



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Mr. José R. Rodríguez
County Attorney
County of El Paso
500 East San Antonio, Room 203
El Paso, Texas 79901

OR94-625

Dear Mr Rodríguez:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 28538.

El Paso County (the "county"), through the Office of the County Medical Examiner, has received a request for certain autopsy reports. Specifically, the requestor seeks "copies of or access to: the autopsies of Francisco Santoni, Concepcion Villa and Dante Santoni."¹ You have submitted the autopsy reports to us for review and claim that section 552.108 of the Government Code exempts them from required public disclosure.²

Section 11 of article 49.25 of the Code of Criminal Procedure relates to the record-keeping responsibilities of medical examiners and provides as follows:

The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate.

¹In addition, the requestor seeks certain toxicology reports "when they are available." We note that information is not within the purview of the Open Records Act if, when a governmental body receives a request for it, the information does not exist. See Open Records Decision No. 452 (1986).

²In your initial request for an open records decision, you argued that the county was under no obligation to release the autopsy reports because they were not finalized. Since then you have submitted the requested autopsy reports to us for review. We assume, therefore, that the autopsy reports are finalized.

The full report and detailed findings of the autopsy, if any, shall be a part of the record. Copies of all records shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. Such records shall be public records.

Crim. Proc. Code § 49.25, § 11; *see also* Open Records Decision Nos. 529 (1989); 21 (1974).

The Open Records Act's exceptions to required public disclosure do not, as a general rule, apply to information expressly made public by other statutes. *See* Open Records Decision No. 525 (1989). Section 11 of article 49.25 of the Code of Criminal Procedure expressly makes autopsy reports public. Accordingly, we conclude that the county may not withhold the requested autopsy reports from required public disclosure under section 552.108 of the Government Code.

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 contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/GCK/rho

Ref.: ID# 28538

Enclosures: Submitted documents

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