
OPINION OF THE PUBLIC ACCESS COUNSELOR

SAMANTHA SNUKIS,
Complainant,

v.

VANDERBURGH COUNTY CORONER'S OFFICE,
Respondent.

Formal Complaint No.
19-FC-136

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Vanderburgh County Coroner's Office violated the Access to Public Records Act.¹ Assistant county attorney Craig R. Emig filed an answer to the complaint with this Office. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by

¹ Ind. Code §§ 5-14-3-1 to -10

the Office of the Public Access Counselor on December 12, 2019.

BACKGROUND

This case involves a dispute between an out-of-state daughter and the Vanderburgh County Coroner's Office ("VCCO") over the access to certain records related to the death investigation of the requester's father.

On September 13, 2019, Edward C. Snukis died in Evansville, Indiana. The Vanderburgh County Coroner investigated, which included the performance of an autopsy by a physician.

On November 14, 2019, Samantha Snukis ("Snukis"), Edward's adult daughter, through her attorney Mark E. Miller, submitted a set of requests for public records to the coroner's office essentially seeking all records associated with the case including the full autopsy report and included a request for photographs, video recordings, and audio recordings from the autopsy.

The next day, Vanderburgh County Coroner Steven W. Lockyear faxed a letter to Snukis's attorney about the requests. The coroner provided some of the requested records but noted what he described as a contradiction between the statutes governing access to autopsy photographs. The coroner also stated that he had no objection to the family receiving the records, but he acknowledged access may require a court order.

As a result, Snukis's attorney filed a formal complaint with this office on December 12, 2019. In essence, Snukis argues that the coroner failed to provide a full copy of her father's

autopsy report and all photographs, video recordings, and audio recordings of her father's autopsy.

On January 2, 2020, the VCCO filed an answer to Snukis's complaint denying that it has improperly withheld disclosable records in violation of APRA. In sum, the county argues that it produced all records requested by Snukis in accordance with APRA; and thus, the complaint should be dismissed as moot.

The VCCO also notes that the coroner never denied Snukis's request, but rather the coroner acknowledged a potential ambiguity in the relevant statutes, which the coroner determined may require a court order for the release.

This office contacted Snukis's attorney, Mark E. Miller, after receiving the Vanderburgh County Coroner's response to find out if Snukis agreed with the county's assertion that it produced all requested records, and if so, how did Snukis wish to proceed.²

On January 16, 2019, Snukis's attorney emailed this office asserting Vanderburgh County had not provided all of the requested records. Snukis acknowledged receiving a copy of the autopsy report, a five page toxicology report, and a CD containing autopsy photographs. Snukis contends she has not been able to access the pictures on the disc, and counsel informed the county and requested a replacement.

² This is agency policy. If the parties resolve the underlying access dispute while the complaint is pending, this office contacts the complainant to determine how they wish to proceed. In some cases it results in a withdrawal. This is not one of them.

ANALYSIS

1. The Access to Public Records Act (“APRA”)

The Access to Public Records Act (“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 Vanderburgh County Coroner’s Office (“VCCO”) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the Coroner’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains exceptions—both mandatory and discretionary—to the general rule of disclosure. In particular, APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by a court under the rules of discovery. *See* Ind. Code § 5-14-3-4(a). In addition, APRA lists other types of public records that may be excepted from disclosure at the discretion of the public agency. *See* Ind. Code § 5-14-3-4(b).

2. Disclosure of Coroner’s Records

Generally, under Indiana law, when a county coroner investigates a death, the agency is required to make the following information available for public inspection and copying:

- (1) the name, age, address, sex, and race of the deceased;

(2) the address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred;

(3) the agency to which the death was reported and the name of the person reporting the death;

(4) the name of the public official or government employee present at the scene of the death; and the name of the person pronouncing the death.

See Ind. Code § 36-2-14-18(a). Autopsy information is limited to the date of the autopsy, the name of the person who performed the autopsy, where the autopsy was performed, and a conclusion to the probable cause, manner, and mechanism of death.³

Also, the coroner must report the location to which the body was removed, the person who determined the location to which the body was to be removed, and the authority under which it was removed.⁴

What is more, a coroner is required to make available “a full copy of an autopsy report, other than a photograph, a video recording, or an audio recording of the autopsy, upon the written request of ...an adult child of the decedent...” *See* Ind. Code § 36-2-14-18(c).

Finally, the coroner’s office must make available for inspection and copying the coroner’s certificate of death, as well as

³ Ind. Code § 36-2-14-18(a)(5)(A), to -(C).

⁴ Ind. Code § 36-2-14-18(a)(6).

the investigatory report and verdict. *See* Ind. Code § 36-2-14-18(a)(7).

Notably, this information must be made available within 14 days after the completion of the autopsy report, or, if applicable, any other report including a toxicology report requested by the coroner as part of the coroner's investigation, whichever is completed last. *See* Ind. Code § 36-2-14-18(h).

Regardless, the VCCO contends that it the coroner did not deny the request and provided Snukis with all the requested records. Snukis acknowledges receipt of the full autopsy report, a five page toxicology report, and disc with photographs. As of January 2, 2020, Snukis contends she was not able to access the pictures on the disc, and notified the county of the defect.

If there is a problem with the media an agency or requester uses to produce records, at least initially and for a reasonable time after, there is not an inherent access issue under APRA. That written, I do recommend the coroner ensure the media used is free from corrupted files and is an exact copy of what was transferred to the disc. After it is sent to a requester, an agency has no control over how it is accessed, but only must make the information available via reasonable efforts.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Vanderburgh County Coroner's Office did not violate the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor