



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

Lisa Madigan
ATTORNEY GENERAL

March 14, 2011

Mr. Michael P. Burke
Livingston County Coroner
107 W. Water St.
P.O. Box 527
Pontiac, IL 61764

RE: Pre-Authorization Request – 2010 PAC 5914, 5915

Dear Mr. Burke:

We have received and reviewed the written notice from the Livingston County Coroner of its intention to deny disclosure of certain information requested by [REDACTED]. [REDACTED] had requested autopsy and coroner records regarding the death of a specified individual in Livingston County. The Coroner's pre-authorization notice seeks to withhold autopsy photographs and other photographs of the scene as well as responsive autopsy reports and toxicology reports in their entirety, as exempt under Section 7(1)(c) of the Freedom of Information Act (FOIA), 5 ILCS 140/7(1)(c). In connection with submitting its pre-authorization notice, the Coroner furnished [REDACTED] with other responsive records, specifically, the inquest transcript, the verdict sheet, and certain Coroner's notes.

Section 7(1)(c) of FOIA permits a public body to withhold "[p]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." That provision further defines an "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." It also provides that "[t]he disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy."

Determinations

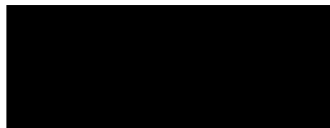
The Coroner's use of the exemption in Section 7(1)(c) with regard to photographs depicting the deceased post-mortem is approved. Such photographs are highly personal, and the privacy rights of the family of the deceased clearly outweigh any legitimate public interest in obtaining this information. The Coroner has sustained its initial burden of showing that such photographs are exempt under Section 7(1)(c).

However, the Coroner's use of the Section 7(1)(c) exemption with regard to those photographs depicting the scene, but not depicting the deceased post-mortem, is denied. The Coroner has not

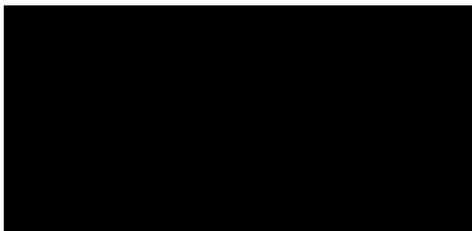
met its initial burden of demonstrating that any such photographs would constitute an "unwarranted invasion of personal privacy" under Section 7(1)(c).

The Coroner's use of the Section 7(1)(c) exemption with regard to the autopsy reports and toxicology reports in their entirety is also denied. When a public record contains non-exempt information as well as exempt information, the public body may elect to redact the exempt information, but must make the remaining information available. 5 ILCS 140/7(1). Although some of the information in these reports may be highly personal, these reports also contain information that is not highly personal and is not exempt under Section 7(1)(c). *See, generally*, Public Access Opinion No. 10-003, issued October 22, 2010. Therefore, the Coroner may not withhold these reports in their entirety. If the Coroner wishes to redact specific information from these reports, the Coroner may submit another request for pre-authorization to deny the specific information in these reports that the Coroner reasonably believes is exempt under Section 7(1)(c).

Thank you in advance for your cooperation. This correspondence shall serve to close this matter. If you have any questions, please contact me at (217) 782-9078.



Assistant Public Access Counselor



5914, 5915 preauth al dl 71c autopsy county