



JOHN McMAHON, SHERIFF-CORONER



April 24, 2017

KGOV Radio

Attn: Bob Enyart

Via E-mail Only: bob@kgov.com

Re: Public Records Act request – *Autopsy Report for S. Farook & T. Malik*

Dear Mr. Enyart:

The San Bernardino County Sheriff's Department ("Department") is in receipt of the Public Records Act request, wherein you seek: Autopsy Reports for Syed Rizwan Farook and Tashfeen Malik. The Department has concluded its review and addresses your request as follows:

Currently, the autopsy reports and coroner investigations, and all other law enforcement records pertaining to the death of Syed R. Farook and Tashfeen Malik, are part of an "investigatory file," and are exempt from disclosure. Government Code section 6254(f) exempts from Public Records Act disclosure "any investigatory or security files compiled...for correctional, law enforcement, or licensing purposes." These records are exempt from disclosure, whether or not the prospect of enforcement proceedings is concrete and definite (*Haynie v. Superior Court* (2001) 26 Cal. 4th 1061,1069; *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645,654; *Younger v. Berkeley City Council* (1st Dist. 1975) 45 Cal.App.3d 825,833; *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal. 3d 440), and remain protected from disclosure, even after an investigation has concluded. (*Williams v. Superior Court* (1993) 5 Cal. 4th 337, 355-362.) The reason for this law enforcement investigation exemption are obvious; the exemption protects witnesses, victims, and investigators, secures evidence and investigative techniques, encourages candor, recognizes the rawness of sensitivity of information in criminal investigations, and in effect makes such investigations possible. (See *Dixon v. Superior Court* (3d Dist. 2009) 170 Cal.App.4th 1271,1276; see also *Haynie v. Superior Court, supra*, 26 Cal. 4th pp. 1070-1071; *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169, 175-177; *Williams v. Superior Court, supra*, 5 Cal. 4th at pp. 354-355.)

Government Code section 6255(a) also authorizes denial of a Public Records Act request when "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." In this case, the danger of compromising an active investigation clearly outweighs the public interest in disclosure.

For the reasons outlined above, your request is respectfully denied. If you have any questions or concerns, or would like to discuss this matter further, please contact me.

Sincerely,

MILES A. KOWALSKI

General Legal Counsel

San Bernardino County Sheriff's Department

MAK/ct

Sent: Wednesday, April 12, 2017 7:45 AM

To: paffairs <paffairs@sbcasd.org>

Subject: FW: For Captain Lacy or the coroner's office, KGOV radio autopsy request S. Farook and...



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