

April 30, 2007

Keith Ware
#5265
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 07-FC-82; Alleged Violation of the Access to Public Records Act by the Lake County Coroner

Dear Mr. Ware:

This is in response to your formal complaint alleging that the Lake County Coroner (“Coroner”) violated the Access to Public Records Act by failing to respond to your request for a certified copy of an autopsy report and any pathologist notes taken during the autopsy. I find that the Coroner violated the Access to Public Records Act because he failed to respond by telling you that the record is an investigatory record of law enforcement.

BACKGROUND

You complain that your request for a certified copy of an autopsy report from a 1974 case was ignored by the Coroner. You had also requested that the Coroner disclose any pathologist notes taken during the autopsy.

The Coroner responded to your complaint by stating that the only record he must make available to you is the coroner’s verdict, if one is available. The Coroner’s staff indicated to me that the agency failed to respond because you were not entitled to the record.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act. Ind. Code 5-14-3-3(a). If a public agency denies a written request for a record, the denial must be in writing and must state the exemption or exemptions that authorize the agency to withhold the record, and the name and title or position of the person responsible for the denial. IC 5-14-3-9(c). At a minimum, the public agency is required to respond within seven days after the agency’s receipt of a request that has been mailed to the agency. IC 5-14-3-9(b).

A record that is compiled in the course of a criminal investigation is an investigatory record of law enforcement, and may be disclosed at the discretion of the agency. IC 5-14-3-2(h); IC 5-14-3-4(b)(1). A full autopsy report is subject to IC 5-14-3-4(b)(1). IC 36-2-14-18. For purposes of this opinion, I assume that notes of the pathologist would be part of the full autopsy report. Notwithstanding IC 5-14-3-4(b)(1), certain information is required to be available for public inspection and copying when a coroner investigates a death, including, among other

things, information regarding an autopsy limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to the probable cause of death, the probable manner of death, and the probable mechanism of death. IC 36-2-14-18(a)(5).

The Coroner should provide you with all the information required in IC 36-2-14-18, including the verdict and written report required under IC 36-2-14-10. The Coroner violated the Access to Public Records Act when he failed to deny the full autopsy report in a written response that cited the proper exemption.

CONCLUSION

For the foregoing reasons, I find that the Lake County Coroner violated the Access to Public Records Act when he failed to respond to your request for the full autopsy report by denying you the full report and citing the exemption that authorizes the Coroner to withhold the report and notes. Also, you are entitled to all the information required to be disclosed under IC 36-2-14-18.

Sincerely,

Karen Davis
Public Access Counselor

cc: David Pastrick