



2007-015

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

December 4, 2006

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Autopsy – Public Records – Coroners

Generally, autopsy reports of coroners are public records open to inspection by the public. If, however, there is a pending criminal investigation and the disclosure of the information will compromise the investigation, the report or the compromising information should not be disclosed.

Dear Mr. Wilson:

This opinion of the Attorney General is issued in response to your request.

QUESTIONS

What is the proper procedure in the release of autopsy reports? Who are the appropriate persons to whom an autopsy report may be released?

FACTS AND ANALYSIS

Your question, in essence, is whether an autopsy report is a public record under the laws of Alabama. Section 36-12-40 of the Code of Alabama generally states that every citizen shall have the right to inspect and take a copy of a public writing of this state unless expressly provided otherwise by statute. ALA. CODE § 36-12-40 (Supp. 2006). A "public record" is defined in section 41-13-1 of the Code of Alabama as follows:

As used in this article, the term "public records" shall include all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer.

ALA. CODE § 41-13-1 (2000).

Autopsy reports of the Alabama Department of Forensic Sciences are public records. ALA. CODE § 36-18-2 (2001); *Baker v. State*, 473 So. 2d 1127, 1129 (Ala. Cr. App. 1984); Opinion to Honorable Norman D. Holman, Coroner, Henry County, dated October 8, 1987, A.G. No. 88-00011.

Regarding autopsy reports prepared by coroners, *Holman* stated that, with certain exceptions, coroners' reports are public records open to public inspection. *Holman* at 2. Quoting from an opinion to Honorable Jay M. Ross, Attorney, City of Daphne, dated August 17, 2006, A.G. No. 2006-134, "[o]n the other hand, this Office has drawn a distinction in the case of death. It has concluded that autopsy reports, whether the cause of death is natural or homicide, should be disclosed. Opinion to Honorable Norman D. Holman, Coroner, Henry County, dated October 8, 1987, A.G. No. 88-00011." *Ross* at 5.

The Supreme Court of Alabama, in *Stone v. Consol. Publ'g Co.*, 404 So. 2d 678 (1981), listed four exceptions to the public records law by which the nature of certain information may render an entire record unavailable for public viewing or, alternatively, in which the excepted information can be redacted from the record, permitting only the appropriate information to be accessed by the public. See Opinion to Honorable Dan Jones, Sheriff, Montgomery County, dated October 30, 1998, A.G. No. 99-00032. The Supreme Court stated those exceptions in *Stone* as follows: (1) recorded information received by a public officer in confidence; (2) sensitive personnel records; (3) pending criminal investigations; and (4) records the disclosure of which would be detrimental to the best interests of the public. *Stone*, 404 So. 2d at 681; *Ross* at 4. These exceptions apply to coroners' autopsy reports. *Holman* at 2.

Section 12-21-3.1(b) of the Code of Alabama specifically provides that "[l]aw enforcement investigative reports and related investigative material are

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not public records. Law enforcement investigative reports, records, field notes, witness statements, and other investigative writings or recordings are privileged communications protected from disclosure.” ALA. CODE § 12-21-3.1(b) (2006).

Citing *Stone*, this Office determined that records concerning pending criminal investigations may not be subject to public disclosure when the disclosure of the information will compromise the investigation. Opinion to Honorable Tommy Ed Roberts, Alabama State Senator, dated October 7, 1999, A.G. No. 2000-004. *Holman* also specifically determined that autopsy reports are covered by this rule. *Holman* at 2. The Supreme Court of Alabama noted in *Water Works and Sewer Bd. of the City of Talladega v. Consol. Publ'g Co.*, 892 So. 2d 859, 866, n.4 (Ala. 2004), that a record that would ordinarily be subject to disclosure under the Open Records Act does not become private simply because it is given to law enforcement personnel.

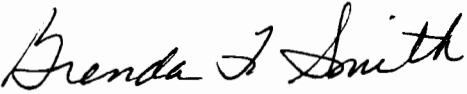
CONCLUSION

Generally, autopsy reports of coroners are public records open to inspection by the public. If, however, there is a pending criminal investigation and the disclosure of the information will compromise the investigation, the report or the compromising information should not be disclosed.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

TROY KING
Attorney General
By:


BRENDA F. SMITH
Chief, Opinions Division

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