



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

February 9, 1989

William B. Rohr, M.D.
County Medical Examiner
Collin County
700B Wilmeth Road
McKinney, Texas 75069

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 5447; this decision is OR89-48.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Collin County Medical Examiner received an open records request for two autopsy reports. You contend that section 3(a)(8) of the Open Records Act protects one of these reports, which relates to an unsolved murder, from required public disclosure, despite the fact that the Code of Criminal Procedure, article 49.25, expressly makes all reports of autopsies performed by medical examiners public information. The McKinney Chief of Police has also voiced concerns over the possibility that the release of the report before the case is cleared may have an adverse impact on the investigation of this homicide.

These policy concerns do not, however, override the express provisions of article 49.25. This office has previously held that information expressly made public by statute may not be withheld pursuant to any exception listed

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in section 3(a) of the act. See, e.g. Open Records Decision Nos. 87 (1975); 43 (1974). Consequently, the autopsy report must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-48.

Yours very truly,

Open Government Section 
of the Opinion Committee

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of the Opinion Committee
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JSR/RWP/bc

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