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**RECEIVED**

DEC 23 1997

**Opinion Committee**

December 18, 1997

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Honorable Dan Morales  
Attorney General of Texas  
Supreme Court Building  
P.O. Box 12548  
Austin, Texas 78711-2548

20-1059

FILE # ML-39989-97  
I.D. # 39989

Attention: Ms. Sarah J. Shirley, Chair  
Opinion Committee

Re: Fee that may be charged for autopsy report  
C.A. file # 64,764

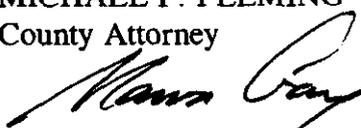
Ladies and Gentlemen:

TEX. HEALTH & SAFETY CODE ANN. § 671.012 (Vernon 1992) provides that a copy of an "autopsy report" shall be furnished to a duly authorized person on payment of a \$5 fee. However, "autopsy report" is not defined in TEX. HEALTH & SAFETY CODE ANN. § 671.001 *et seq.*

Please supply us with your opinion on what constitutes the "autopsy report" for purposes of TEX. HEALTH & SAFETY CODE ANN. § 671.012 (Vernon 1992). Our memorandum brief is enclosed. If we can provide you with any additional information, please do not hesitate to contact us.

Sincerely,

MICHAEL P. FLEMING  
County Attorney

  
By MARVA M. GAY  
Assistant County Attorney

## MEMORANDUM BRIEF

TEX. HEALTH & SAFETY CODE ANN. § 671.012 (Vernon 1992) states as follows:

A copy of an autopsy report shall be furnished to a duly authorized person on payment of a \$5 fee.

However, "autopsy report" is not defined in TEX. HEALTH & SAFETY CODE ANN. § 671.001 *et seq.* (Vernon 1992). Apparently, different jurisdictions include different reports in the official "autopsy report." Some jurisdictions consider the "autopsy report" to be a bundled series of reports including post-mortem examination, toxicology, and investigative reports together with questionnaires. However, some jurisdictions apparently consider the "autopsy report" to be restricted to a report of the post-mortem physical examination of a body and may charge additional fees for the toxicology report, pictures, the investigation report, and questionnaires.

Although "autopsy report" is not defined, "autopsy" is defined in TEX. CODE CRIM. PROC. ANN. art. 49.01(1) (Vernon Supp. 1997) as follows:

"Autopsy" means a post mortem examination of the body of a person, including X-rays and an examination of the internal organs and structures after dissection, to determine the cause of death or the nature of any pathological changes that may have contributed to the death. [Emphasis added.]

In its narrowest interpretation, the "autopsy report" is restricted to the report of the "post mortem examination of the body of a person, including x-rays." In a broader interpretation, the "autopsy report" includes not only the post-mortem examination-of-the-body report, but also the toxicology report. Under this interpretation, the official "autopsy report" includes (1) a "post-mortem examination of the body of a person, including X-rays," and (2) the toxicology report and such other reports that involve "an examination of the internal organs and structures after dissection."

Arguably, the most expansive interpretation of "autopsy report" includes (1) a "post-mortem examination of the body of a person, including X-rays," (2) the toxicology report and such other reports that involve "an examination of the internal organs and structures after dissection," and (3) those investigative reports and documents that the medical examiner reviews — in addition to the examination-of-the-body and the toxicology reports — "to determine the cause of death or the nature of any pathological changes that may have contributed to the death." Investigative reports and other documents that may be reviewed by the medical examiner include a wide variety of reports and questionnaires. Some may be prepared by the medical examiner or her staff or by third-parties, such as police officers at the scene.

We conclude that “autopsy report” as used in TEX. HEALTH & SAFETY CODE ANN. § 671.012 (Vernon 1992) means those reports that relate directly to the “autopsy” as it is defined in TEX. CODE CRIM. PROC. ANN. art. 49.01(1) (Vernon Supp. 1997). That is, the “autopsy report” appears to include the report of (1) the “post-mortem examination of the body of a person, including X-rays,” and (2) the toxicology report and such other reports that involve “an examination of the internal organs and structures after dissection.” However, it appears that the “autopsy report” as used in TEX. HEALTH & SAFETY CODE ANN. § 671.012 (Vernon 1992) does not include those investigative reports and documents that the medical examiner reviews — in addition to the examination-of-the-body and the toxicology reports — to determine the cause of death. These investigative reports and documents may include certain information protected from disclosure by TEX. GOV’T CODE ANN. §§ 552.101, 552.103, or 552.108 (Vernon Supp. 1997) and, therefore, must be reviewed on a case-by-case basis before release.