

October 24, 2007

Robert Cron
100 Holly Trail
Roundhill, Kentucky 42275

Re: Formal Complaint 07-FC-295; Alleged Violation of the Access to Public Records Act by the Lawrence County Coroner

Dear Mr. Cron:

This is in response to your formal complaint alleging the Lawrence County Coroner ("Coroner") violated the Access to Public Records Act ("APRA") (Ind. Code §5-14-3) by not providing you with copies of two death certificates. It is my opinion the Coroner has violated the APRA by denying you access to the coroner's report you requested.

BACKGROUND

In your complaint you allege that on September 10, 2007 you telephoned the Coroner and requested a copy of a coroner's report for a deceased individual. You allege the Coroner indicated he would send you the report. On September 20 you received an electronic mail message from the Coroner indicating he was precluded from sending the report to you under Indiana law because Don Harrison had been appointed by a court to handle the decedent's estate. You mailed this complaint on September 22, and my office received it on September 26.

The Coroner did not respond to your complaint at my invitation to do so.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code §5-14-3-1. The Coroner is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Coroner during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is made orally or in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a).

To obtain a copy of a death certificate, the purchaser must have a direct interest in the matter or the information must be necessary for the determination of a personal or property right or for the compliance with state or federal law. I.C. §16-37-1-10. The local health officer shall from the death certificate make a permanent record containing the following: name, sex, age, place of death, residence, residence address during the last two year’s of the decedent’s life, and Social Security number. This record shall be open to public exception except that the Social Security number shall be kept confidential. I.C. §16-37-3-9.

When a coroner investigates a death, the corner is required to make available for inspection and copying certain information including the written report regarding the verdict on the death under consideration as required under I.C. §36-2-14-10 as well as certain information when an autopsy is preformed, including probable cause, probable manner, and probably mechanism of death. I.C. §36-2-14-18.

The APRA requires disclosure of public records unless they are confidential or otherwise non-disclosable under the APRA. I.C. §5-14-3-3. Records declared confidential by state statute are excepted from disclosure under I.C. §5-14-3-4(a).

Here, it is my understanding you have not requested a copy of the death certificate but instead have requested a copy of the Coroner’s report. To the extent you seek information required to be kept in the permanent record of the Coroner under I.C. §36-2-14-18, those records should be made available to you upon request, regardless of the status of the estate of the decedent or the status of a representative appointed by the court.

CONCLUSION

For the foregoing reasons, it is my opinion the Coroner has violated the APRA by denying you access to the coroner’s report you requested.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: John C. Sherill, Lawrence County Coroner