



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

July 14, 2011

Ms. Mary Baudino  
Chief Administrative Director  
Will County Coroner's Office  
57 North Ottawa Street  
Suite 412  
Joliet, Illinois 60432

RE: FOIA Pre-Authorization Request – 2011 PAC 7102

Dear Ms. Baudino:

We have received and reviewed the written notice from Will County Coroner's Office (Coroner) of its intention to deny disclosure of certain information under section 7(1)(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/7(1)(c) (West 2010)).

Gregory B. Jumbeck, on behalf of Reich, Jumbeck, & Associates, L.L.P., requested "any and all reports of any death of any infant and/or stillbirth of any infant at any hospital within Will County and/or in the jurisdiction of the Will County Coroner's Office in which [REDACTED] a/k/a [REDACTED] is named a 'mother' and/or 'parent' on or about April 4, 2010, and/or any other date in the last 180 days." The Coroner's Office requests preauthorization to withhold the only responsive document in its entirety. That document is titled "Coroner's Referral Report."

Section 7(1)(c) of FOIA exempts from inspection and copying "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information." The exemption defines "unwarranted invasion of personal privacy" as "the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information."

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### DETERMINATION

The Coroner's assertion of the exemption in section 7(1)(c) with regard to the Coroner's Referral Report in its entirety is **denied**. After considering the balancing test required under the section 7(1)(c) exemption, we conclude that the Coroner's Referral Report is not exempt from disclosure in its entirety under this provision.

A public body seeking to rely on the section 7(1)(c) exemption must show: 1) that the information is highly personal or that disclosure would be highly objectionable to a reasonable person; and 2) that the subject's right to privacy outweighs any legitimate public interest in obtaining the information. Under section 1.2 of FOIA (5 ILCS 140/1.2 (West 2010)), the public body has the burden of proving by clear and convincing evidence that a record is exempt.

The Office of the Public Access Counselor has recognized that surviving family Members "have a cognizable personal privacy interest in autopsy records relating to the death of a close relative, which interest must be considered" in determining whether such records are exempt from disclosure under section 7(1)(c). Ill. Att'y Gen. Pub. Acc. Op. No 10-003, issued October 22, 2010, at 6. That interest may, in appropriate circumstances, extend to other records concerning the death of a close relative. Under section 7(1)(c), the privacy interests of surviving family members must be balanced against the legitimate public interest in obtaining the information.

We have examined the Coroner's Referral Report and have determined that the privacy interests of surviving family members do not justify withholding this record in its entirety. Although surviving family members may consider the release of this record to be objectionable, there is a considerable public interest in the Coroner's performance of his duties in this matter and in similar matters.

The Coroner may, however, redact portions of the records containing personal information relating to the mother of the decedent pursuant to section 7(1)(c). This information is highly personal and the privacy interests of the mother outweigh any legitimate public interest in obtaining this information. The Coroner has sustained its initial burden of showing that this information is exempt under section 7(1)(c). Redaction of portions of the records containing this information is **approved**. The approved redactions are highlighted in yellow in copies of the records that this Office is providing only to the Coroner's Office.

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If you have any questions, please contact me at (312) 814-2770. This correspondence shall serve to close this matter.

Very truly yours,

A solid black rectangular box redacting the signature of John Schmidt.

JOHN SCHMIDT  
Senior Assistant Attorney General  
Public Access Bureau

7102 pre-auth al dl 71c priv county

JS:jh

cc: Gregory B. Jumbeck  
Reich, Jumbeck, & Associates, LLP  
Two Rialto Square  
Suite 555  
116 North Chicago Street  
Joliet, Illinois 60432