



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

July 7, 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 – 2010 PAC 9269

Dear Ms. Baudino:

We have received and reviewed the written notice from the 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)). [REDACTED] requested copies of toxicology results and the autopsy report relating to the death of her brother, [REDACTED]. The Coroner's Office seeks authorization to withhold the responsive documents in their entirety.

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."

DETERMINATION

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.

Ms. Mary Baudino
July 7, 2011
Page 2

Because the Coroner has a statutory duty to investigate the cause of a sudden or violent death, the public has a legitimate interest in accessing records resulting from the performance of this public duty, at least to the extent that this interest is not outweighed by personal privacy rights. (55 ILCS 5/3-3013 (West 2010)). The Public Access Counselor has recognized that personal privacy interests in public records concerning the subject of a coroner's investigation, however, are limited. Although surviving family members do "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), the privacy interests of surviving family members must be balanced against the legitimate public interest in obtaining the information. Ill. Att'y Gen. Pub. Acc. Op. No 10-003, issued October 22, 2010, at 5.

In these circumstances, the requester is the sister of the decedent. Accordingly, she may waive whatever privacy rights she may have in the disclosure of these records.

Moreover, we note that there is a considerable public interest in obtaining information about the cause of death in a case such as this, which involves a motorcycle accident in which the driver lost control. Further, there is a substantial public interest in the Coroner's performance of his statutory duty to determine the cause of death in this matter. Thus, even if the requester was not a close relative of the decedent, the family's privacy interests would not ordinarily be sufficient to warrant withholding reports of this nature. Therefore, the Coroner's use of the exemption in section 7(1)(c) to withhold the requested records in their entirety is **denied**.

The Coroner may, however, redact, pursuant to section 7(1)(c), portions of the records containing personal medical information of the decedent that is unrelated to the cause of death. This information is highly personal and its release would shed no light on the cause of the decedent's death. The approved redactions are highlighted in yellow on copies of the records that this office is providing only to the Coroner's Office.

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

Very truly yours,



JOHN SCHMIDT
Senior Assistant Attorney General
Public Access Bureau

Ms. Mary Baudino
July 7, 2011
Page 3

9269 pre-auth dl al 71c med inf county

Enclosure

JS: jh

cc:

