

DISTRICT COURT, WELD COUNTY, COLORADO 901 9 th Avenue Greeley, Colorado 80631 (970) 475-2400	
PEOPLE OF THE STATE OF COLORADO, Plaintiff v. CHRISTOPHER LEE WATTS , Defendant	▲ Court Use Only ▲
	Case No. 18CR2003 Division: 5
ORDER (C-14) REGARDING [L] MOTION TO DENY DISCLOSURE OF PUBLIC RECORD PURSUANT TO C.R.S. § 24-72-204(6)(A)	

This matter comes before the court on the People’s *Motion To Deny Disclosure Of Public Record Pursuant to C.R.S. 24-72-204(6)(A)* filed on September 17, 2018. The defendant filed a Notice D-38 on September 21, 2018. The court makes the following findings of facts and conclusions of law:

The People seek an order from the court permitting to restrict the disclosure of the autopsy reports prepared by the coroner. In their Motion, the People do not state that any member of the public has requested a copy of the autopsy report.

C.R.S. 24-72-204(6)(a) states in pertinent part:

If in the opinion of the official custodian of any public record, disclosure of the content of said record would do substantial injury to the public interest, notwithstanding the fact that said record might otherwise be available to public inspection...the official custodian may apply to the district court of the district in which such record is located for an order permitting him or her to restrict such disclosure...Hearing on such application shall be held at the earliest practical time. In the case of a record that is otherwise available to public inspection...after a hearing, the court may, upon a finding that disclosure would cause substantial injury to the public interest, issue an order authorizing the official custodian to restrict the disclosure.

C.R.S. 24-72-201 sets forth the legislative declaration regarding public records. It is the public policy of this state, with certain exceptions, that all public records shall be open for inspection by any person at reasonable times.

The prosecution is the “official custodian” as defined in C.R.S. 24-72-202(2). Coroner’s autopsy reports on homicide victims are public records subject to disclosure pursuant to the Colorado Open Records Act (“CORA”). These public records may be withheld from public inspection by the custodian thereof only pursuant to the procedure under C.R.S. 24-72-204(6). *Freedom Newspapers, Inc. v. Bowerman, M.D.*, 739 P.2d 881 (Colo. App. 1987).

A substantial injury to the public interest is not defined in the CORA. However, the substantial injury to the public interest exemption contained in C.R.S. 24-72-204(6) is to be used only in those extraordinary situations which the General Assembly could not have identified in advance. *Bodelson v. Denver Pub. Co.*, 5 P.3d 373, 377 (Colo. App. 2006), citing *Freedom Newspapers, Inc. v. Bowerman, M.D.*, 739 P.2d 881 (Colo. App. 1987). The custodian of records has the burden to prove an extraordinary situation and that the information revealed would do substantial injury to the public. *Zubeck v. El Paso County Retirement Plan*, 961 P.2d 597 (Colo. App. 1998). The determination of whether public disclosure of an autopsy record would cause substantial injury to the public interest is a question of fact. *Blesch v. Denver Publ’g Co.*, 62 P.3d 1060, 1063 (Colo. App. 2002).

The motion asserts that:

[t]he deceased victims in the instant case, Shanann Watts, Bella Watts and Celeste Watts were murdered and their bodies moved from the initial crime scene. There is a great deal of interest surrounding this case and at this time, the cause of the deaths has not been made public. Consequently, the observations and findings contained in the coroner’s autopsy report will be critical evidence at trial. The disclosure of this information to the public prior to trial could result in tainting witnesses that have not yet been interviewed and impacting future jurors.

This court is not aware of any member of the public who has made a CORA request to inspect the autopsy report(s). The court finds and concludes there is no contested issue before the court, and therefore, no need to currently conduct an evidentiary hearing. The court hereby orders the People to hand deliver to the court in a sealed envelope the coroner autopsy report(s). Furthermore, pursuant to *Crim. P.* 16 the People shall provide to the defense in a sealed envelope the coroner autopsy report(s) no later than September 25, 2018. The defendant may thereafter file a Response/Objection no later than September 28, 2018. The prosecution may file a Reply no later than October 2, 2018. Until further order of the court the parties and the Weld County Coroner shall treat these reports as confidential and not a public document. After reviewing the pleadings and these reports *in camera*, the court will issue a written order. The People shall provide a copy of this Order to the Weld County Coroner.

BY THE COURT:

Dated: September 21, 2018

A handwritten signature in black ink, appearing to read "Marcelo A. Kopcow". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Marcelo A. Kopcow
District Court Judge