



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1998

Mr. Gregory Humbach
City Attorney
City of Wichita Falls
1300 7th Street
Wichita Falls, Texas 76307

OR98-2062

Dear Mr. Humbach:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117545.

The Wichita Falls Police Department received a request for the autopsy reports for Alton Leon Bragg and Hugh McDaniel. You claim that the requested information is excepted from required public disclosure by section 552.101 and 552.108 of the Government Code. Although you raise exceptions to disclosure under the Open Records Act for the requested information, the autopsy reports must be released.

The Open Records Act's exceptions do not, as a general rule, apply to information expressly made public by other statutes. Open Records Decision No. 525 (1989). The Texas Code of Criminal Procedure provides that

[t]he 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. 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.*

Code Crim. Proc. art. 49.25 § 11 (emphasis added). Furthermore, we point out that the common-law right of privacy lapses upon the death of the individual. Attorney General

Opinion JM-229 (1984), H-917 (1976); Open Records Decision Nos. 272 (1981), 216 (1978). Because the autopsy reports at issue were prepared by the medical examiner, they are public records by statute and must be released. Open Records Decision No. 529 (1989); *Whitfield v. State*, 492 S.W.2d 502, 505 (Tex. Crim. App. 1973); see *Houston Chronicle Publ'g Co. v. Woods*, 949 S.W.2d 492, 498-9 (Tex. App.-- Beaumont 1997, orig. proceeding) (search warrant affidavit which is "public information" if executed is open to disclosure without exception); *Houston Chronicle Publ'g Co. v. Edwards*, 956 S.W.2d 813 (Tex. App.-- Beaumont 1997, orig. proceeding).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/nc

Ref: ID# 117545

Enclosures: Submitted documents

cc: Ms. Monica Wolfson
Wichita Falls Times Record News
P.O. Box 120
Wichita Falls, Texas 76307
(w/o enclosures)