unless otherwise specified, this request seeks records dated October 1, 2020, to and including the date of the final response to this request. Please note that, under Texas Government Code section 441.187, “[a] state record may not be destroyed if any . . . open records request . . . or other action involving the record is initiated before the expiration of a retention period . . . until the

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<sup>1</sup> Julian Gill & Jeremy Blackman, *Texas Delays Publication of Maternal Death Data Until After Midterms, Legislative Session*, *Houston Chronicle* (Sept. 14, 2022, 9:52 AM), available at <https://www.houstonchronicle.com/politics/texas/article/Texas-delays-publication-of-maternal-death-data-17439477.php>.

completion of the action and the resolution of all issues that arise from the action, or until the expiration of the retention period, whichever is later.” We therefore ask that you take steps to ensure that no responsive records are destroyed immediately following receipt of this request.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

The Public Information Act requires agencies to disclose information, with limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. Tex. Gov’t Code § 552.022. In the event that the MMMRC wishes to withhold any documents or portions of documents, it must, within ten business days, ask for a decision from the Attorney General about whether that information is within the exception. Tex. Gov’t Code § 552.301(a), (b), *Thomas v. Cornyn*, 71 S.W.3d 473, 480 (Tex. App. 2002).

However, we agree to the redaction of information that is subject to mandatory or discretionary exceptions, provided such redactions are clearly labeled on the information we receive, and provided that doing so will not prejudice our ability to request the redacted information in a subsequent request and/or to challenge the appropriateness of the redactions. If the MMMRC wishes to withhold any documents in full, it must nonetheless request a decision from the Attorney General; should the Attorney General find that the documents ought to be withheld, we further request a written statement from the Committee asserting its wishes to withhold the requested information and a copy of the written communication to the Attorney General asking for a decision on the issue. Tex. Gov’t Code § 552.301(d). If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in a searchable, electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within ten business days as required under the Public Information Act. *Id.* § 552.221(d). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If no decision from the Attorney General is requested and the information required by section 552.301(d), (e-1) is not provided to us within fifteen business days, the information we requested is presumed to be subject to public disclosure and must be released. Tex. Gov’t Code § 552.302.

### ***Request for Fee Waiver***

We request a waiver of document search, review, and duplication fees associated with processing

records for this request, in accordance with section 552.267.

The requested waiver is in the public interest because providing the copy of the information sought primarily benefits the general public. Records received in response to this request will contribute to the public's understanding of this issue. The disclosure of the records sought here will contribute significantly to understanding of an issue of profound public importance. Democracy Forward also has a demonstrated ability to disseminate information of public interest requested through freedom of information statutes.

Democracy Forward is not filing this request to further any commercial interest. Any information obtained by Democracy Forward as a result of this request will be disclosed at no cost.

If the request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify us of the appeal procedures available to us under the law. We reserve the right to initiate legal proceedings for injunctive or declaratory relief or file suit for a writ of mandamus if denied the opportunity to inspect the public records requested. Tex. Gov't Code §§ 552.321, 552.3215

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the ten-day period, please contact me at [jgaeta@democracyforward.org](mailto:jgaeta@democracyforward.org).

We appreciate your assistance and look forward to your prompt response.

Sincerely,

*/s/ Joe Gaeta*

Joe Gaeta  
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