



**Office of the
Criminal District Attorney
Bastrop County, Texas**

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OPINION COMMITTEE

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RESQUEST FOR ATTORNEY GENERAL OPINION

Question: Is there an exception to Government Code § 27.004, or is there any other relief available, when the disclosure of an autopsy report held by a justice of the peace will hinder the investigation or prosecution of a serious offense?

I write to request assistance regarding the following situation. Recently, a murder was committed in the City of Bastrop. The deceased woman was killed in a somewhat unique way. The only people who knew how the woman was killed was the murderer himself and the Bastrop Police Detectives. Not even the immediate family of the deceased woman knew the details. Naturally, the Bastrop Police Department and our office wanted to keep the information regarding her death private to aid in our investigation and to prevent false confessions. After the murder, an inquest was ordered by the Justice of the Peace in Precinct One and an autopsy was done by the Travis County Medical Examiner's office, as Bastrop County does not have a medical examiner's office. The autopsy was filed with the JP's office.

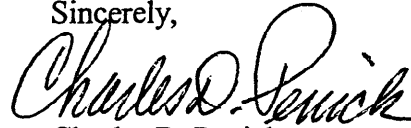
Once the autopsy was filed, the Austin American Statesman Newspaper requested a copy of the autopsy pursuant to the Open Records Act. Based on requests from the Bastrop Police Department and our office, that autopsy report was withheld because its release would hinder the investigation and prosecution of the murder. However, we discovered that according to Attorney General Opinion JC-0422, the judiciary is not subject to the Public Information Act, and that therefore the hindering investigation/prosecution exception was not available to allow the JP to withhold the autopsy report.

Government Code § 27.004 applies directly to the judiciary and the release of information in their control. It states that "all papers filed in a case in justice court [are] subject to the inspection of any interested party at reasonable times." Accordingly the autopsy report is subject to inspection by the public.

However, in the murder case in the City of Bastrop, it is the opinion of the Bastrop Police Department and the Bastrop District Attorney's Office that the release of the autopsy filed with the JP would hinder the investigation and/or prosecution of the murder case. It is the opinion of this writer that the interest of justice would be served to extend the hindering investigation/prosecution exception to Justice courts under these circumstances. The only reason we sought to shelter the autopsy report from the public is to aid our ability to apprehend the murderer.

Thank you for your assistance.

Sincerely,


Charles D. Penick