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ATTORNEY GENERAL

April 25, 2016

Anthony S.H. Catone  
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P.O. Box 1520  
Columbia, SC 29202-1520

Dear Mr. Catone:

We are in receipt of your opinion request concerning a coroner's ability to access unfounded DSS case information. Specifically, you ask whether "pursuant to S.C. Code § 63-7-940, a coroner could be considered a 'law enforcement officer' as contemplated by that statute for the limited purpose of requesting and receiving *unfounded* case information directly from DSS personnel." (emphasis in original). Continuing, you state . . . "[a]lternatively . . . the question may be articulated as whether a coroner has the requisite 'authority similar [or akin to] a law enforcement officer' to request, access and use *unfounded* case information directly from DSS personnel pursuant to S.C. Code § 63-7-940(A)(2) when investigating whether a child's death was the result of child abuse or neglect." (emphasis added). Our response follows.

## I. Law/Analysis

The narrow answer to your question is that a coroner, while not a law enforcement officer for purposes of Section 63-7-940(A)(2), does in fact possess the authority to request, access and use unfounded case information directly from DSS personnel. In particular, because Section 17-7-175 empowers coroners to "issue subpoena duces tecum" and instructs law enforcement to "serve these subpoenas," a coroner investigating whether a child's death was the result of abuse or neglect may request, access and use unfounded case information from DSS personnel without violating the terms of Section 63-7-940 of the Code.

### A. Interpreting Section 63-7-940(A)(2)

As mentioned in your request, Section 63-7-940(A) prohibits, with limited exception, the use of DSS unfounded case information. See S.C. Code Ann. § 63-7-940(A) ("Information concerning reports classified as unfounded contained in the statewide data system and records must be maintained for not less than five years after the finding. Information contained in unfounded cases is not subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30. Access to and use of information contained in unfounded cases must be strictly limited to the following purposes and entities . . ."). One exception to Section 63-7-

Anthony S.H. Catone  
Page 2  
April 25, 2016

940(A)'s general disclosure prohibition is, as detailed in your request letter, Section 63-7-940(A)(2). Section 63-7-940(A)(2) explains that unfounded DSS case information may be disclosed to "the department or a law enforcement officer or agency, for the purpose [of] investigating allegations of abuse or neglect[.]" S.C. Code Ann. § 63-7-940(A)(2) (2015 Supp.). It is within this context that you ask us to determine whether the Legislature's use of the phrase "law enforcement officer" should be construed to include a coroner. We believe it cannot.

"The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) "What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will" and "courts are bound to give effect to the expressed intent of the legislature." Media General Communications, Inc. v. South Carolina Dept. of Revenue, 388 S.C. 138, 148, 694 S.E.2d 525, 530 (2010); Wade v. State, 348 S.C. 255, 259, 559 S.E.2d 843, 844 (2002). When determining the effect of words utilized in a statute, a court looks to the "plain meaning" of the words. City of Rock Hill v. Harris, 391 S.C. 149, 154, 705 S.E.2d 53, 55 (2011). Nevertheless, courts do not focus on isolated portions of the language contained within a statute, but instead consider the statute's language as a whole. See Mid-State Auto Action of Lexington, Inc. v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996) ("In ascertaining the intent of the legislature, a court should not focus on any single section or provision but should consider the language of the statute as a whole."). This is because "[a] statute is passed as a whole and not in parts or sections and is animated by one general purpose and intent." 2A Norman J. Singer & J.D. Shambie Singer, Sutherland Statutes and Statutory Construction, § 46.5 (7th ed. 2007).

Applying these concepts, we believe Section 63-7-940(A)(2)'s "law enforcement officer" language cannot be construed so broadly so as to include coroners. Black's Law Dictionary defines the term "law enforcement officer" as "[a] person whose duty is to enforce the laws and preserve the peace." Black's Law Dictionary (10th ed. 2014). By contrast, the same publication defines a coroner as "[a] public official whose duty is to investigate the causes and circumstances of any death that occurs suddenly, suspiciously, or violently." Black's Law Dictionary (10th ed. 2014). Thus, when looking to the plain meaning of the phrase "law enforcement officer" as used in Section 63-7-940(A)(2), it becomes apparent that the Legislature, by using the phrase "law enforcement officer" did not intend to extend Section 63-7-940(A)(2) directly to coroners. Indeed, if the Legislature had intended to do so, it could have said as much by simply adding the phrase "and coroners" to the statute so as to allow for a broader application of Section 63-7-940(A)(2)'s terms; however, because it did not, we cannot construe the statute in this fashion. See Hodges, 341 S.C. at 86-87, 533 S.E.2d at 582 (explaining with respect to statutory construction that, "to express or include one thing implies the exclusion of another or the alternative.").

Moreover, we believe this construction of Section 63-7-940(A)(2) is consistent with prior opinions from this Office; opinions which have consistently explained a coroner is not a law enforcement officer. For instance, in 2006, when asked whether a coroner should be considered

a “law enforcement officer” for purposes of Section 38-53-190’s surety restrictions, we explained that while “a coroner has authority similar to that of a law enforcement officer . . . a coroner does not possess sufficient law enforcement authority to be considered a ‘law enforcement officer’ for purposes of Section 38-53-190.” Op. S.C. Att’y Gen., 2006 WL 981691 (March 27, 2006). Likewise, in 1996 we advised that a coroner was not a law enforcement officer for purposes of Section 23-1-40 of the Code, a provision dealing with the salaries of law enforcement officers. Op. S.C. Att’y Gen., 1996 WL 94018 (February 12, 1996). Instead, both opinions explained “[t]he constitutional office of coroner is quasi-judicial in nature and, although some investigative duties are attached, the duties are closer to the judicial branch than that of the executive.” Op. S.C. Att’y Gen., 2006 WL 981691 (March 27, 2006); Op. S.C. Att’y Gen., 1996 WL 94018 (February 12, 1996) (detailing that the Supreme Court of South Carolina “tended to view the duties of a coroner as primarily quasi-judicial as well.”). Thus, consistent with our prior opinions, we believe Section 63-7-940(A)(2)’s use of the phrase “law enforcement officer” does not include a coroner.

#### **B. Applying Section 17-7-175**

Despite our conclusion in Section I(A) above, we believe it is clear that a coroner conducting a death investigation may request, access and use unfounded case information from DSS personnel without violating the terms of Section 63-7-940 of the Code. In particular, because the express terms of Section 17-7-175 empower a coroner to “issue subpoena duces tecum” and since Section 17-7-175 further instructs law enforcement to “serve these subpoenas,” it is the opinion of this Office that DSS may release unfounded case information to a law enforcement officer serving a coroner’s subpoena in a death investigation.

Section 17-7-175 of the Code states in relevant part that a coroner may:

*issue subpoenas duces tecum to compel individuals to produce copies of documents or other materials which are relevant to a death investigation. Any law enforcement officer with appropriate jurisdiction is empowered to serve these subpoenas and receive copies of documents and other materials for return to the coroner. In the alternative, the coroner may require the individual subpoenaed to appear at the inquest or proceeding in order to produce copies of the documents or materials subpoenaed.*

S.C. Code Ann. § 17-7-175 (2014) (emphasis added).

Here, applying Section 17-7-175, we believe a coroner investigating whether a child’s death was the result of abuse or neglect may request, access and use unfounded case information from DSS personnel without violating the terms of Section 63-7-940 of the Code. Specifically, because Section 63-7-940(A)(2) actually permits DSS personnel to disclose unfounded case information to “the department or a law enforcement officer or agency, for the purpose [of]

Anthony S.H. Catone  
Page 4  
April 25, 2016

investigating allegations of abuse or neglect” and since a coroner’s subpoena is actually served by law enforcement, it follows that Section 63-7-940(A)(2), by its terms, permits the disclosure of unfounded case information to a coroner issuing a subpoena duces tecum. See 63-7-940(A)(2) (explaining unfounded DSS case information may be disclosed to “the department or a law enforcement officer or agency, for the purpose [of] investigating allegations of abuse or neglect[.]”). Indeed, to find otherwise would not only be inconsistent with the plain meaning of Section 63-7-940(A)(2), but would also clearly limit “the coroner’s investigative duties of determining the probable cause of death of an individual.” Op. S.C. Att’y Gen., 2015 WL 6520648 (October 14, 2015). Accordingly, we believe Section 63-7-940(A)(2)’s disclosure prohibitions are not offended when a coroner investigating whether a child’s death was the result of abuse or neglect, issues a subpoena duces tecum to compel disclosure of DSS unfounded case information and such a subpoena is, consistent with Section 17-7-175, served by law enforcement.

## II. Conclusion

In conclusion, it is the opinion of this Office that a coroner, while not a law enforcement officer for purposes of Section 63-7-940(A)(2), does in fact possess the authority to request, access and use unfounded case information directly from DSS personnel. Specifically, and as explained above, because Section 17-7-175 empowers coroners to “issue subpoenas duces tecum” and instructs law enforcement to “serve these subpoenas,” a coroner investigating whether a child’s death was the result of abuse or neglect may request, access and use unfounded case information from DSS personnel without violating the terms of Section 63-7-940 of the Code.

Sincerely,



Brendan McDonald  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General