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**IN THE COURT OF COMMON PLEAS OF  
LANCASTER COUNTY, PENNSYLVANIA**

LANCASTER COUNTY OFFICE OF THE  
CORONER,

*Petitioner*

Vs.

JACK PANYARD and LANCASTER-  
ONLINE | LNP,

*Respondents.*

Nos. CI-24-00035  
CI-24-01347  
(Consolidated)

Judge Jeffery D. Wright

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**MEMORANDUM OF LAW IN OPPOSITION TO LANCASTER COUNTY OFFICE OF  
THE CORONER'S PETITION FOR REVIEW**

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## INTRODUCTION

Jack Panyard and LNP | LancasterOnline<sup>1</sup> (“Respondents” or “LNP”) submit this memorandum of law in opposition to the Lancaster County Office of the Coroner’s (“Coroner” or “Coroner’s Office”) Petition for Review of the December 3, 2023 and February 12, 2024 final determinations of the Office of Open Records (“OOR”) granting access to records in the possession of the Coroner’s Office. In two requests pursuant to the Right to Know Law (“RTKL”), 65 P.S. §§ 67.101–67.3104, journalist Jack Panyard sought autopsy records for two minor decedents. In both cases, the OOR determined that the autopsy records should be released pursuant to 65 P.S. § 67.708(b)(20). Respondents oppose the Coroner’s petition seeking review and reversal of both OOR determinations and instead ask this Court to dismiss the Coroner’s appeal or, *inter alia*, affirm the OOR’s ruling in both cases, thus clarifying this important interpretation of the RTKL.

The requests, and the instant case, are supported by the central tenet that the RTKL “is designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials, and make public officials accountable for their actions.” *McKelvey v. Pa. Dep’t of Health*, 255 A.3d 385, 400 (Pa. 2021) (quoting *Pa. State Educ. Ass’n v. Com., Dep’t of Cmty. & Econ. Dev.*, 148 A.3d 142, 155 (Pa. 2016)). Although Petitioner posits that the consolidated cases present an issue of first impression, *see* Coroner’s Br. at 7, they do not. Indeed, the RTKL *expressly* provides public access to the name, cause and manner of death

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<sup>1</sup> LNP is the print newspaper and LancasterOnline is the digital companion to the newspaper; the outlet refers to both publications as “LNP | LancasterOnline” but the OOR used a different order for the caption of the underlying final determinations. For ease of reference, Respondents maintain OOR’s docket caption in this matter.

information sought by Petitioner. 65 P.S. § 67.708(b)(20); *see also Hearst Television Inc. v. Norris (Hearst TV Inc.)*, 54 A.3d 23, 33 (Pa. 2012).

For the reasons set forth below, Respondents respectfully request that this Court affirm the determinations of the OOR and order the requested records be disclosed.

## **I. COUNTER-STATEMENT OF FACTS**

### **A. LNP's First Request, the County's Denial, and the OOR's Reversal.**

Requester Jack Panyard is a breaking news reporter with the news outlet LNP | LancasterOnline, which publishes a daily newspaper and website. Panyard's duties include responding to and covering developing topics, such as emergency incidents, accidents and fires, including fatalities. Accordingly, Panyard's work involves gathering information and records from taxpayer-funded authorities, including law enforcement, fire, EMS, and the coroner's office.

On October 23, 2023, Panyard submitted a RTKL request to Lancaster County seeking "the name of the 3-year-old who died of a gunshot wound to the head at 8:07 p.m. Oct. 20, 2023 at 917 River Road, Holtwood, Martic Township from the county coroner's office." R. 36a<sup>2</sup>. One week later, Lancaster County's Open Records officer denied Panyard's RTKL request. R.38a–39a. The County asserted that the request failed to "identify or describe the records sought with sufficient specificity" in violation of Section 703 of the RTKL, 65 P.S. § 67.703, with the County surmising that Panyard "[did] not seek records, but rather is only seeking a name." R.38a. To the extent the County claimed that it could discern the request, it decided the requested record was exempt from disclosure in accordance with RTKL exemptions 65 P.S. §§ 67.708(b)(30), § 67.708(b)(16)(ii), § 708(b)(17)(ii). R.38a–39a.

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<sup>2</sup> LNP adopts the same citation format as Petitioner to cite to respective pages of Petitioner's Reproduced Record in the Lancaster County Court of Common Pleas. *See* Coroner's Br. App'x D.

On November 3, 2023, Panyard appealed the denial to the OOR. R.40a–42a. He asserted that his request was “extremely specific” as it only asked for the name of the decedent and had provided the exact date and location of the death, noting that such information must be disclosed under 65 P.S. § 67.708(b)(20). R.43a. Panyard further argued that Section 708(b)(30) did not apply, as Section 708(b)(20)’s clear mandate to provide the name, cause and manner of death of the decedent contained no age limits on the release of such information. R.43a. He also challenged the County’s assertions that the records could not be disclosed due to their involvement in criminal and noncriminal investigations. R.44a. Further, Panyard argued that the County could not meet its burden of proof to establish Section 708(b)(17)(ii) exempted releasing the name of the decedent, as the County provided no attestations or declarations showing such a purported “noncriminal investigation” was underway. R.44a–45a. Even if one was, he argued, the disclosure provisions of the Coroner’s Act prevented the Coroner from hiding behind RTKL exemptions to suppress records they were otherwise required to disclose. R.44a–45a. Finally, Panyard argued that because the County’s reliance on these exemptions was “misplaced and unreasonable in light of well-settled law,” it should be construed as bad faith, warranting the awarding of fees. R.45a.

Lancaster County Solicitor Jacquelyn E. Pfursich responded and submitted a position statement on behalf of the Coroner which included a sworn attestation from Lancaster County Coroner Stephen Diamantoni, M.D. (“Diamantoni Affidavit I”) asserting context for the denial. R.54a–58a. Diamantoni attested that: he was “aware of the various types of investigations and reports completed” by his office, as well as “the Office’s record retention policies;” that his office was “tasked with providing medical examinations and other investigations into the cause of death of an individual and then preparing reports on those examinations and investigations;” that his office “conducted an investigation into the cause of death” of the decedent at issue; that, “[b]ased

upon the request provided, [he] was unable to determine what report, and therefore, what fee was to be assessed;” and that at the time of Panyard’s request, the investigation “had not yet been completed and there were no responsive records.” R.57a.–58a.

On November 21, 2023, the OOR requested the County clarify “whether the County Coroner’s Office ha[d] **any records** containing the name of the requested individual at the time of the request. The attestation was silent as to this.” R.59a. Roughly a week later, the County submitted a second attestation from Diamantoni (“Diamantoni Affidavit II”), repeating all of the points of his prior affidavit, only adding that “[a]t the time of the October 23, 2023 request, the Lancaster County Coroner’s Office did not have any records that contained the requested information.” R.61a.

The OOR issued its Final Determination on December 4, 2023, finding that requesting the name of an individual who died on a specific date sought “specific pieces of information constitut[ing] a request under the RTKL,” as “the name or identity of an individual is a request for a record under the RTKL.” *Panyard v. Lancaster County*, OOR Dckt. AP 2023-2662, at 3, 4 (Pa. F.D. Dec. 4, 2023) [hereinafter *Panyard OOR I*] (“Accordingly, the request for the name of an individual clearly seeks ‘information’ and therefore constitutes a valid request for a record under the RTKL.”). Despite Diamantoni’s attestations asserting otherwise, the OOR found the County had not demonstrated that no responsive records existed in its possession at the time of the request, reasoning that “[i]t strains credulity to believe that the Coroner’s Office did not possess the name of the decedent, under these circumstances, prior to the submission of the [r]equest.” *Id.* at 4–6. The OOR determined that “because the RTKL is clear that the name of a deceased individual is public, without consideration to the type of record the information may be contained within, 65 P.S. § 67.708(b)(20), the County is directed to provide the requested name,” rejecting the County’s



assertions to the contrary. *Id.* at 7. The OOR ordered the County “to provide the requested name,” and declined to award fees or sanctions upon a finding of bad faith, instead “defer[ring] to the judgment of a reviewing court in this instance to determine whether the facts before us, or after further development of the record, warrant a finding of bad faith.” *Id.* at 7–8.

**B. LNP’s Second Request, the Coroner’s Repeated Denial, and the OOR’s Order to Disclose of the Decedent’s Name Under Section 708(b)(20).**

On December 27, 2023, Panyard submitted a second RTKL request to Lancaster County, this time seeking “the name of the 11-year-old girl who died in a car crash on the 6000 block of Old Philadelphia Pike in Salisbury Township at 10:42 p.m., Dec. 24, 2023.” R.2a. In his request, Panyard noted that he “submitted a similar request to the county Oct. 23, 2023,” and that the OOR decided in his favor, citing the decision in *Panyard OOR I*. R.2a. The County’s open records officer responded via email on January 4, 2024, invoking a time extension until February 2, 2024 to review and respond to the request. R.4a.

On January 10, 2024, Diamantoni denied the request, asserting the records sought were exempt from RTKL disclosure under Section 708(b)(30), and Section 708(b)(17). R.5a. Five days later, Panyard again appealed to the OOR. R.7a. He made similar arguments regarding Section 708(b)(20)’s direct instruction to provide the name and cause of death of a decedent, adding that *Panyard OOR I* already made clear the OOR’s position on the same issue. R.9a. He similarly argued, *inter alia*, that Section 708(b)(17)(ii) did not apply. R.9a–10a.

On January 26, 2024, the Coroner’s Office submitted a Position Statement to the OOR along with a sworn affidavit from Diamantoni (“Diamantoni Affidavit III”). *See* R.19a–33a. Diamantoni asserted that the only records he possessed at the time of the request were “internal documents and exchanges of information that were part of the Coroner’s Office’s noncriminal investigation file,” and that neither the Coroner’s Act nor the RTKL made such documents public.

R.21a–22a. He further asserted disclosure of this information was prohibited by 708(b)(30). R.22a., 26a–27a. The Coroner submitted an accompanying “exemption log” claiming “that the records at issue relate to the Coroner’s investigation into the cause and manner of death of the minor described in the Request and identify the name of the minor.”<sup>3</sup> R.20a–22a, 33a. To support these assertions, the Diamantoni Affidavit III attested that the Coroner’s office “had commenced an investigation into the cause of death of this minor but the investigation had not been completed and no reports or other official documents had been prepared” at the time of the request. R.31a. Diamantoni claimed that the noncriminal investigation exception applied because the responsive records were “in the form of investigatory notes and communications” created for his office’s investigation into the cause of the child’s death. R.31a. Moreover, he asserted that the records were exempt under Section 708(b)(30) since their release “would identify the name of a minor under the age of 17.” R.31a.

In its Final Determination issued February 12, 2024, the OOR granted Panyard’s appeal and directed the County to “provide the requested name.” *Panyard v. Lancaster County*, OOR Dckt. AP 2024-0181, at \*5 (Pa. F.D. Feb. 12, 2024) [hereinafter *Panyard OOR II*]. Again, the OOR ruled that the request for a name “clearly seeks a record under the RTKL.” *Id.* at 2 n.1. The OOR acknowledged that, though the Diamantoni Affidavit III established the likely existence of

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<sup>3</sup> The exemption log categorizes six documents, all created between December 24, 2023—the day of the death of the minor decedent from Panyard’s second request—and December 26, 2023. R.33a. The Coroner asserted the same subject matter (“Coroner’s investigation into the cause and manner of death of the minor described in the Request”) and the same exemptions, Sections 708(b)(17) and (b)(30), for all six. R.33a. These six documents are, respectively: (1) “Handwritten notes”; (2) “Text message” from the Coroner to the Chief Deputy Coroner; (3) “Case Management System data entry of investigation notes”; (4) “Text message” from the Chief Deputy Coroner to a Pathologist; (5) “Email” from the Deputy Coroner to a Deputy Coroner; and (6) “Case Management System entry of additional case data.” Each of these records exist within the Coroner’s file and were freely at his disposal. *See* R.33a.

the decedent's name being found in investigative files that may be exempt, because Panyard sought "a specific piece of information, a name," Section 708(b)(20) required access "no matter where that piece of information is ultimately contained." *Id.* at 3–4. "[T]he OOR decline[d] to make a finding of bad faith" since "the County identified records and timely responded to the Request." *Id.* at 4 n.4.

### **C. The Consolidated Appeals.**

On January 3, 2024, Lancaster County petitioned this Court to review the OOR's Final Determination in *Panyard OOR I*. Pet. for Review, *Lancaster County v. Panyard*, No. CI-24-00035 (Pa. Ct. C.P. Lancaster Cnty. filed Jan. 3, 2024). On January 9, 2024, the Coroner's Office amended its petition, substituting "the Lancaster County Office of the Coroner" for "Lancaster County" as the Petitioner. Am. Pet. for Review, *Lancaster Cnty. Off. of Coroner v. Panyard*, No. CI-24-00035 (Pa. Ct. C.P. Lancaster Cnty. filed Jan. 9, 2024).

On February 26, 2024, the Coroner's Office filed a petition for review of *Panyard OOR II*. Pet. for Review, *Lancaster Cnty. Off. of Coroner v. Panyard*, No. CI-24-01347 (Pa. Ct. C.P. Lancaster Cnty. filed Feb. 26, 2024). Recognizing the issues challenged on appeal in *Panyard OOR I* would be identical to those the Coroner challenged in its petition for review in *Panyard OOR II*, on March 5, 2024 the parties jointly moved to consolidate the two appeals. Joint Mot. To Consolidate [RTKL] Appeals, *Lancaster Cnty. Off. of Coroner v. Panyard*, Nos. CI-24-00035 & CI-24-01347 (Pa. Ct. C.P. Lancaster Cnty. filed Mar. 5, 2024). After the court granted consolidation, the parties appeared before this Court for a status conference on April 22, 2024. The following day this Court issued an Order providing a schedule from which the parties proceeded to brief the merits on appeal. *See Order, Lancaster Cnty. Off. of Coroner v. Panyard*, Nos. CI-24-0035 & CI-24-01347 (Pa. Ct. C.P. Lancaster Cnty. filed Apr. 23, 2024).

## II. COUNTER-STATEMENT OF QUESTION PRESENTED

**Question presented:** Regardless of a decedent's age or the existence of a pending investigation, may the Coroner withhold the name of a deceased individual when Section 708(b)(20) of the Right to Know Law specifically requires the release of a decedent's name, cause and manner of death?

**Suggested answer:** No. A Coroner may not withhold the names of decedents when such information is requested under the RTKL.

## III. LEGAL STANDARDS

The Court may exercise plenary review of the findings of the OOR, applying a *de novo* standard of review. *Bowling v. Off. of Open Recs.*, 75 A.3d 453, 477 (Pa. 2013). However, there is “nothing in the RTKL that would prevent a Chapter 13 court from simply adopting the findings of fact and conclusions of law of an appeals officer when appropriate, thus, in the proper case, effectively achieving the result sought by the OOR.” *Id.* at 473. Critically, “courts reviewing OOR[] decisions[] must construe” exceptions to disclosure “strictly, lest they subvert the RTKL’s purpose.” *ACLU of Pa. v. Pa. State Police*, 232 A.3d 654, 656–57 (Pa. 2020).

“The burden of proving a record does not exist, or is exempt from disclosure, is placed on the agency responding to the [RTKL] request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011). Exemptions to disclosure under the RTKL “must be narrowly construed, and the agency claiming the exemption bears the burden of proof by a preponderance of the evidence.” *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Commw. Ct. 2019); 65 P.S. § 67.708(a) (“[T]he burden of proving that a record of a Commonwealth or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.”).

The Pennsylvania Supreme Court defines “preponderance of the evidence” as “evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.” *Commonwealth v. D’Amato*, 856 A.2d 806, 819 (Pa. 2004) (citation omitted); *see also Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (defining “preponderance of the evidence” as “such proof as leads the fact-finder . . . to find that the existence of a contested fact is more probable than its nonexistence” (citation omitted)).

#### **IV. SUMMARY OF ARGUMENT**

This Court should dismiss the Coroner’s consolidated appeal and affirm the OOR’s final determinations requiring the Coroner to provide the names of the recently deceased, as such a ruling both aligns with Pennsylvania’s tenets of statutory construction and correctly applies Section 708(b)(20)’s clear instruction that “the name of the deceased individual and the cause and manner of death” must be reported. The Coroner’s Office disregards the clear dictates of the RTKL and asserts two competing exemptions to deny LNP’s records requests. Its arguments are contradictory to settled law in the Keystone State.

“[T]he objective of the Right to Know Law . . . is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees LLC v. Wintermantel*, 45 A.3d 1029, 1042 (Pa. 2012). This right of access applies just as strongly, if not more so, to the press, who rely on access to such documents to fulfill its role as “the information-gathering agent of the public.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 609 (1978); *see also Commonwealth v. Long*, 922 A.2d 892, 899 (Pa. 2007) (citing *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980)) (“[T]he right of the press and public [a]re synonymous, since the media effectively functions as surrogates for the public.”). By mandating the disclosure of decedents’ names and causes of death apart from provisions governing autopsy reports, the General Assembly ensured that the public and press would have ready access to this discrete,

important information. *See Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 491–92 (1975) (holding that the media's mission of “report[ing] fully and accurately the proceedings of government,” relies on access to “official records and documents,” which “are the basic data of governmental operations.”).

The Pennsylvania General Assembly made plain in the text of the statute that “[a] record in the possession of a Commonwealth agency or local agency shall be *presumed to be a public record*,” unless “the record is exempt under [RTKL] section 708,” privileged, or exempt under other law, regulation or judicial order. 65 P.S. § 67.305(a) (emphasis added). Here, the Coroner asserts Section 708(b)(17)’s exemption for noncriminal investigatory records, and Section 708(b)(30)’s exemption for records identifying the names, birthdates and addresses of minors as its basis for nondisclosure. To avoid conflicts with Section 708(b)(20)’s clear instruction to disclose decedents’ names, causes and manners of death, despite the confidentiality of other coroner records, the Coroner’s Office asserts that Section 708(e) instructs the agency, and now this Court, to review Section 708(b)’s disclosure exemptions “and apply each exemption separately.” 65 P.S. § 67.708(e). This is incorrect and contradictory to both the legislative intention of the RTKL and the Commonwealth’s established rules of statutory interpretation.

The RTKL “replaced the Right to Know Act and significantly expanded public access to governmental records . . . with the goal of promoting government transparency.” *Levy v. Senate of Pa.*, 65 A.3d 361, 368 (Pa. 2013). It is “remedial legislation” that must be interpreted “liberally to effect its object and promote justice.” *Id.* at 380 (citing 1 Pa. C.S. § 1928(c)). To interpret Section 708(e) as allowing agencies to select a reason for nondisclosure amongst a bevy of options, without regard to how these statutes may conflict or fit within the context of the overall statutory scheme, *see Uniontown Newspapers Inc. v. Pa. Dep’t of Corr. (Uniontown II)*, 243 A.3d 19, 31

(Pa. 2020) (“[W]e should not interpret statutory words in isolation, but must read them with reference to the context in which they appear.” (citation omitted)), defies the canons of statutory construction and would produce absurd results this court cannot abide, *see id.* at 32 (“[T]he Statutory Construction Act [1 Pa. C.S. § 1921(a)] directs courts to ascertain and effectuate the intent of the General Assembly. A statute's plain language generally provides the best indication of legislative intent.” (quoting *Commonwealth v. Giulian*, 141 A.3d 1262, 1266 (Pa. 2016)); *see also* 1 Pa. C.S. § 1922(1) (“In ascertaining the intention of the General Assembly in the enactment of a statute the following presumptions, among others, may be used [ t]hat the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable.”)).

In this case, Section 708(b)(20)’s *specific* provision requiring the release of a decedent’s name controls over the more *generalized* provisions exempting investigatory records under Section 708(b)(17) or the release of juvenile names under Section 708(b)(30). *See Com., Dep’t of Pub. Welfare v. Eiseman*, 125 A.3d 19, 32 (Pa. 2015) (holding that when provisions appear to conflict, specific provisions apply over general ones). Indeed, endorsing the Coroner’s smorgasbord approach to exempting records contradicts the courts’ and the legislature’s clear mandate to interpret the RTKL broadly and in favor of disclosure. *See Uniontown II*, 243 A.3d at 33 (“We are obliged to liberally construe the [RTKL] to effectuate its salutatory purpose of promoting access to official government information in order to prohibit secrets, scrutinize actions of public officials and make officials accountable for their actions.” (quoting *Eiseman*, 125 A.3d at 29)).

Even assuming, *arguendo*, that one of the asserted exemptions does trump Section 708(b)(20)’s clear disclosure requirement, the exemptions cited by the Coroner’s Office are inapplicable. The Coroner fails to articulate how Section 708(b)(30)’s privacy provisions would

be jeopardized by providing *decedent* minors' names. The Coroner also failed to establish sufficient proof, beyond self-serving affidavits, that a noncriminal investigation precluded disclosure under Section 708(b)(17). Additionally, the Coroner's Office's past practice of disclosing the names of minors who perished in circumstances that may warrant investigation contradicts either argument asserted before this Court.

As such, this Court should affirm the OOR and order the Coroner's office to produce the responsive records associated with Panyard's requests.

## V. ARGUMENT

### A. The Information LNP Seek is Disclosable as a "Record" Independent of How It Exists Within the Coroner's Files.

1. *A request for a specific piece of information is a request for a "record" available under the RTKL.*

The information LNP seeks in both its requests—the names of recently deceased minors—is a "record" a party may request, and an agency must divulge, under the RTKL. *See Panyard OOR I*, at 3–4 ("[T]he request for the name of an individual clearly seeks 'information' and therefore, constitutes a valid request for a record under the RTKL."). The Coroner's Office conflates the decedents' names as they may exist within its files as a request for those underlying records. Coroner's Br. at 20 n.7. The RTKL, though, makes clear that a "record" may be any "[i]nformation, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency." 65 P.S. § 67.102 (emphasis added). In providing a responsive record (i.e. the specific information requested), so long as the agency is not "required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently" do so, 65 P.S. § 67.705, then the



information sought is a presumptively public record and must be produced upon request, *see* 65 P.S. § 67.305.

A request for information, even specific pieces of information that may exist amongst several agency files, is a “record,” so long as the agency retains or receives the information as part of the agency’s “transaction and activities.” *See Com., Dep’t of Env’t Prot. v. Cole*, 52 A.3d 541, 547 (Pa. Commw. Ct. 2012) (citing 65 P.S. § 67.102) (holding that, under RTKL, information the agency collected administering grant program and held in agency databases but not distinctly found on specific documents was a disclosable “record”); *see also Gingrich v. Pa. Game Comm’n*, No. 1254 C.D. 2011, 2012 WL 5286229, at \*5 (Pa. Commw. Ct. Jan. 12, 2023)<sup>4</sup> (“The RTKL defines ‘record’ as ‘information,’ thus begging the question of how any request that seeks information is not one that seeks records.” (quoting 65 P.S. § 67.102)); *accord Bartholomew v. W. Manchester Twp.*, OOR Dckt. No. AP 2020-0777, at 4 (Pa. F.D. July 13, 2020) (“[R]equests for specific pieces of information, such as a name of an individual, constitute requests for records under the RTKL.” (citing *Gingrich*, 2012 WL 5286229, at \*5)); *Ruggiero v. Lackawanna Cnty.*, OOR Dckt. AP 2014-0043, at 8 (Pa. F.D. Feb. 7, 2014) (“[A] request involving the detailed review of voluminous documents does not relieve the agency of its requirements to presume the records are open and available and respond in accordance with the RTKL.”).

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<sup>4</sup> *See* 210 Pa. Code § 69.414(a) (“An unreported opinion of [the Commonwealth] Court may be cited and relied upon when it is relevant under the doctrine of law of the case, res judicata or collateral estoppel. Parties may also cite an unreported panel decision of this Court issued after January 15, 2008, for its persuasive value, but not as binding precedent.”); Pa.R.A.P. 126(b) (“[A] ‘non-precedential decision’ refers to an unpublished non-precedential memorandum decision of the Superior Court filed after May 1, 2019 or an unreported memorandum opinion of the Commonwealth Court filed after January 15, 2008[; it] may be cited for [its] persuasive value.”).

Here, LNP clearly seeks “information” in the form of decedents’ names the Coroner’s Office ascertained while conducting “the business or activity of the agency” — investigating and tracking deaths occurring in Lancaster County. *See* 16 P.S. § 1218-B(a) (establishing coroner has “duty” to “investigate the facts and circumstances concerning a death that appears to have happened within the county . . . for the purposes of determining whether or not an autopsy or inquest should be conducted”); *see also Penn Jersey Advance, Inc. v. Grim*, 962 A.2d 632, 636 (Pa. 2009) (“It is clear from these sections of the Coroner's Act that conducting autopsies is one of the official duties of a coroner.”). Even if the information requested is mixed with other exempt information or files, the RTKL **requires** agencies to parse such records and “grant access to information which is subject to access . . . [and] redact from the record the information which is not subject to access.” 65 P.S. § 67.706; *see also Pa. State Police v. Grove*, 161 A.3d 877, 898 (Pa. 2017) (affirming order requiring redaction of exempt material from otherwise public record; holding redacting record did not impermissibly create a new record that did not previously exist); *Ali v. Phila. City Plan. Comm'n*, 125 A.3d 92, 105 (Pa. Commw. Ct. 2015) (“There is material difference between an exempt and/or nonpublic record, which an agency is not required to provide access to at all under the RTKL, and a public and nonexempt record that may be subject to limited access under the RTKL”). As such, the name of a decedent is a “record” of information under the RTKL which the Coroner and this Court must treat as presumptively public. *See* 65 P.S. §§ 67.102, 67.305.

2. *LNP’s access to the records requested—the decedents’ names—exists independent of those names being found in documents the Coroner claims to be exempt under Sections 708(b)(17) and 708(b)(30).*

As the OOR recognized, it is “unreasonabl[e]” for the Coroner’s Office to interpret LNP’s request for the name of a deceased child as a question seeking information and not a request for a record. *See Panyard OOR I*, at 6. Similarly unreasonable is the Coroner’s argument that “Section

708(b)(20)’s disclosure provision is only triggered where, unlike here, an official autopsy report is in existence.” Coroner’s Br. at 6 n.1, 13. A plain reading of Section 708(b)(20) clearly delineates the public nature of basic information (the decedent’s name, cause and manner of death) from the more detailed autopsy report and other coroner’s records. *See* 65 P.S. § 67.708(b)(20) (“This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.”). Thus, Section 708(b)(20) requires immediate disclosure of the former, while exempting disclosure of the latter. It is clear the General Assembly intended a decedent’s name, cause, and manner of death to be records that may be disclosed independent of their context in another of the coroner’s files deemed confidential. *See Uniontown II*, 243 A.3d at 32. To interpret the statute as the Coroner asserts would render the provision ordering the disclosure of a decedent’s name moot, as the name could not be made public until whatever coroner’s record from which it derives was also disclosed, clearly contradicting the plain language of § 708(b)(20). Such an understanding would be absurd. *See* 1 Pa. C.S § 1922(1).

Interpreting Section 708(b)(20)’s separate disclosure clauses—the first deeming the autopsy and coroner records confidential, the second declaring a decedent’s name, cause and manner of death as public records—within the larger context of Pennsylvania’s statutory code further supports the conclusion that a decedent’s name is a record independent of it being found in an autopsy or attached to a noncriminal investigation. *See Uniontown II*, 243 A.3d at 31. The Coroner’s Act requires coroners to investigate deaths “for the purpose of determining whether or not an autopsy or inquest should be conducted,” 16 P.S. § 1218-B(a), with such an autopsy occurring only “[i]f the coroner is unable to determine the cause and manner of death,” 16 P.S. § 1219-B(a). A plain reading of this language shows an autopsy is not a foregone conclusion. *See Commonwealth v. Coleman*, 285 A.3d 599, 605 (Pa. 2022) (“Generally, the best expression of the

General Assembly’s intent ‘is found in the statute's plain language.’” (citation omitted)); *accord Uniontown II*, 243 A.3d at 31. If such an autopsy does occur, then the report becomes public, for a fee, upon its completion. 16 P.S. §§ 1236-B, 1252-B (providing Coroner’s reporting duties to the prothonotary and fee schedule for records); *see also Allegheny County v. Hailer*, 298 A.3d 476, 481–82 (Pa. Commw. Ct. 2023).

Thus, tying disclosure of a decedent’s name to the production of an autopsy report (which may never occur) neuters Section 708(b)(20)’s mandate to disclose the decedent’s name and manner of death independent of the disclosure or nondisclosure of the autopsy report or other coroner’s records. This logic equally applies when comparing Section 708(b)(20)’s disclosure provision and Section 708(b)(17)’s exemption for confidential records, such that even if a decedent’s name were part of noncriminal investigatory files, the decedent’s name is a distinct public record which must be disclosed.<sup>5</sup>

Thus, not only are LNP’s requests for decedents’ names indisputably requests for public records, *see* 65 P.S. § 67.102, but under the RTKL, they are records the Coroner’s Office **must** disclose irrespective of whether it has generated an autopsy report or whether the record can be found in noncriminal investigatory files, *see* 65 P.S. § 67.708(b)(20).

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<sup>5</sup> The two OOR decisions the Coroner cites as support for its argument that the records LNP requested are exempt under Section 708(b)(17)(ii) are easily distinguishable. *See* Coroner’s Br. at 19, 21. In both of the cited OOR appeals, the respective petitioners requested a number of documents, including “records/notes from [coroner’s] office” related to the death at issue, and “[all] communications” between staff of the respective coroner’s office and between coroner’s staff and local police, *Walbert v. Chester County*, OOR Dckt. AP 2021-1308, at 1–2 (Pa. F.D. Aug. 5, 2021), and “[a]ny [and] all paperwork available and related” to the respective decedent’s death, *Morgan v. Chester County*, OOR Dckt. AP 2023-1105, at 1 (Pa. F.D. July 17, 2023). Requests for internal records and communications related to investigations are explicitly exempt under Section 708(b)(17) and do not implicate Section 708(b)(20)’s disclosure provision. This is clearly distinct from LNP’s narrow request for decedents’ names. R.2a, 36a.; *see* 65 P.S. § 67.708(b)(20).

**B. Section 708(b)(20)'s Mandate to Release the Name, Cause, and Manner of Death Controls the Disclosure of the Responsive Records to the Exclusion of Other Asserted Exemptions.**

To affirm the OOR in *Panyard OOR I* and *II*, this Court need look no further than the plain language of Section 708(b)(20)'s obvious instruction from the General Assembly to disclose a decedent's name. *See Uniontown II*, 243 A.3d at 32 (“[A] statute’s plain language generally provides the best indication of legislative intent.”); *McLinko v. Com., Dep’t of State*, 279 A.3d 539, 562 (Pa. 2022) (“The paramount goal of statutory interpretation is to give effect to the intentions of the General Assembly.” (quoting *Commonwealth v. Golden Gate Nat’l Senior Care LLC*, 194 A.3d 1010, 1027 (Pa. 2018))). Perceived conflicts between Section 708(b)(20) and purportedly competing Section 708(b) exemptions whither under Section 708(b)(20)'s specific application to the release of a decedent's name, thereby foreclosing the application of such allegedly competing provisions. *See Eiseman*, 125 A.3d at 32; *Uniontown II*, 243 A.3d at 33.

*1. The plain text of 65 P.S. § 67.708(b)(20) requires this Court to order the release of a decedent's name upon request.*

RTKL Section 708(b)(20) exempts from disclosure “[a]n autopsy record of a coroner” and similar files maintained by coroners and medical examiners, but “[t]his exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.” 65 P.S. § 67.708(b)(20). As such, “the name of the deceased individual” is a presumptively public record, like any other record from a local agency that does not find a home within a Section 708(b) exemption, another state or federal law, or an asserted privilege. *See* 65 P.S. § 67.305(a). Accordingly, the names of the decedent minors at issue in LNP's requests must be disclosed.

While the Coroner's Act makes autopsy and coroner's reports publicly accessible either for free after a set time or immediately upon request and the payment of a fee, *see* 16 P.S. § 1252-B, the Pennsylvania Supreme Court held that Section 720(b)(20) “provides immediate access to

cause and manner of death records.”<sup>6</sup> *Hearst TV Inc.*, 54 A.3d at 33.<sup>7</sup> Though *Hearst* specifically addressed access to the “cause of death” information, independent of access to the autopsy report, the Supreme Court’s holding makes clear that Section 708(b)(20)’s disclosure provision shall “not limit the reporting of the name of the deceased individual and the cause and manner of death.” *Id.* at 33.

2. *Because 65 P.S. § 67.708(b)(20) specifically addresses the disclosure of a decedent’s name and manner of death, it controls over other general RTKL exemptions.*

Section 708(b)(20) specifically addresses records at issue in this appeal—the names of minors whose deaths were reviewed by the Coroner—therefore this provision governs to the exclusion of more general exemptions asserted by the Coroner’s Office. Ruling otherwise would ignore “the principle of statutory construction that more specific provisions control over general ones.” *Eiseman*, 125 A.3d at 32.

As the General Assembly instructs, when provisions appear to conflict, courts must give effect to a “special provision” addressing more specific factual circumstances over a “general provision.” 1 Pa. Stat. & Cons. Stat. Ann. § 1933 (West) (“If the conflict between the two provisions is irreconcilable, the special provisions shall prevail and shall be construed as an exception to the general provision. . . .”); *see also Eiseman*, 125 A.3d at 32 (applying § 1933 to

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<sup>6</sup> No such conflict exists between the enforcement of Section 708(b)(20)’s requirement to disclose the name of the deceased and the application of the Coroner’s Act or any other federal or state law. The Coroner’s Act is not at issue in this dispute, as LNP does not seek autopsy reports or other records; he simply seeks the decedents’ names. R.2a, 36a. The Coroner’s Act has no prohibition on such disclosures. *See, e.g., Hearst TV Inc.*, 54 A.3d at 33.

<sup>7</sup> The Supreme Court in *Hearst* applied a since-repealed version of the Coroner’s Act that is substantially similar to the current version of the law, therefore courts have not felt the need to address “the continued viability of *Hearst*,” and its analysis remains relevant and binding on the matters before this Court. *See Hailer*, 298 A.3d at 479 n.6, 482.

hold a “self-contained trade secrets exception supplants the more general application of the Uniform Trade Secrets Act”).

Section 708(b)(20)’s specific provision governing the release of a decedent’s name, cause and manner of death “indicate[s the General Assembly’s] intent not to limit the coroner’s reporting obligation with regard to the name of the deceased and the cause and manner of death,” *Hearst TV Inc.*, 54 A.3d at 33, irrespective of other more general RTKL exemptions. In this consolidated appeal, LNP sought the names of deceased minors specifically—not autopsy reports, other documents covered under 708(b)(20) or the Coroner’s Act, nor files or information related to any investigation conducted by the Coroner. Therefore the “special provision” regarding the immediately release of the deceased[’s]’ names under Section 720(b)(20) applies to the exclusion of Sections 708(b)(17) or 708(b)(30).

3. *Pennsylvania courts and the OOR consistently apply Section 708(b)(20)’s disclosure requirement in perceived conflicts with Section 708(b)(30)’s disclosure exemption.*

While the General Assembly expressed a general privacy concern when dealing with information regarding minors, *see* 65 P.S. § 67.708(b)(30), it specifically prioritized disclosure of a decedent’s name whose death becomes the imperative of the Coroner’s Office, *see* § 708(b)(20). Therefore, the general exemption for the name and birthdate of minors yields to the specific mandate to disclose the name, cause and manner of death when a minor is the decedent. *See Eiseman*, 125 A.3d at 32.

This interpretation makes sense given that Section 708(b)(30)’s privacy protections fade upon the death of a juvenile, as relatives and third parties cannot assert the privacy interest of the decedent, *see also Pa. State Educ. Ass’n v. Com., Dep’t of Cmty. & Econ. Dev.*, 148 A.3d 142, 161 (Pa. 2016) (Wecht. J, concurring) (holding that Pennsylvania courts “have recognized” privacy is a personal right, as protected by Article 1, Section 1 of the state’s constitution), and decedents have

fewer privacy interests than the living, *see County of Lancaster v. Walker*, No. CI-18-09547 (consolidated cases), at 9 (Ct. Comm. Pls. Lancaster Cnty., Pa. Aug. 23, 2019) (Brown, J.) (“[T]here is no case law to support the proposition that any constitutional or common-law rights to privacy apply to the dead, or even if they did, that a party presently before the court has standing to assert such rights.”).

The OOR has consistently applied Section 708(b)(20) in favor of disclosure, even when the name would otherwise be considered a record exempt from disclosure under Section 708(b)(30). *See Advisory Opinion on Autopsy Records*, Off. of Open Records (Nov. 1, 2022) (last accessed July 7, 2024), [https://www.openrecords.pa.gov/Documents/2022-11-01\\_Dennis\\_A\\_dvisoryOpinion.pdf](https://www.openrecords.pa.gov/Documents/2022-11-01_Dennis_A_dvisoryOpinion.pdf). (“[T]he OOR’s belie[ves] that *Section 708(b)(20) of the RTKL makes the names and cause and manner of death public, without consideration of age*. . . . Therefore, the OOR believes that *Section 708(b)(30) does not apply when dealing with the names of deceased minors in coroner records*.”) (emphasis added). As the OOR interprets this perceived conflict, “Section 708(b)(30) of the RTKL does not apply when dealing with information identifying deceased minors in coroner records. Accordingly, the name, manner and cause of death of the deceased minor is subject to public disclosure in this instance.” *Halpin v. Monroe Cnty. Coroner’s Off.*, OOR Dkt. No. AP 2023-0530, at 3 (Pa. F.D. Apr. 25, 2023) (holding Coroner’s Office had to produce the name, cause, and manner of death of a juvenile killed in a car crash); *Jones v. Fayette County*, OOR Dkt. AP 2023-0021, at 4 (Pa. F.D. Mar. 1, 2023) (same); *see, e.g., Panyard OOR I; Panyard OOR II*. Given the generalized nature of Section 708(b)(30), compared with the specific right of access in Section 708(b)(20), and the fact that any privacy rights held by minors extinguish upon death, *see Walker*, No. CI-18-09547, at 9, the OOR’s decisions in this case should be affirmed.



**C. Even if Section 708(b)(17) Applied to the Exclusion of Section 708(b)(20), the Coroner's Office Asserted Insufficient Proof to Demonstrate Its Records Should be Exempt from Disclosure.**

Section 708(b)(17) exempts from production records “of an agency relating to a noncriminal investigation,” and the Coroner's Office argues that it supersedes Section 708(b)(20)'s disclosure provision and should have been applied below to deny LNP's requests. As set forth *supra* Section V.B.2, Section 708(b)(17)'s general exemption does not trump Section 708(b)(20)'s specific mandate for disclosure of decedents' names, but even if it did, the Coroner's Office has not come close to establishing sufficient proof that an investigation into the deaths at issue in LNP's requests warrant nondisclosure under Section 708(b)(17). Indeed, as the OOR concluded, the affidavits the Coroner submitted are conclusory in nature and it defies reason to believe that the disclosure of *just the decedents' names* would somehow jeopardize the integrity of any ongoing investigation.

For Section 708(b)(17) to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal investigatory matter, “conducted by an agency acting within its legislatively-granted fact-finding and investigative powers. That is, its ‘official duties.’” *Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920, 925 (Pa. Commw. Ct. 2012) (quoting *Pa. Dep't of Health v. Off. of Open Recs.*, 4 A.3d 803, 811 (Pa. Commw. Ct. 2010)) (holding agency could not withhold union complaints under Section 708(b)(17) because the related investigation was not part of agency's “official duties”). An agency may make this demonstration through the submission of affidavits, as the Coroner's Office did three times in the proceedings below. *Pa. Pub. Util. Comm'n v. Friedman*, 293 A.3d 803, 822 (Pa. Commw. Ct. 2023) (quoting *Scolforo*, 65 A.3d at 1103).

Affidavit submissions in the RTKL context must do more than parrot the language of an agency's claimed exemptions or offer otherwise conclusory statements. “The affidavit must be

detailed, nonconclusory, and submitted in good faith; an affidavit which merely tracks the language of the exception it presupposes is insufficient to demonstrate that the responsive records are exempt from disclosure.” *Pa. State Police v. Muller*, 124 A.3d 761, 765 (Pa. Commw. Ct. 2015) (holding signed statement agency submitted simply “tracks the language of the exemption and offers no detail beyond the fact that a responsive record exists”); *Pa. Dep’t of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2015) (refusing to apply RTKL disclosure exemption because “the affidavit contains general statements parroting the elements of the exception.”); *see Friedman*, 293 A.3d at 822, 830 (affirming OOR decision that agency’s verified statements were “vague and general in nature” and did not establish the requested records related to “systemic or searching” noncriminal investigation under Section 708(b)(17) because “the affidavits did not provide sufficient details to show how the inspections met the standards in our case”); *see also Township of Worcester v. Off. of Open Recs.*, 129 A.3d 44, 60 (Pa. Commw. Ct. 2016) (affirming OOR finding that conclusory verified memo asserting Section 708(b)(10) predecisional deliberative exception “did not fully or correctly discuss or analyze this exception”); *Cf. Brown v. Pa. Dep’t of State*, 123 A.3d 801, 804 (Pa. Commw. Ct. 2015) (holding agency met its burden as “[t]he affidavits also explain *how* the requested records are exempt under section 708(b)(17)(vi)(A) of the RTKL, rather than merely presuppose the exemption in a conclusory statement.”).

In the case of affidavits supporting an agency’s decision to invoke Section 708(b)(17), “merely stating that an investigation occurred is not sufficient.” *Pa. Dep’t of Lab. & Indus. v. Darlington*, 234 A.3d 865, 875–77 (Pa. Commw. Ct. 2020) (affirming OOR denial of agency appeal because “the affidavits did not provide sufficient details to show how the inspections met the standards in our case law.”). To hold otherwise would “craft a gaping exemption, under which

any governmental information-gathering could be shielded from disclosure.” *Pa. Dep’t of Pub. Welfare v. Chawaga*, 91 A.3d 257, 259 (Pa. Commw. Ct. 2014).

Diamantoni’s affidavits both parrot portions of the Coroner’s Act and make conclusory assertions regarding the alleged investigations that purportedly require the withholding of the decedents’ respective names. In both affidavits submitted during *Panyard OOR I*, Diamantoni referenced the Coroner’s Office’s obligation to “provid[e] medical examinations and other investigations into the cause of death of an individual and then prepar[e] reports on those examinations and investigations.” R.57a, 60a. Throughout the three affidavits submitted during *Panyard OOR I* and *Panyard OOR II*, respectively, Diamantoni repeats similar language regarding how his office “commenced” or “conducted an investigation into the cause of death” of the respective child. R.31a, 58a, 61a. Such statements do little more than restate the Coroner’s obligation to “investigate the facts and circumstances concerning a death that appears to have happened within the county,” with the purpose of that investigation being “to determine . . . the cause and manner of death.” 16 P.S. § 1218-B(a), (b)(1). In this manner, these attestations repeat the Coroner’s statutory duty, *Bagwell*, 131 A.3d at 659, while providing little foundation that a “searching inquiry” occurred, *see Johnson*, 49 A3d. at 925.

Further, in each affidavit, Diamantoni provides no details regarding the process or progress of his office’s investigation or whether an autopsy will eventually occur.<sup>8</sup> Only in his third affidavit, submitted in response to Panyard’s second request, does the Coroner evoke the specific statutory provisions exempting the requested name from disclosure, again paraphrasing the text of

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<sup>8</sup> In both *Panyard OOR I* and *II*, Mr. Panyard submitted his records requests three days after the untimely deaths of the respective children. R.2a, 36a. Diamantoni’s respective affidavits were submitted weeks later, when it would be reasonable to expect his attestation to include more details of the Office’s investigatory process, the progress of any investigation, the likelihood of an autopsy, and any similar facts helpful to judge the validity of his reliance on Section 708(b)(17). *See* R.58a, R.61a., R.32a.

each exemption without a greater justification. *See* R.31a. None of Diamantoni’s affidavits speak to a need to identify either minor, the discovery of that identity as part of the investigative process, or a need to conceal the identity for any investigatory purpose.

None of the Coroner’s affidavits address LNP’s obvious knowledge of the cause of death for both children—a gunshot wound and a car crash, respectively, R.2a, 36a, despite Diamantoni attesting that the ongoing investigations which warranted exemption from disclosure was for the purpose of determining the “cause and manner of death” of each decedent. R. 31a., 58a., 60a. Even if Section 708(b)(20)’s disclosure mandate regarding the decedents’ names did not control (and it does, *see supra* Section V.B.), to endorse self-serving attestations as sufficient proof to backstop the Section 708(b)(17)’s exemption would indeed permit the Coroner’s Office to “craft a gaping exemption, under which any governmental information-gathering could be shielded from disclosure.” *Chawaga*, 91 A.3d at 259. Supported by just the conclusory statements found in Diamantoni’s affidavits, the Coroner cannot establish that the noncriminal investigation exemption applies, particularly in the face of Section 708(b)(20)’s clear instruction to provide the name of each decedent, independent of the progress of or need for an investigation.

Additionally, it bears repeating that at the time of each request, LNP already knew: (1) each child’s age, *see* 65 P.S. § 67.708(b)(30); (2) the cause of death in each incident, *see* 65 P.S. § 708(b)(20); and (3) the location of the incident resulting in each decedent’s respective passing. R.2a, 36a. This awareness cuts against the Coroner’s argument that disclosing the decedents’ names would somehow break the dam of investigatory integrity necessitating exempting such disclosure under Section 708(b)(17). *See* Coroner’s Br. at 20–22.

**D. The Coroner's Past Practice of Disclosing Names and/or Causes of Death for Decedent Minors and for Deaths Warranting Investigations Undermines His Arguments.**

While the Coroner's Office grounds its denial of LNP's requests in Section 708(b)(30)'s exemption to disclosing the names of minors and Section 708(b)(17)'s exemption to disclosing records related to ongoing noncriminal investigations, the Coroner has not taken this position in all cases. On numerous occasions Diamantoni publicly disclosed the names of minors who perished in Lancaster County, often in instances that may warrant further investigation or within days of the death, discrediting the argument that the unfinished status of such an investigation precludes disclosing a decedent's name, cause and manner of death, as required by Section 708(b)(20). *See* Coroner's Br. at 20–22. Of note to the matters before this Court, the Coroner's Office at least twice disclosed the identifies of minors whose deaths occurred since the OOR adjudications in *Panyard OOR I* and *II*. Such disclosures directly contradict the Coroner's arguments before the OOR and this Court that Sections 708(b)(17) and 708(b)(30) preclude providing LNP records responsive to his request.

A review of the LNP's archives<sup>9</sup> yields numerous examples: While continuing to argue in favor of nondisclosure in this appeal, on July 2, 2024, the Coroner's Office identified Anna King as the “nine-year-old Amish girl [who] died after a horse pulled her down a road in Salisbury Township,” roughly one week earlier.<sup>10</sup> By June 12, 2024, the Coroner identified Benjamin Blank

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<sup>9</sup> Pa.R.E. 902(6) (“The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted: . . . Newspapers and Periodicals. Material purporting to be a newspaper or periodical.”). The PDFs of the cited news stories published in LNP's daily newspaper may be found in Appendix B, attached.

<sup>10</sup> Olivia M. Miller, *Coroner IDs Girl Killed By Horse*, LNP, July 3, 2024, at A3; *see* App'x B.

as “[t]he 3-year-old Christiana boy killed in a farming accident” on June 4, 2024 in Colerain Township.<sup>11</sup>

Predating Panyard’s records requests at issue in these cases, three days after an 11-year-old Amish boy was struck and killed by a passing car while riding a scooter in Drumore Township on August 25, 2023, the Coroner identified the decedent as Samuel K. Fisher.<sup>12</sup> By July 27, 2023, the Coroner identified Samuel K. Yoder as the “5-year-old boy [who] died Monday in a farm-related accident in Little Britain Township.”<sup>13</sup> The decedents in all of these unfortunate incidents were minors, therefore the disclosure of their names implicated Section 708(b)(30). Additionally, these deaths all resulted from circumstances likely prompting investigations into at least potential negligence, if not criminal conduct, likely implicating Sections 708(b)(16) or 708(b)(17)’s exemption provisions. The coroner’s office of neighboring York County also appears to recognize Section 708(b)(20)’s disclosure requirement and provides the names and causes of death of recently deceased children.<sup>14</sup>

Similarly, the Coroner’s Office frequently discloses the identities of adults who perish in circumstances where an active criminal or noncriminal investigation is ongoing.<sup>15</sup> While these

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<sup>11</sup> Staff, *Boy Who Was Killed in Farm Accident Identified*, LNP, June 12, 2024, at A10; *see* App’x B.

<sup>12</sup> Jack Panyard, *Amish Boy Dies After Being Struck*, LNP, Aug. 29, 2023, at A3; *see* App’x B.

<sup>13</sup> Staff, *Coroner Identifies 5-Year-Old Who Died on Farm*, LNP, July 27, 2023, at A9; *see* App’x B.

<sup>14</sup> Ashley Stalnecker, *Boy, 4, Found Dead in Parked Vehicle*, LNP, Aug. 27, 2021, at A10; *see* App’x B.

<sup>15</sup> Staff, *Sunday’s Fiery Fatal Tanker Truck Crash Ruled Accidental*, LNP, May 8, 2024, at A5 (identifying Josue Vazquez, 31, as a man who died from smoke inhalation and thermal burns despite “State police continu[ing] to investigate the crash”); Staff, *Driver Who Died in Crash Friday Named*, LNP, Feb. 26, 2024, at A8 (disclosing Michael Halupa, 68, who died of “multiple

disclosures are laudable and essential to fulfilling both the purpose of the RTKL and LNP's obligation to inform its readers, *see supra* Section IV, this pattern degrades the consistency and sincerity of the arguments the Coroner's Office brings before this court.

## VI. CONCLUSION

The clear language of Section 708(b)(20) of the RTKL requires the Coroner's Office to disclose the names of decedent minors in response to LNP's records requests. The Coroner failed to perform this statutory obligation, continuing to protest through two OOR adjudications and now before this Court. For the reasons stated herein, LNP respectfully requests an order of this Court affirming the OOR's Final Determinations and directing the Coroner's Office to produce records responsive to LNP's requests.

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traumatic injuries" from a single-car crash that was "under investigation" at the time); Jack Panyard, *Single-Vehicle Crash Claims County Man*, LNP, Feb. 22, 2024, at A3 (identifying Matthew Caraballo, 29, who "died of multiple traumatic injuries" from a single-vehicle crash that was "still under investigation" at the time of publication); Staff, *Smoke, Burns Killed Bainbridge Victim*, LNP, Jan. 23, 2024, at A1 (identifying George Schabelnik, 74, who died of burns and smoke inhalation from a fire the State Police fire marshal was investigating); Staff, *Coroner IDs Teen Killed in City Saturday*, LNP, Jan. 8, 2024, at A3 (identifying Elliot Corbin, 19, killed in a shooting that was under investigation); Jack Panyard, *Man Found Dead in Car in Cocalico Creek*, LNP, Dec. 13, 2023, at A5 (as police were still investigating the death, naming 77-year-old Marlin Fausnacht, who died when he drove his car into a creek); Staff, *2 Found Dead Are ID'd*, LNP, Nov. 14, 2023, at A1 (despite police continuing to investigate the grisly crime, identifying Angelica Morales Damarts, 34 as the victim of Ramon Eusebio-Diaz, 47, who then shot himself); Staff, *Death of Man Found on Street Ruled Homicide*, LNP, Apr. 9, 2021, at A3 (naming Hipolito Gonzalez, 61, who died of severe head injuries being investigated as a homicide at the time of the disclosure of his name and cause of death); *see also* App'x B.

Respectfully submitted,

/s/ Paula Knudsen Burke

Paula Knudsen Burke

REPORTERS COMMITTEE FOR

FREEDOM OF THE PRESS

4000 Crums Mill Rd., Ste. 101

Harrisburg, PA 17112

*Attorney for Jack Panyard &*

*Lancaster-Online | LNP*

Dated: July 15, 2024



## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the forgoing document upon the parties and in the manner listed below.

### **VIA E-FILING and ELECTRONIC MAIL**

Kevin J. McKeon, Es.  
Melisa A. Chapaska, Esq.  
Hawke, McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101

*Counsel for Petitioner*

**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Date: July 15, 2024

Submitted by: Paula Knudsen Burke  
Signature: /s/Paula Knudsen Burke  
Attorney No.: 87607

# APPENDIX A

*Pennsylvania Office of Open Records (OOR)  
Final Determinations*



*Slip opinion from the Court of Common  
Pleas of Lancaster County, Pennsylvania*

- *Advisory Opinion on Autopsy Records*, Off. of Open Records (Nov. 1, 2022)
- *In re Jones v. Fayette Cnty.*, OOR Dckt. AP 2023-0021 (Pa. F.D. Mar. 1, 2023).
- *In re Halpin v. Monroe Cnty. Coroner's Off.*, Coroner's Off. OOR Dckt. AP 2023-0530 (Pa. F.D. Apr. 25, 2023).
- *In re Ruggiero v. Lackawanna Cnty.*, OOR Dckt. AP 2014-0043 (Pa. F.D. Feb. 7, 2014).
- *In re Bartholomew v. W. Manchester Twp.*, OOR Dckt. AP 2020-0077 (Pa. F.D. July 13, 2020).
- *In re Walbert v. Chester Cnty.*, OOR Dckt. AP 2021-1308 (Pa. F.D. Aug. 5, 2021).
- *In re Morgan v. Chester City.*, OOR Dckt. AP 2023-1105 (Pa. F.D. July 17, 2023).
- *In re Panyard v. Lancaster Cnty.*, OOR Dckt. AP 2023-2662 (Pa. F.D. Dec. 4, 2023) [hereinafter *Panyard OOR I*].
- *In re Panyard v. Lancaster Cnty.*, OOR Dckt. AP 2024-0181 (Pa. F.D. Feb. 12, 2024) [hereinafter *Panyard OOR II*].
- *Cnty. of Lancaster v. Walker*, No. CI-18-09547 (consolidated cases), at 9 (Ct. of Common Pls. Lancaster Cnty., Pa. Aug. 23, 2019) (Brown, J.) (slip op.).



**FINAL DETERMINATION**

**IN THE MATTER OF**

**MICHAEL JONES AND THE  
OBSERVER-REPORTER,  
Requester**

**v.**

**FAYETTE COUNTY,  
Respondent**

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**Docket No.: AP 2023-0021**

**FACTUAL BACKGROUND**

On December 30, 2022, Michael Jones, a staff writer for the Observer-Reporter (collectively “Requester”), submitted a request (“Request”) to Fayette County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “the identity of the boy killed in the Dec. 27 fire at 390 Hawkins Hollow Road in Springfield Township, along with the date/time, cause and manner of his death.” On January 3, 2023, the County denied the Request, stating that the requested information is “not a [C]ount[y] record.”<sup>1</sup> In a follow-up email that same day, the County also indicated that the Coroner’s Office was “not releasing the name because [the boy] is a minor ... [and because] the cause of death is under investigation.” On

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<sup>1</sup> Notably, the County’s denial did not comply with the requirements of Section 903 of the RTKL, which requires an agency’s denial letter to include, in part: “[a] description of the record requested[,]” ... “[t]he specific reasons for the denial, including a citation of supporting legal authority” and “[t]he procedure to appeal the denial of access....” 65 P.S. § 67.903.

January 4, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial.<sup>2</sup> The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

The record closed in this matter on January 17, 2023. After not receiving a submission from the County, on January 19, 2023, the OOR reached out to the County and extended the submission deadline to January 23, 2023. On January 23, 2023, the County made a submission, which consisted of an email that the County’s Open Records Officer, Amy Revak, received from Jeremy Davis, Esq. (“Attorney Davis”), Solicitor for the County Coroner. In the email, Attorney Davis states that “[t]he position of the Coroner’s office is that the ... information should not be provided as the information is exempt from disclosure in accordance with Sections 708(b)(16) [(criminal investigative records)] and 708(b)(30) [(records identifying a minor)]” of the RTKL. *See* 65 P.S. §§ 67.708(b)(16), (30). Attorney Davis further states that “[i]t is [his] understanding that the cause of the fire that led to the minor’s death is still under investigation by the Pennsylvania State Police....”

### LEGAL ANALYSIS

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435,

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<sup>2</sup> In the appeal, the Requester granted the OOR an additional thirty days to issue this Final Determination. *See* 65 P.S. § 67.1101(b)(1).

439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep't of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

**1. The name of the minor is subject to public access**

The Request seeks, in part, “the identity of the boy killed in the Dec. 27 fire....” The County states that the name of the minor is exempt from public disclosure under Section 708(b)(30) of the RTKL, which exempts from access information “identifying the name, home address or date of birth of a child 17 years of age or younger.” 65 P.S. § 67.708(b)(30). Accordingly, the names of minors are generally exempt from disclosure under the RTKL.

In this case, however, the Request seeks the name of a deceased minor. Section 708(b)(20) of the RTKL exempts from disclosure:

An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner.

65 P.S. § 67.708(b)(20). However, the exemption “shall not limit the reporting of the *name of the deceased individual* and the cause and manner of death.” *Id.* (emphasis added).

Section 708(b)(20) of the RTKL makes the names and cause and manner of death public, without consideration of age. As the Pennsylvania Supreme Court has noted, Section 708(b)(20)’s proviso concerning name and cause and manner of death “indicate[s] [the General Assembly’s] intent not to limit the coroner’s reporting obligation with regard to the name of the deceased and the cause and manner of death.” *Hearst TV, Inc. v. Norris*, 54 A.3d 23, 33 (Pa. 2012). In addition to Section 708(b)(20) of the RTKL, Section 1252-B of the County Code also provides “immediate access to cause and manner of death records,” *Norris*, 54 A.3d at 33, and the RTKL’s exemptions do not apply when another law makes records public. *See* 65 P.S. § 67.306, 16 P.S. § 1252-B.

Therefore, Section 708(b)(30) of the RTKL does not apply when dealing with the names of deceased minors in coroner records. Accordingly, the name of the deceased minor is subject to public disclosure in this instance. *See* OOR Advisory Opinion issued on Autopsy Records Nov. 1, 2022, available at [https://www.openrecords.pa.gov/Documents/2022-11-01\\_Dennis\\_AdvisoryOpinion.pdf](https://www.openrecords.pa.gov/Documents/2022-11-01_Dennis_AdvisoryOpinion.pdf).

**2. The County has not demonstrated that the remaining responsive records relate to a criminal investigation of the County**

The Request also seeks “the date/time, cause and manner of ... death....” The County states that such information is exempt from disclosure because it relates to a criminal investigation, 65 P.S. § 67.708(b)(16). Section 708(b)(16) of the RTKL exempts from disclosure “[a] record of an agency relating to or resulting in a criminal investigation, including:... [i]nvestigative materials, notes correspondence, videos and reports...[v]ictim information...[a] record that, if disclosed, would do any of the following:...[r]eveal the institution, progress or result of a criminal investigation, except the filing of charges.” 65 P.S. §§ 67.708(b)(16)(ii), (vi)(A).

For a record to qualify as a record “of” a criminal investigation, it must generally have been produced or obtained by an agency with the authority to investigate criminal violations in connection with such a criminal investigation. *See Pa. State Police v. Grove*, 161 A.3d 877, 893 (Pa. 2017); *Pa. State Police v. Kim*, 150 A.3d 155, 159 (Pa. Commw. Ct. 2016). The fact that an otherwise-public record is obtained from an agency in connection with an investigation is not a sufficient reason for that agency to withhold the records in connection with a separate agency’s investigation. *See Levy v. Senate of Pa.*, 94 A.3d 436, 448 (Pa. Commw. Ct. 2014) (“To the extent the documents reference and arguably ‘relate’ to a criminal investigation conducted by another agency, the records themselves do not contain any investigative material”); *Yakim v. Municipality*



of Monroeville, OOR Dkt. AP 2014-1978, 2015 PA O.O.R.D. LEXIS 41 (an agency cannot rely on another agency's investigation when claiming an investigative exemption under the RTKL).

Here, Attorney Davis states that “[i]t is [his] understanding that the *cause of the fire* that led to the minor's death is still under investigation by the Pennsylvania State Police [(“PSP”).” (emphasis added). The County has not presented any evidence indicating that the County, itself, is conducting or has conducted a criminal investigation. Moreover, while the County states that the PSP is investigating the cause of the fire, the County has not presented any evidence indicating that the minor's cause and manner of death is under investigation. Accordingly, the County has not demonstrated that the requested “time/date, cause and manner of [the minor's] death” is exempt under Section 708(b)(16) of the RTKL. *See* 65 P.S. § 67.708(a)(1).

Further, Section 708(b)(20) of the RTKL provides that the exemption relating to autopsy records “shall not limit the reporting of the ... cause and manner of death.” 65 P.S. § 67.708(b)(20). Consequently, such information is subject to public access.

### CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the County is required to provide the requested information within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Fayette County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as

a party.<sup>3</sup> This Final Determination shall be placed on the OOR website at:  
<https://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: March 1, 2023**

/s/ Magdalene C. Zeppos-Brown  
MAGDALENE C. ZEPPOS-BROWN, ESQ.  
DEPUTY CHIEF COUNSEL

Sent to: Michael Jones (via e-file portal only); and  
Amy Revak, AORO (via e-file portal only)

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<sup>3</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>JAMES HALPIN AND THE CITIZEN'S</b>	:	
<b>VOICE,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2023-0530</b>
	:	
<b>MONROE COUNTY CORONER'S</b>	:	
<b>OFFICE,</b>	:	
<b>Respondent</b>	:	

**FACTUAL BACKGROUND**

On March 3, 2023, James Halpin, a reporter with The Citizen's Voice (collectively "Requester"), submitted a request ("Request") to the Monroe County Coroner's Office ("Office") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking "the name, cause and manner of death of the juvenile killed in the vehicle crash that took place on state Route 33 in Hamilton Twp. on March 1, 2023." When the Office did not issue a written response to the Request by March 10, 2023, it was deemed denied on that date.<sup>1</sup> See 65 P.S. § 67.901.

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<sup>1</sup> The Office informed the Requester via telephone it would not be honoring the Request because its policy is not to identify juveniles. However, Section 903 of the RTKL requires that an agency's denial of a request be in writing, and must include, in part: "[a] description of the record requested[,] ... "[t]he specific reasons for the denial, including a citation of supporting legal authority," and "[t]he procedure to appeal the denial of access...." 65 P.S. § 67.903. Because the Office's statement was not in writing and there is no evidence that it contained any of the requirements of Section 903, it did not constitute an effective denial.

On March 13, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial. The OOR invited both parties to supplement the record and directed the Office to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

When the record closed without a submission, an OOR administrative officer called the Office and discovered that it had not received the Notice of Appeal, as it had been sent to an address that is no longer valid. On March 28, 2023, the OOR re-issued the Notice of Appeal, directing it to an email address that had been provided by the Office. In order to ensure due process, the reissued Notice contained an extended submission deadline to permit the Office to respond. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute”); *see also Wishnefsky v. Pa. Dep’t of Corr.*, 144 A.3d 290 (Pa. Commw. Ct. 2016) (holding that due process requires notice of an appeal and a right to be heard). However, to date, the Office has not made a submission.

### LEGAL ANALYSIS

The Office is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Office is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

Here, the Request seeks “the name, cause and manner of death of the juvenile killed” in the identified crash. The Office does not raise any exemptions, instead merely stating that it is not its policy to release information about minors. The OOR notes that information “identifying the name, home address or date of birth of a child 17 years of age or younger” is generally exempt under Section 708(b)(30) of the RTKL. 65 P.S. § 67.708(b)(30).

In this case, however, the Request seeks the “name, cause and manner of death” of the deceased minor. Section 708(b)(20) of the RTKL exempts from disclosure:

An autopsy record of a coroner or medical examiner and any audiotape of a postmortem examination or autopsy, or a copy, reproduction or facsimile of an autopsy report, a photograph, negative or print, including a photograph or videotape of the body or any portion of the body of a deceased person at the scene of death or in the course of a postmortem examination or autopsy taken or made by or caused to be taken or made by the coroner or medical examiner.

65 P.S. § 67.708(b)(20). However, the exemption “shall not limit the reporting of the *name of the deceased individual and the cause and manner of death.*” *Id.* (emphasis added). There is no language requiring consideration of age. As the Pennsylvania Supreme Court has noted, Section 708(b)(20)’s proviso concerning name and cause and manner of death “indicate[s] [the General Assembly’s] intent not to limit the coroner’s reporting obligation with regard to the name of the deceased and the cause and manner of death.” *Hearst TV, Inc. v. Norris*, 54 A.3d 23, 33 (Pa. 2012). Additionally, Section 1252-B of the County Code provides “immediate access to cause and manner of death records,” *Norris*, 54 A.3d at 33, and the RTKL’s exemptions do not apply when another law makes records public. *See* 65 P.S. § 67.306, 16 P.S. § 1252-B. Therefore, Section 708(b)(30) of the RTKL does not apply when dealing with information identifying deceased minors in coroner records. Accordingly, the name, manner and cause of death of the deceased minor is subject to public disclosure in this instance. *See* OOR Advisory Opinion on Autopsy Records, Nov. 1, 2022, available at: <https://www.openrecords.pa.gov/Documents/2022->

[11-01\\_Dennis\\_AdvisoryOpinion.pdf](#); see also *Jones v. Fayette Cnty.*, OOR Dkt. AP 2023-0021, 2023 PA O.O.R.D. LEXIS 397.

### CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Office is required to provide the requested information within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Monroe County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>2</sup> This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

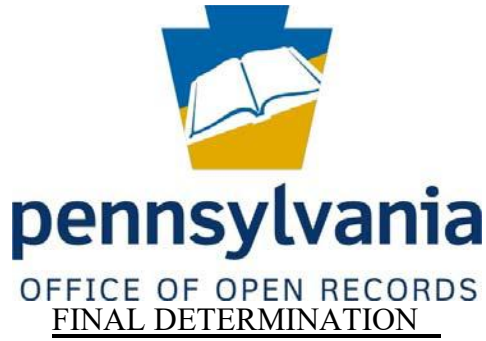
**FINAL DETERMINATION ISSUED AND MAILED: April 25, 2023**

/s/ Blake Eilers  
Blake Eilers, Esq.  
Appeals Officer

Sent via email to: James Halpin and Thomas Yanac

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<sup>2</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



IN THE MATTER OF

FRANK RUGGIERO,  
Complainant

v.

LACKAWANNA COUNTY,  
Respondent

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Docket No.: AP 2014 -0043

### INTRODUCTION

Frank Ruggiero, Esq. (“Requester”) submitted two (2) requests (“Requests”) to Lackawanna County (“County”) pursuant to the Right-to-Know Law, 65 P.S. §§ 67.101 et seq., (“RTKL”), seeking contracts and correspondence and other records. The County partially denied the Request, arguing it is insufficiently specific or seeks records exempt under the RTKL. The Requester appealed to the Office of Open Records (“OOR”). For the reasons set forth in this Final Determination, the appeal is granted in part and denied in part and the County is required to take further action.

### FACTUAL BACKGROUND

On November 15, 2013 the Request was filed seeking, in relevant part:

1. Copies of [the County’s] original 2005 contract with Hildebrandt Learning Centers (hereinafter referred to as “HLC”) along with copies of any and all successive contracts between [the County] and HLC from 2005 up to and including the close of business on November 5, 2013;
2. [Granted]

3. Copies of any and all correspondence, by and between, HLC and/or any of its principals with [the County] – including electronic mail –from 2005 to the close of business on November 15, 2013;
4. Copies of the lists of approved county vendors for the years 2005 up to and including the close of business on November 15, 2013, along with a breakdown of payments made to approved county vendors for work and/or services performed by those vendors for or on behalf of [the County] from 2005 to the close of business on November 15, 2013;
5. Copies of all vendor contracts entered into at the following locations for the years 2005 up to and including the close of business on November 15, 2013, along with a breakdown of payments made by or to those vendors for work and/or services performed by said vendors for or on behalf of Lackawanna County from 2005 to the close of business on November 15, 2013:
  - a. Wilkes-Barre/Scranton International Airport;
  - b. Lackawanna County Prison; and
  - c. Lackawanna County Recycling Center

...

Lastly, kindly provide copies of all professional service contracts and payments made by [the County] in excess of Twenty-Five Thousand Dollars (\$25,000) for services performed by/for or on behalf of Lackawanna County for the period covering January 1, 2008 through the present.<sup>1</sup>

On December 20, 2013, after extending its deadline to respond pursuant to Section 902 of the RTKL, 65 P.S. § 67.902, the County provided the original contract in response to Item 1, but denied the remainder of this Item, arguing that the requested records do not exist. Item 2 was granted and is not the subject of this appeal. The County denied Item 3 as seeking records exempt by Section 708(b)(26) of the RTKL because a contract had not been awarded, and denied Item 4, stating that this Item lacked sufficient specificity and seeks records that do not exist. In response to Item 5, the County provided the Recycling Center contract and denied the remainder of the Request as insufficiently specific or as seeking records that do not exist or are not maintained, compiled or formatted as requested.

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<sup>1</sup> Item 5 of the Request originally sought “copies of the approved vendor contracts for the years 2005 up to and including the close of business on November 15, 2013, along with a breakdown of payments made to approved county vendors for work and/or services performed by those vendors for or on behalf of [the County] from 2005 to the close of business on November 15, 2013.” The Requester filed an amended request on December 4, 2013 seeking the records in Item 5. The instant appeal challenges the County’s response to Item 5 as amended on December 4, 2013.



On January 10, 2014, the Requester appealed to the OOR challenging the denial<sup>2</sup> and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in the appeal pursuant to 65 P.S. § 67.1101(c) and provide proof of that notice to the OOR. On January 17, 2014, the County submitted the attestation of Fran Pantuso, the County's Outreach Manager and Open Records Officer ("ORO"), attesting that the County denied Item 3 pursuant to Section 708(b)(26) because the County is presently in negotiation with HLC regarding a new management agreement and the contract has not been awarded. The Requester asserted that he is not seeking procurement documents or any records associated with competitive sealed bidding information. The Requester asserts that the fact that the County advertised a Request for Qualifications in November 2013 for child care services does not relieve them of their obligation to disclose the prior eight (8) years of records when the County's contract with HLC was in place.

In regard to Item 4, ORO Pantuso attests that there is no such "list of approved county vendors" and that it would be burdensome to the departments that have to collect the voluminous information to create one. In regard to Item 5, ORO Pantuso reiterates the County's position that the Request lacks specificity and attests that the contracts and information requested amounts to thousands, if not tens of thousands of documents because the County annually enters into contracts for everything from postage meters and floor mats to Children and Youth Services providers, County Court Service providers, vehicle maintenance agreements, leases, labor contracts, etc. ORO Pantuso attests that the County has in excess of 13,000 vendors in its system for the dates of 2005 to present and that requiring the County to produce a copy of all vendor contracts and payments from 2005 to the present would encompass an overly burdensome task

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<sup>2</sup> The Requester did not challenge the partial denial of Item 1 and, therefore, the County's response to Item 1 is not at issue in this appeal.

for the County to identify and copy said documents and to compile a list of vendors and payments made to them over the eight (8) years the Request encompasses. ORO Pantuso attests that the County would need an excessive period of time and manpower to even identify these records. In regard to Item 5(c), ORO Pantuso attests that the request for vendor contracts and payments made to vendors was denied as seeking records that do not exist because the County no longer operates or maintains the facility as set forth in the Lackawanna County Professional Services Operating Agreement by and between the Lackawanna Recycling Center and the Lackawanna County Solid Waste Management Authority that was provided to the Requester.

In regard to Item 5 seeking professional service contracts and payments, ORO Pantuso attests that the County does not maintain a list of contracts or vendor payments by value or amounts and would need to compile same. ORO Pantuso attests that in order to compile such contracts, the County would need to pull and review every one of the thousands of contracts it entered into since January 1, 2008 and determine its value.

#### LEGAL ANALYSIS

“The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions.” *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff’d* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. See 65 P.S. § 67.503(a). An appeals officer is required “to review all information filed relating to the

request.” 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.* The law also states that an appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute. *Id.* Here, neither party requested a hearing, and the OOR has the necessary, requisite information and evidence before it to properly adjudicate the matter.

The County is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.302. Records in possession of a local agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. See 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemptions. See 65 P.S. § 67.708(b).

Section 708 of the RTKL clearly places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). “The burden of proving a record does not exist ... is placed on the

agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

A. Item 3: The County has not met its burden to prove the records are protected by Section 708(b)(26) of the RTKL

Item 3 seeks correspondence between HLC and/or its principals and the County. The County argues that Item 3 seeks records exempt by Section 708(b)(26) of the RTKL. Section 708(b)(26) exempts from public disclosure:

[a] proposal pertaining to agency procurement or disposal of supplies, services or construction prior to the award of the contract or prior to the opening and rejection of all bids; financial information of a bidder or offer requested in an invitation for bid or request for proposals to demonstrate the bidder's or offeror's economic capability; or the identity of members, notes or other records of an agency proposal evaluation committees established under 62 Pa.C.S. § 513 (relating to competitive sealed proposals).

65 P.S. § 67.708(b)(26). On appeal, the Requester argues that this exemption is inapplicable since he is not seeking procurement documents or any records associated with competitive sealed bidding. In support of its position the County states only that the County is presently in negotiation with HLC to enter into a new management agreement and that a contract has not been awarded. The County does not identify the responsive records or provide any evidence that the responsive records are the type of records exempt by Section 708(b)(26). As such, the County has not met its burden to prove the records are exempt.

B. Item 4: The County is not required to create a record that does not exist, but is required to disclose records of payments to County vendors

Item 4 seeks lists of the County’s vendors, along with payments made to those vendors. The County denied Item 4 as lacking sufficient specificity and seeking records that do not exist. ORO Pantuso attests that there is no such “list of approved county vendors.” Under the RTKL, an affidavit may serve as sufficient evidentiary support for the nonexistence of records. See

Sherry v. Radnor Twp. Sch. Dist, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); Moore v. Office of Open Records, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Based on the materials provided, the County has met its burden of proof that it does not possess the “lists of approved county vendors” sought in the Item 4. With respect to the portion of Item 4 seeking “payments made to approved county vendors,” the County merely argues that assembling eight (8) years of records is unduly burdensome. Burden of an agency in responding to a request for records is not a sufficient basis to deny access. *See Dep’t. of Environ. Prot. v. Legere*, 50 A.3d 260, 266 (Pa. Commw. Ct. 2012). Accordingly, the County is required to disclose records of payments to County vendors.

C. Item 5 is sufficiently specific.

The County argues that Item 5 is insufficiently specific to enable the District to determine what records are requested. Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. The determination of whether a request is sufficiently specific is made on a case-by-case basis and “[i]f the OOR can determine what the Requester sought, it will find the request to be sufficiently specific.” *See Lauff v. Fort Cherry School District*, OOR Dkt. AP 2010-0128, 2010 PA O.O.R.D. LEXIS 180. In *Shusterman v. City of Philadelphia*, the OOR recently summarized Commonwealth Court decisions addressing the specificity of requests as follows:

The Commonwealth Court, in ruling on the specificity of requests for records under the RTKL, has considered the specificity of the records requested, the specificity of the agency business to be reviewed, and the duration of time over which the records are sought. Thus, in *PHFA v. Ali*, 43 A.3d 532 ... (Pa. Commw. Ct. 2012), the court held that a request for unidentified records (“all communications ... concerning”) for a specific redevelopment project was insufficiently specific, while a request for identified records (“proposal and sales agreements”) for the same specific development project was sufficiently specific

to enable the agency to identify what records were sought in the request. Similarly, in *Pa. State Police v. Office of Open Records*, the court held that a request for unidentified records (“all records, files, ... communications of any kind”) relating to vehicle searches and seizures was insufficiently specific, while a request for specifically identified records (“manuals”) relating to the same vehicle searches and seizures was sufficiently specific. In *Mollick v. Township of Worcester*, 32 A.3d 859 ... (Pa. Commw. Ct. 2011), the court held that a request seeking specific records (“e-mails) produced over an extended period of time, but without specificity as to the exact agency business to which those records related, was insufficiently specific. Conversely, in *Carey v. Dep't. of Corrections*, No. 1348 C.D. 2012, 2013 Pa. Commw. LEXIS 30 (Pa. Commw. Ct. January 24, 2013), the court found a request for unspecified records (“all documents/communications”) related to a specific and well-known agency project (“the transfer of Pennsylvania inmates to Michigan”) and limited to a narrow time-frame to be sufficiently specific “to apprise [the agency] of the records sought.”

OOR Dkt. AP 2013-0089, 2013 PA O.O.R.D. LEXIS 139.

Here, Item 5 seeks vendor contracts entered into at three specific locations over a specified period of time. The request for vendor contracts is limited to a specific timeframe and area of agency business (by location) and a clearly defined type of record. See *Legere*, 50 A.3d at 264-65 (holding that a request for all compliance letters issued by the agency pursuant to a specific statute was sufficiently specific because the request sought a “clearly-defined universe of documents” and no judgment was required to determine whether a document was related to the request). Item 5 also seeks professional service contracts and payments made in excess of \$25,000 entered into by the County. This portion of Item 5 also seeks a specific universe of records, over an identified timeframe and within a limited scope (contracts greater than \$25,000).

While the County contends that retrieving responsive records would be burdensome, a request involving the detailed review of voluminous documents does not relieve the agency of its requirements to presume the records are open and available and respond in accordance with the RTKL. See *Urbina v. Office of the Governor*, OOR Dkt. AP 2009-0972, 2009 PA O.O.R.D. LEXIS 708. Unlike in Item 4, the Requester is not seeking a “list” or a record that does not

currently exist or requires compilation or creations, but rather, seeks the contracts and payment records themselves. As a result, the OOR finds that the Request was sufficiently specific to require the County to respond. Because the County did not submit any evidence to support any exemptions from disclosure, the County has failed to meet its burden of proof to withhold records. See 65 P.S. § 67.708(a)(1).

### CONCLUSION

For the foregoing reasons, Requester's appeal is granted in part and denied in part and the County is required to provide records responsive to Items 3, 4 and 5 above, with the exception of the "list" requested in Item 4, within thirty (30) days. This Final Determination is binding on all parties. Within thirty (30) days of the mailing date of this Final Determination, any party may appeal to the Lackawanna County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. This Final Determination shall be placed on the OOR website at: <http://openrecords.state.pa.us>.

FINAL DETERMINATION ISSUED AND MAILED: February 7, 2014



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APPEALS OFFICER  
AUDREY BUGLIONE, ESQ.

Sent to: Fran Pantuso (via e-mail only);  
Frank Ruggiero, Esq. (via e-mail only)



**FINAL DETERMINATION**

**IN THE MATTER OF**

**D F BART BARTHOLOMEW, JR.,  
Requester**

**v.**

**WEST MANCHESTER TOWNSHIP,  
Respondent**

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**Docket No: AP 2020-0777**

**INTRODUCTION**

D F Bart Bartholomew, Jr., (“Requester”) submitted a request (“Request”) to West Manchester Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking, among other things, the identity of an individual. The Township denied the Request, indicating that the Request did not seek a record as defined by the RTKL. The Requester appealed to the Office of Open Records (“OOR”). For the reasons set forth in this Final Determination, the appeal is **granted in part** and **dismissed in part**, and the Township is required to take additional action as directed.

**FACTUAL BACKGROUND**

On March 3, 2020, the Request was filed, stating “Please identify who in the [Township] has procurement authority and what those authorities are to include, sole source and non-competitive bidding.” On March 5, 2020, the Township denied the Request, arguing that the Request did not seek a record defined by the RTKL. *See* 65 P.S. § 67.102.



On March 21, 2020, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the Township to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On May 22, 2020, the Township submitted a position statement and affidavit arguing that the Township properly denied the Request, as it seeks the answer to a question as well as legal research and does not seek records as defined by the RTKL. On June 9, 2020, the OOR received a submission from the Requester, who argues that the Township should have responsive records.

### LEGAL ANALYSIS

“The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions.” *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff’d* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required “to review all information filed relating to the request” and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The law also states that an appeals officer may admit into evidence testimony, evidence and documents that the appeals officer believes to be reasonably probative and relevant to an issue in dispute. *Id.* The decision to hold a hearing is discretionary and non-appealable. *Id.*;

*Giurintano v. Pa. Dep't of Gen. Servs.*, 20 A.3d 613, 617 (Pa. Commw. Ct. 2011). Here, the parties did not request a hearing; however, the OOR has the necessary information and evidence before it to properly adjudicate the matter.

The Township is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.302. Records in the possession of a local agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

### **1. Part of the Request is seeking records**

The Township argues that the Request seeks answers to questions rather than records. A request must seek a record, rather than an answer to a question, in order to comply with the requirements of 65 P.S. § 67.703. The RTKL defines a “record” as “[i]nformation, regardless of

physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.” 65 P.S. § 67.102.

The Township properly argues that a request must seek records rather than answers to questions, and cites to the Commonwealth Court decision in *Gingrich*, where the court states that “[t]he RTKL is not a forum for the public to demand answers to specifically posed questions to either a Commonwealth or local agency. In fact, there is no provision in the RTKL that requires an agency to respond to questions posed in a request.” *See Gingrich v. Pa. Game Comm’n.*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 at \*14 (Pa. Commw. Ct. 2012). However, the *Gingrich* decision also held that requests for specific pieces of information, such as a name of an individual, constitute requests for records under the RTKL. *Id.* at \*13. (“[H]ow [can] any request that seeks information ... not [be] one that seeks records[?]”). Here, the Request seeks, in part, the identity of “who in the [Township] has procurement authority.” Accordingly, this part of the Request seeks “information” and thus constitutes a valid request for records under the RTKL.

## **2. Part of the Request requires legal research**

The Township also argues that the Request seeks answers to legal questions that would require legal research to be performed.

An agency cannot be required to perform legal research for a requester. *See, e.g., Lerner v. City of Phila., Dep’t of Rev.*, OOR Dkt. AP 2017-1470, 2017 PA O.O.R.D. LEXIS 1306. The Commonwealth Court has found that “[a] request that explicitly or implicitly obliges legal research is not a request for a specific document; rather it is a request for someone to conduct legal research with the hopes that the legal research will unearth a specific document that fits the description of

the request.” *Askew v. Pa. Office of the Governor*, 65 A.3d 989, 993 (Pa. Commw. Ct. 2013); *see also* 65 P.S. § 67.703.

Here, the Request first seeks “who has procurement authority,” but continues to also seek “what those authorities are to include.” The second part of the Request does not seek a record and is instead asking the Township to perform legal research in order to answer a question. In order to provide responsive records, the Township would be required to find specific state laws or regulations indicating what authorities are allowed to an individual who has procurement authority within the Township. The Requester’s own submission briefly acknowledges the Request is seeking information that can be found in “PA Law.” Therefore, this part of the Request was properly denied by the Township as it seeks legal research.

### CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **dismissed in part**, and the Township is required to provide responsive records to the Requester regarding “who in the [Township] has procurement authority.” This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the York County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>1</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

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<sup>1</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

**FINAL DETERMINATION ISSUED AND MAILED: July 13, 2020**

*/s/ Ryan W. Liggitt*

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RYAN W. LIGGITT, ESQ.  
APPEALS OFFICER

Sent to: D F Bart Bartholomew, Jr. (via email only);  
Kelly Kelch, AORO (via email only);  
Andrew C. Herrold, Esq. (via email only)



### FINAL DETERMINATION

IN THE MATTER OF

JAMES WALBERT,  
Requester

v.

CHESTER COUNTY,  
Respondent

Docket No.: AP2021-1308

### INTRODUCTION

James Walbert ("Requester") submitted a request ("Request") to Chester County ("County") pursuant to the Right to Know Law ("RTKL"), 65 P.S. §§ 67.101 et seq seeking coroner records related to the death of an identified individual. The County denied the Request, arguing that some of the records could be obtained through another source and that the others relate to a noncriminal investigation. The Requester appealed to the Office of Open Records ("OOR"). For the reasons set forth in this Determination, the appeal is granted in part and denied in part, and the County is required to take further action as directed.

### FACTUAL BACKGROUND

On May 26, 2021, the Request was filed seeking

1. [A]ll records from [coroner's] office in reference to the death of Ian Walbert [ ] in accordance with the relationship of Brother

2. [U]nofficial toxicology report

3. [U]nofficial death certificate

4. [N]ames of a [C]ounty employees involved in this case at the [coroner's] office

5. [A]ll communication between [C]ounty employees at the [coroner's] office in reference to this case - emails texts recorded calls recorded notes

6. [A]ll communication between [C]ounty employees at the [coroner's] office and North Coventry Township Police dept. in reference to this case

On July 5 2021, following a thirty day extension, 65 P.S. § 67.701, the County denied the Requester, arguing that Items 2 and 3 should be sought with a "Next of Kin" report request from the coroner's office and that Items 1, 4, 5, and 6 relate to a noncriminal investigation. 65 P.S. § 67.708(b)(17).

On July 7 2021, the Requester appealed to the OOR, challenging the denial and providing reasons for disclosure. The OOR invited the parties to supplement the record and directed the County to notify third parties of their right to participate in the appeal. 65 P.S. § 67.1101(c).

On July 19, 2021, the County submitted a position statement arguing that the records responsive to Items 1, 5, and 6 of the Request were collected during a noncriminal investigation and are exempt from access 65 P.S. § 67.708(b)(17), contain personal medical information, 65 P.S. § 67.708(b)(5) and internal, predecisional, and deliberative information. 65 P.S. § 67.708(b)(10)(A). The County also argued that it had properly directed the Requester to an alternate method of obtaining records under the Coroner's Act, 16 P.S. § 120-B et seq and that the County does not possess or maintain Death Certificates. Finally, the County noted that it has no records reflecting the names of employees who had worked on the specific case. In support of these arguments, the County submitted the verifications of Colleen Frens, Esq., the County's Assistant Solicitor, and Christina VandePol, the County's Coroner, who attest that the records are related to an investigation and some must be provided under a separate process.

## LEGAL ANALYSIS

“The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government.” **SWBYankees L.L.C. v. Wintermantel**, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important government law is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make officials accountable for their actions.” **Bowling v. Office of Open Records**, 90 A.2d 813, 824 (Pa. Commw. Ct. 2010), 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. 65 P.S. § 67.503(a). An appeals officer is required to review all information filed relating to the request and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and appealable. Here, neither party requested a hearing.

The County is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.230. Records in the possession of a local agency are presumed to be public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. See 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and, if so, to respond within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemption(s). See 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a)(1) states the burden of proving that a



record of a Commonwealth agency or local agency is exempt from public access shall be on the record of a Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a) Preponderance of the evidence has been defined as “such proof as leads the factfinder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval*, 54 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

#### 1. Official records and papers of the coroner must be provided

The County argues that the records of the coroner’s office must be provided through a request to the coroner. Under the Coroner Act, there are two ways to access records of a coroner. First, Section 1236 of the Coroner Act requires coroners of the third, fourth, fifth, sixth, seventh and eighth classes to deposit their records with the Prothonotary. 65 P.S. § 1236. Lancaster County is a county of the third class and is therefore governed by Section 1236 of the Coroner’s Act. In this case, the County acknowledges that it has not yet deposited the coroner’s official records with the Prothonotary because the records were generated in the past year.

However, there is a second means of accessing records under the Act directly from the coroner under Section 1252, which states:

The coroner shall charge and collect a fee of \$ 500 for an autopsy report, \$ 100 for a toxicology report, \$ 100 for an inquisition or coroner’s report, \$ 50 for a cremation or disposition authorization and other fees as may be established from time to time for other reports or documents requested by nongovernmental agencies in order to investigate a claim arising under a policy of insurance or to determine liability for the death of the deceased.

**16 P.S. § 1252-B.** The Pennsylvania Supreme Court analyzed this section in *Television, Inc. v. Norristown*, finding that “[t]he RTKL provides the procedure for those records that are available for immediate release for a fee pursuant to Section 1252-B, 23, 33 (Pa. 2012).” The Court further noted that there was no mention of discretion when charging or collecting these fees; as a result, **§ 1252-B “allows the coroner to charge fees for records but does not afford the coroner any discretion with regard to releasing such records.” (emphasis added).** Although the General Assembly updated the Coroner’s Act in 2018, the OOR has found **that there was no substantial change to the operative language governing these releases and therefore** *Hearst* controls in Coroner’s Act cases. ***Hailer v. Allegheny Cnty. Medical Examiner*** OOR Dkt. AP 2020-117, 2021 PA O.O.R.D. LEXIS 491.

Here, **Item 1 of the** Request seeks “all records” of the coroner’s office relating to a specific decedent, and **Item 2 of the Request specifically seeks a toxicology report.** **That the County** the unofficial toxicology report and autopsy report can be obtained **for a fee** and charge by filing on the coroner’s website, and official copies may be had for the fees set at Section 1252-B of the Coroner’s act. **16 P.S. § 122-B.** Further, the County argues that **Section 1252-B constitutes a method of provision conflicting with the RTKL, and therefore, the records cannot be provided under the RTKL.** **65 P.S. § 67.3101.1.** While the OOR appreciates that the County is attempting to provide the records sought in the ordinary course of business, the court’s holding in *Hearst* is **clear-** the RTKL provides the procedure to access records made public by the Coroner’s Act, and “all official records and papers” which would be **archived with the prothonotary must be provided in response to a RTKL request, upon payment of the relevant fees.** Therefore, the County is

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<sup>1</sup> **Section 1252-B** of the Coroner’s Act only establishes a few records as “official records and papers”- **autopsy reports, toxicology reports, inquisition reports, coroner’s reports, and cremation or disposition authorizations.** These records

required to provide the records responsive to Items 1 and 2 of the Request in accordance with fee schedule ~~by~~ Section 1252 of the Coroner's Act.

**2. The County has demonstrated that certain records do not exist in the County's possession, custody, or control**

The County argues that it does not possess any records responsive to Items 3 or 4 of the Request. In support of this argument, the County submitted the affidavit of its Solicitor

Frensho who attests that:

**6. On May 27, 2021, I had a phone conversation with Ms. Jackson and the Coroner of Chester County, Dr. Christina VandePol, regarding this [R]equest. Dr. VandePol informed me that [the Requester] was the next of kin of [the decedent].**

**7. Dr. VandePol informed me that any "communications between [C]ounty employees at the coroner's office" [] are contained within the Coroner's electronic case management system. I determined that there are no communications of any other type between [C]ounty employees.**

**9. I confirmed that neither the [County] nor the Coroner possess death certificates, but that they can be obtained from the Pennsylvania Department of Health's Office of Vital Statistics.**

**10. Finally, I confirmed with Dr. VandePol that there is no record that exists that contains the names of [C]ounty employees that exist in this case.**

Under the RTKL, verification made under the penalty of perjury may serve as sufficient evidentiary support. See *Sherry v. Radnor Twp. Sch.*, 201 A.3d 515, 522 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the County has acted in bad faith, "the averments in [the verification] should be accepted as true." *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d 374, 382 (Pa.

are expressly prohibited under the terms of the Coroner's Act and the Pennsylvania Supreme Court's holding in *Hearst v. Lehigh County*, 2019 PA O.O.R.D. LEXIS 342 ("To the extent the request seeks any other 'official papers and records,' there is no precedent for applying Section 1226B to records other than those explicitly listed in the Coroner's Act").

<sup>2</sup> As referenced later in this Affidavit, the coroner also conducted a search of her office's records while locating other responsive documents.

Commw. Ct. 2014) (citing *Office of the Governor v. Scolio*, 105 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Here, the County has submitted evidence that it contacted the coroner, who conducted a search of her office's records and determined that the office is not responsible for creating or maintaining death certificates, and that the office did not possess any single record listing each County employee who engaged with the responsive decedent's case. Therefore, the County has demonstrated that it does not possess records responsive to Items 3 or 4 of the Request. *Hodges*, 29 A.3d at 1192.

**3. Items 5 and 6 of the Request seek records of a noncriminal investigation**

The County argues that the communications between the coroner's office and police department constitute records related to a noncriminal investigation. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency relating to a noncriminal investigation, including "[i]nvestigative materials, notes, correspondence and reports." 55 P.S. § 67.708(b)(17)(ii). For this exemption to apply, an agency must demonstrate that it was conducting a searching inquiry, a detailed examination, or an official probe conducted regarding a noncriminal matter. See *Pa. Dep't of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be conducted as part of an agency's official duties. *Id.* at 814; see also *Johnson v. Pa. Convention Ctr.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted law enforcement and investigative powers. *Pa. Dep't of Pub. Welf. v. Chawha*, 91 A.3d 257 (Pa. Commw. Ct. 2014). To hold otherwise would "craft a gaping exemption under which any governmental information could be shielded from disclosure." *Id.* at 259.

In support of this argument, the County submitted the verification of Coroner Christina VandePol, M.D., who attests that:

1. I am the Coroner of Chester County. My office employs investigators who utilize a case management system to gather information relative to any death falling within the jurisdiction of the Chester County Coroner's Office. The death of Ian Walbert is being investigated and has been investigated by my investigating officers, staff and consultants and constitutes a criminal investigation exempt from disclosure under the Right to Know Law.

The County also submitted the verification of Assistant Coroner Soliort Frens, who attests that:

15. The records I obtained from the Coroner included (1) email communications between the Coroner's office and the North Coventry police department regarding the investigation of Ian Walbert's death, (2) email communications between Coroner employees regarding the investigation of Ian Walbert's death and the resulting autopsy, and (3) communications contained within the Coroner's electronic case management system regarding the investigation of Ian Walbert's death and the resulting autopsy. Some or all of these records also contain information about Ian Walbert's medical history and status.

16. I determined that the records obtained from the Coroner's office on or about July 2 contained information that is exempted under the RTKL to 708(b)(5) as personal, identifiable medical information, (b)(10) as predecisional, deliberative communications, and (b)(17) as records of a noncriminal investigation.

As noted above, under the RTKL, an affidavit may serve as sufficient evidence support to withhold responsive records. See Sherry, 20 A.3d at 520-21; Moore, 992 A.2d at 909. Section 1218 of the Coroners Act provides that:

(a) Duty. The coroner having a view of the body shall investigate the facts and circumstances concerning a death that appears to have happened within the county, notwithstanding where the cause of the death may have occurred, for the purpose of determining whether or not an autopsy or inquest should be conducted.

(b) Purpose. The purpose of an investigation under subsection (a) shall be to determine:

(1) The cause and manner of the death.

<sup>3</sup> The coroner's deputized employees share the same powers and duties as the coroner. 16 P.S. § 121-B.

(2) Whether or not there is sufficient reason for the coroner to believe that the death may have resulted from a criminal act or criminal neglect of the person the deceased.

16 P.S. § 128-B. Furthermore, where additional investigation is necessary, Section 1219 of the Act provides that:

(a) Autopsy. If, after investigation, the coroner is unable to determine the cause and manner of death, the coroner shall perform or order an autopsy on the body.

(b) Inquest. If the coroner is unable to determine the cause and manner of death following an autopsy, the coroner may conduct an inquest upon a view of the body as provided by law. At the inquest, the coroner's duty shall be to:

(1) Ascertain the cause of death.

(2) Determine whether an individual other than the deceased was criminally responsible by act or neglect and the identity of the individual who may be responsible.

(3) Examine further evidence and witnesses regarding the cause of death.

16 P.S. § 129-B. Here, the coroner attests that she and her deputized employees have exchanged communications internally and with the police in furtherance of this statutory mandate to ascertain the cause of death and determine whether another individual is responsible for the death. Furthermore, the coroner attests that her investigation is ongoing. Therefore, the County has demonstrated that the communications within the office and with the police records related to a noncriminal investigation authorized by the Coroners Act, and Items 5 and 6 of the Request must be denied.

## CONCLUSION

For the foregoing reasons, the Requester's appeal is granted in part and denied in part, and the County is required to produce all coroner's official records and papers, subject to payment of applicable fees, within thirty days. This Final Determination is binding on all parties.

Within thirty days of the mailing date of this Determination, any party may appeal to the Chester County Court of Common Pleas P.S. § 67.130(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules under Section 1303 of the RTI Act. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party<sup>4</sup>. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>

FINAL DETERMINATION ISSUED AND MAILED: August 5, 2021

/s/ Jordan C. Davis

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Jordan C. Davis Esq.  
Appeals Officer

Sent to: James Walbert (via email);  
Faith Matto-Baldini Esq. (via email)

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<sup>4</sup> See Padgett v. Pa. State Police, 76 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:
	:
<b>STACEY MORGAN,</b>	:
<b>Requester</b>	:
	:
<b>v.</b>	: <b>Docket No.: AP 2023-1105</b>
	:
<b>CHESTER COUNTY,</b>	:
<b>Respondent</b>	:

**FACTUAL BACKGROUND**

On March 27, 2023, Stacey Morgan (“Requester”) submitted a request (“Request”) to Chester County (“County”)<sup>1</sup> pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “[a]ny [and] all paperwork available and related to Theodore S. Morgan for the timeframe of 2/1/2023 thru 3/1/2023. T.S. Morgan died on 2/9/2023.”

On May 3, 2023, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b)(2), the County denied the Request, asserting that the sole responsive record, the Coroner’s Comprehensive Report (“Report”), is exempt from public access because it relates to a noncriminal investigation. 65 P.S. § 67.708(b)(17).

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<sup>1</sup> The Request was originally submitted to the County Coroner’s Office, which then forwarded it to the Open Records Officer for the County.



On May 17, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.<sup>2</sup> The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On May 26, 2023, the County submitted a position statement reiterating its grounds for denial. The County further asserts that the Requester is attempting to modify the Request on appeal. In support of its arguments, the County submitted the attestations of Lauren Remaley (“Remaley Attestation”), the County’s Open Records Officer, and Sophia Garcia-Jackson (“Garcia-Jackson Attestation”), the County’s Coroner.

On May 27, 2023, the Requester made several submissions, including providing a copy of the Death Certificate for Theodore S. Morgan (“Mr. Morgan”) and submitting a copy of a police incident report relating to his death.<sup>3</sup>

### **LEGAL ANALYSIS**

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder...to find that the existence of a contested

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<sup>2</sup> The Requester granted the OOR a thirty-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

<sup>3</sup> The Requester’s submissions were received after the record closed; however, to develop the record, the submissions were considered. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute”).

fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

**1. The Requester did not attempt to modify the Request on appeal, and the County’s interpretation of the Request is too narrow**

As a preliminary matter, the County claims that the Requester altered the Request on appeal. Neither the requester nor the OOR is permitted to alter a request on appeal. *See, e.g., Madison v. Pa. Bd. of Prob. & Parole*, 212 A.3d 560, 564 (Pa. Commw. Ct. 2019); *McKelvey v. Office of Attorney Gen.*, 172 A.3d 122, 125 (Pa. Commw. Ct. 2017) (“Once a RTKL request is submitted, the requester may not expand or modify the request on appeal”) (citations omitted); *see also Pa. State Police v. Office of Open Records*, 995 A.2d 515 (Pa. Commw. Ct. 2010); *Staley v. Pittsburgh Water & Sewer Auth.*, OOR Dkt. AP 2010-0275, 2010 PA O.O.R.D. LEXIS 256 (stating that “a requester may not modify the original request as the denial, if any, is premised upon the original request as written”).

Here, the Request sought “[a]ny [and] all paperwork available and related to Theodore S. Morgan for the timeframe of 2/1/2023 thru 3/1/2023....” On appeal, the Requester states, in part, that “[n]umerous emails and phone calls were exchanged throughout the 2 weeks the coroner was in control of [the Requester’s] father’s remains. Threats of eminent cremation and his body being declared ‘unclaimed’ were issued. Records exist somewhere about all of this[.]”

The County contends that on appeal, “the Requester is modifying her [R]equest to now include records of communications (emails and records of phone calls).” However, the OOR views the Requester’s statement on appeal as a simple reiteration of her original Request, which sought “[a]ny [and] all paperwork” related to the Requester’s father, which would include emails and records of phone calls. The OOR has consistently held that an agency may interpret the

meaning of a request for records, but that interpretation must be reasonable. *See Spatz v. City of Reading*, OOR Dkt. AP 2013-0867, 2013 PA O.O.R.D. LEXIS 513; *Mezzacappa v. Northampton Cnty. Dist. Atty's Off.*, OOR Dkt. AP 2022-2584, 2023 PA O.O.R.D. LEXIS 80. The OOR determines the reasonableness of the agency's interpretation from the text and context of the request alone. *See McKelvey*, 172 A.3d 122. As such, based on the plain reading of the Request, the OOR finds that the Requester did not attempt to modify the Request on appeal and that the County's interpretation of the Request as not including communications was too narrow.

**2. Responsive records relate to a noncriminal investigation, but the Report is accessible for a fee under the Coroner's Act**

The County argues that the Report and any related communications are exempt from disclosure because they relate to a noncriminal investigation. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency "relating to a noncriminal investigation," including "[i]nvestigative materials, notes, correspondence and reports" and "[a] record that, if disclosed, would...[r]eveal the institution, progress or result of an agency investigation." 65 P.S. §§ 67.708(b)(17)(ii), (vi)(A). In order for this exemption to apply, an agency must demonstrate that "a systematic or searching inquiry, a detailed examination, or an official probe" was conducted regarding a noncriminal matter. *See Pa. Dep't of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be "conducted as part of an agency's official duties." *Id.* at 814; *see also Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *Pa. Dep't of Pub. Welfare v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014).

Section 1218 of the Coroner's Act ("Act") provides as follows:

- a) Duty. The coroner having a view of the body shall investigate the facts and circumstances concerning a death that appears to have happened within the county, notwithstanding where the cause of the death may have occurred, for the purpose of determining whether or not an autopsy or inquest should be conducted....
- b) Purpose. The purpose of an investigation under subsection (a) shall be to determine:
  - (1) The cause and manner of the death.
  - (2) Whether or not there is sufficient reason for the coroner to believe that the death may have resulted from a criminal act or criminal neglect of a person other than the deceased.

16 P.S. § 1218-B.

Furthermore, where additional investigation is necessary, Section 1219 of the Act provides that:

- (a) Autopsy. If, after investigation, the coroner is unable to determine the cause and manner of death, the coroner shall perform or order an autopsy on the body.
- (b) Inquest. If the coroner is unable to determine the cause and manner of death following an autopsy, the coroner may conduct an inquest upon a view of the body as provided by law. At the inquest, the coroner's duty shall be to:
  - (1) Ascertain the cause of death.
  - (2) Determine whether an individual other than the deceased was criminally responsible by act or neglect and the identity of the individual who may be responsible.
  - (3) Examine further evidence and witnesses regarding the cause of death.

16 P.S. § 1219-B. The OOR has found that this statutory authority grants coroners the ability to conduct noncriminal investigations. *See Walbert v. Chester County*, OOR Dkt. AP 2021-1308, 2021 PA O.O.R.D. LEXIS 1367 (finding that “communications within the office and with the police constitute records related to a noncriminal investigation authorized by the ... Act”).

Here, the County asserts that the Report and any responsive communications are exempt because they relate to a noncriminal investigation. In support, the Remaley Attestation states, in part, as follows:

8. It was communicated to me by the Coroner's Office that after a search for responsive records was conducted, the only responsive record that was located was the Coroner's Comprehensive Report and that the Coroner's Office did not have an examination report (autopsy/external/partial), toxicology report, or photographs.
9. The Coroner's Comprehensive Report is [a] report generated from the Coroner's Office case management system. It contains all the demographics collected regarding the decedent, next of kin contact information, law enforcement or hospital reporting party information, medical and social history, medications, medical providers, location of death, date of death, time of death, cause and manner of death, and a narrative written by an investigator describing the case from start to finish.
10. The Coroner's Office is statutorily authorized to conduct investigation[s] into deaths that occur in Chester County in order to determine the cause and manner of death. The Coroner's Office is empowered to investigate the facts and circumstances concerning a death that appears to have happened within the County, for the purpose of determining whether or not an autopsy or inquest should be conducted in certain cases.
11. The Coroner's Comprehensive Report is a report that is generated pursuant to an investigation conducted by the Coroner's Office and contains information that was gathered as a result of that investigation.
12. The Coroner's Comprehensive Report is not an autopsy report nor is it a type of record that is deemed a public record under the Coroner's Act.
13. After conducting a good faith search of the Agency's files and inquiring with relevant [County] personnel, I identified all records within the [County's] possession, custody or control that are responsive to the request.

Additionally, the Garcia-Jackson Attestation states, in part, as follows:

1. I serve as the Coroner for the Chester County Coroner's Office ("Coroner's Office"). As the Coroner, I, pursuant to Coroner Statutes and Law, oversee the Coroner's Office to investigate the facts and circumstances surrounding the death to determine if an autopsy is needed and order an autopsy to be conducted by a board certified forensic pathologist to determine cause and manner of

death, make positive identification, notify next of kin, conduct an inquest, approve organ donations, and Section 1213-B Removal of Bodies to the Morgue “when the body of a deceased person is unidentified or unclaimed by a proper person found within the county, the body shall be removed to the county morgue or, in a county of the third through eighth class, to a facility serving in lieu of the county morgue.”

...

4. I conducted a search for records in possession of the Coroner’s Office.
5. The only record that I located that is responsive to the [R]equest is the Coroner’s Comprehensive Report that was generated pursuant to an official investigation into the death of Theodore S. Morgan. The Coroner’s Office does not possess an examination report (autopsy/external/partial), toxicology report, or photographs for this case.
6. The Coroner’s Comprehensive Report is a report generated from the Coroner’s Office case management system. It contains all the demographics collected regarding the decedent on case in take [sic], next of kin contact information, law enforcement/EMS or hospital reporting party information, medical and social history, medications, medical providers, location of death, date of death, time of death, cause and manner of death, and Coroner’s Investigators written narrative documentation.
7. The Coroner’s Comprehensive Report is a report that is generated pursuant to a death investigation conducted by the Coroner’s Office and contains information that was gathered as a result of that investigation.
8. If the Record was disclosed, it would reveal the Coroner’s Office progress or result of its investigation.

Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the County acted in bad faith, “the averments in [the attestations] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

In this instance, the Coroner attests that the Report was prepared in furtherance of the statutory mandate under the Act to ascertain the cause of death of Mr. Morgan and contains

information that was gathered as a result of that investigation. Notwithstanding the investigative nature of the Report, the County does not address its accessibility under Section 1252-B of the Act, which states:

The coroner shall charge and collect a fee of \$ 500 for an autopsy report, \$ 100 for a toxicology report, \$ 100 for an inquisition or coroner's report, \$ 50 for a cremation or disposition authorization and *other fees as may be established from time to time for other reports or documents requested* by nongovernmental agencies in order to investigative a claim asserted under a policy of insurance or to determine liability for the death of the deceased.

16 P.S. § 1252-B (emphasis added). The Pennsylvania Supreme Court analyzed this section under the prior Act in *Hearst Television, Inc. v. Norris*, finding that “[t]he RTKL provides the procedure for accessing those records that are available for immediate release for a fee pursuant to Section [1252-B].” 54 A.3d 23, 33 (Pa. 2012). The Court further noted that there was no mention of discretion when charging or collecting these fees; as a result, Section 1252-B “allows the coroner to charge fees for records *but does not afford the coroner any discretion with regard to releasing such records.*” *Id.* at 32 (emphasis added). Although the General Assembly updated the Act in 2018<sup>4</sup>, the OOR has found that there was no substantial change to the operative language governing these releases, and therefore, *Hearst* controls in Act cases. *Keel v. Dauphin County*, OOR Dkt. No. AP 2022-2385, 2022 PA O.O.R.D. LEXIS 2535; *Ciavaglia v. Bucks County*, OOR Dkt. AP 2020-0761, 2020 PA O.O.R.D. LEXIS 1528; *Bowen v. Indiana County*, OOR Dkt. AP 2019-2064, 2019 PA O.O.R.D. LEXIS 2068.

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<sup>4</sup> Prior to 2018, the Act stated that:

The coroner may charge and collect a fee of up to one hundred dollars (\$ 100) for each autopsy report, up to fifty dollars (\$ 50) for each toxicology report, up to fifty dollars (\$ 50) for each inquisition or coroner's report and such other fees as may be established from time to time for other reports and documents requested by nongovernmental agencies...

16 P.S. § 1236(c).

Recently, in *Allegheny County v. Hailer*, No. 1469 C.D. 2021 (Pa. Commw. Ct. 2023), the Commonwealth Court found that Section 1252-B of the Act “is, essentially, a fee schedule that establishes the costs to be collected for coroner reports.” Upon its review of the plain text of Section 1252-B and the legislative history thereof, the Court concluded that the Section “does not limit the receipt of coroner records to nongovernmental agencies seeking records for the purpose of investigating insurance claims or determining liability for the death of a decedent.” As a result, the Court ordered production of the autopsy and toxicology records in that case upon payment of the fees set forth in Section 1252-B of the Act.

Consistent with the above, the responsive Report, as a coroner’s report, is thus available through the RTKL for the fees set forth in Section 1252-B of the Act. *See Keel v. Dauphin Cnty.*, OOR Dkt. AP 2022-2385, 2022 PA O.O.R.D. LEXIS 2535.

With respect to any responsive communications related to Mr. Morgan other than the Report, the County states that “[a]ny communication records that do exist would have been created pursuant to the statutorily authorized investigation of Mr. Morgan’s death. They are therefore part of the noncriminal investigation and exempt from public disclosure.” On appeal, the Requester acknowledges that various correspondence was exchanged during the time period in which the Coroner “was in control of [Mr. Morgan’s] remains.” Moreover, the Requester does not challenge the presence of a noncriminal investigation in this instance. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal filing when construing exemptions); *see also Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2015) (*en banc*) (holding that an affidavit may be unnecessary when an exemption is clear from the face of the record). Therefore, under the circumstances of this case, the County has met its burden of proving that any other responsive



records related to Mr. Morgan would be exempt from disclosure under Section 708(b)(17). 65 P.S. § 67.708(a); *see also Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only meet its burden by a preponderance of the evidence, the lowest evidentiary standard, which is tantamount to a “more likely than not” inquiry), *appeal partially granted*, 280 A.3d 870 (Pa. 2022). Unlike the Report, the communications are not available for a fee under the Act.

### CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the County is required produce a copy of the Report under 16 P.S. § 1252-B, upon receipt of the fees as set forth in that Section. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Chester County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>5</sup> This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: July 17, 2023**

/s/ Magdalene C. Zeppos-Brown  
MAGDALENE C. ZEPPOS-BROWN, ESQ.  
DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Stacey Morgan; Lauren Remaley, AORO; and Colleen Frens, Esq.

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<sup>5</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



**FINAL DETERMINATION**

**IN THE MATTER OF**

**JACK PANYARD AND  
LANCASTERONLINE - LNP,  
Requester**

**v.**

**LANCASTER COUNTY,  
Respondent**

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**Docket No: AP 2023-2662**

**FACTUAL BACKGROUND**

On October 23, 2023, Jack Panyard and LancasterOnline - LNP (collectively “Requester”) submitted a request (“Request”) to Lancaster County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[T]he name of the 3-year-old who died of a gunshot wound to the head at 8:07 pm [on] [October] 20, 2023 at [address omitted] from the [C]ounty [C]oroner’s office.

On October 30, 2023, the County denied the Request, arguing that the Request was not sufficiently specific, 65 P.S. § 67.703, would identify the name of a minor, 65 P.S. § 67.708(b)(30), sought records relating to a criminal investigation, 65 P.S. § 67.708(b)(16)(ii), and sought records relating to a noncriminal investigation, 65 P.S. § 67.708(b)(17).

On November 3, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. Specifically, the Requester argues that the name, cause and manner of death are subject to release without consideration of age. The Requester further argues that the County is acting in bad faith. The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On November 16, 2023, the County submitted a position statement, reiterating its claims. Additionally, the County argues the Request does not identify records, but instead, asks a question requiring an answer and responsive records do not exist. In further support of its position, the County submitted an attestation made subject to the penalties of 28 U.S.C. § 1756, authored by Stephen Diamantoni, M.D. (“Diamantoni Attestation”), the County Coroner. At the request of the OOR, a second attestation that was also made subject to the penalties of 28 U.S.C. § 1756, and authored by Stephen Diamantoni, M.D. (“Diamantoni Supplemental Attestation”), was submitted on November 29, 2023.

### **LEGAL ANALYSIS**

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation*

*Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

**1. The Request is a request for records under the RTKL**

The County initially and unreasonably argues that the Request seeks an answer to a question rather than records. In order to comply with the requirements of Section 703 of the RTKL, a request must seek records, rather than answers to questions. 65 P.S. § 67.703; *see also Walker v. Pa. Ins. Dep’t*, No. 1485 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 425 at \*16 (Pa. Commw. Ct. 2012) (“The RTKL is not a forum for the public to demand answers to specifically posed questions to either a Commonwealth or local agency. In fact, there is no provision in the RTKL that requires an agency to respond to questions posed in a request”); *Gingrich v. Pa. Game Comm’n*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 at \*14 (Pa. Commw. Ct. 2012) (noting that the portion of a request “set forth as a question” did not “trigger a response”). The RTKL defines a “record” as “[i]nformation, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency.” 65 P.S. § 67.102.

In *Gingrich, supra*, the Commonwealth Court held, among other things, that requests for specific pieces of information constitute requests for records under the RTKL. *Id.* at \*13. (“[H]ow [can] any request that seeks information ... not [be] one that seeks records[?]”). Here, the Request seeks the “name” of a minor who died on a specific date. The OOR has previously found that a request for the name or identity of an individual is a request for a record under the RTKL. *See Bartholomew v. West Manchester Twp.*, OOR Dkt. AP 2020-0777, 2020 PA O.O.R.D. LEXIS 975 (finding that a request seeking the name of the individual that has procurement authority seeks a

record under the RTKL); *Eiland v. Dauphin County*, OOR Dkt. AP 2020-0293, 2020 PA O.O.R.D. LEXIS 718 (finding that a request seeking the names of officers who signed out or observed the return of an inmate to implicitly seek a record showing the information sought); *Melchiondo v. Pa. Game Comm'n*, OOR Dkt. AP 2016-2081, 2017 PA O.O.R.D. LEXIS 90 (finding a request seeking the names and addresses of property owners who have a license to hunt on their own properties is a request for records). Accordingly, the request for the name of an individual clearly seeks “information” and therefore, constitutes a valid request for a record under the RTKL.

**2. The County has not demonstrated that a responsive record does not exist in its possession, custody or control**

The County argues that a responsive record sought by the Request, i.e. the name of the minor, did not exist at the time of the Request. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020). An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency’s records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of its position, the Diamantoni Attestation indicates, in relevant part, the following:

2. In my capacity as the Coroner, I am familiar with the County's past and current practices regarding the release of documents in response to [RTKL] [r]equests such as the one at issue in this matter.

3. In my capacity as the Coroner, I am aware of the various types of investigations and reports completed by the [County] Coroner's Office [("Office")], as well as the Office's record retention policies.

4. The Coroner's Office is tasked with providing medical examinations and other investigations into the cause of death of an individual and then preparing reports on those examinations and investigations.

...

10. Since February 2022, the [County] Coroner's office policy on providing autopsy reports has been to provide autopsy reports to next of kin, or authorized representatives of next of kin, insurance companies and law enforcement agencies.

11. The [County] Coroner's Office conducted an investigation into the cause of death of a three-year old minor child[,] which occurred on approximately October 20, 2023.

...

13. Based upon the [R]equest provided, I was unable to determine what report, and therefore, what fee was to be assessed.

14. At the time of the October 23, 2023 [R]equest, the [County] [Office's] investigation in to the cause of death of this minor had not yet been completed and there were no responsive records to the [R]equest.

In further support of the County's, the Diamantoni Supplemental Attestation indicates the following:

15. At the time of the October 23, 2023 [R]equest, the [County] [Office] did not have any records that contained the requested information.

Under the RTKL, an affidavit or statement made under penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa.

Commw. Ct. 2011); *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). However, the OOR is not required to accept statements made in an affidavit or an attestation as the truth when there are countervailing factors to consider; indeed, “experienced OOR appeals officers” necessarily possess the “competency to assess the adequacy and probity of an agency affiant's characterization of the record or the credibility of its effects assessment.” *ACLU of Pa. v. Pa. State Police*, 232 A.3d 654 (Pa. 2020).

The Diamantoni Supplemental Attestation states that the Coroner’s Office “did not have any records that contained the requested information” at the time of the Request. However, there are multiple reasons to question the credibility of this statement. First, the County has unreasonably argued that the Request asks a question, thus calling into question its interpretation of the Request. *See, e.g., Mack v. Dep’t of Corr.*, No. 699 C.D. 2022, 2023 Pa. Commw. Unpub. LEXIS 393 (Pa. Commw. Ct. 2023). The Diamantoni Attestation appears to set forth an interpretation that the Request was seeking a formal report, as opposed to *any* record containing the information. Although the Diamantoni Supplemental Attestation states that the Coroner’s Office did not have “any records,” there is reason to believe that the County is treating “record” as synonymous with a “report” based upon the Diamantoni Attestation. Finally, upon view of a body, a coroner is required to “investigate the facts and circumstances concerning a death” that “occur[s] as a result of violence or trauma,” 16 P.S. § 1218-B, and is specifically required to investigate the unexplained deaths of children not more than three (3) years old, 16 P.S. § 1220-B. It strains credulity to believe that the Coroner’s Office did not possess the name of the decedent, under these circumstances, prior to the submission of the Request. Notably, there is nothing in the record indicating that the decedent was unidentified during this timeframe. For these reasons, the

evidence submitted by the County does not prove that no responsive records existed at the time of the Request.<sup>1</sup>

Finally, the OOR would be remiss if it did not acknowledge the tragic and heartbreaking nature of this situation. However, as sad as this case is, the Legislature considered situations like this into when it declared that certain coroner records are public and are to be released. The name of the decedent is one such piece of information. Because the RTKL is clear that the name of a deceased individual is public, without consideration to the type of record the information may be contained within, 65 P.S. § 67.708(b)(20), the County is directed to provide the requested name.<sup>2</sup>

### **3. The OOR declines to make a finding of bad faith**

The Requester presents a claim concerning the County's actions in regard to the instant Request and appeal, as well as general concerns about the denial of what the Requester feels is a public record. While the OOR may make findings of bad faith, only the courts have the authority to impose sanctions on agencies. *See generally* 65 P.S. § 67.1304(a). Under the RTKL, a finding of bad faith is appropriate where an agency refuses to comply with its statutory duties under the RTKL. *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 243 A.3d 19, 28-29 (Pa. 2020); *California Univ. of Pa. v. Bradshaw*, 210 A.3d 1134 (Pa. Commw. Unpub. 2021) *appeal denied* 2019 PA LEXIS (Pa. 2019); *Office of the Dist. Atty. of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017).

In the instant matter, we respectfully decline to make a finding of bad faith. This is not to say that we are finding that the County has acted in good faith; instead, we defer to the judgment

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<sup>1</sup> Notwithstanding the above, we note the County had the option to simply provide the information at any time during the appeal.

<sup>2</sup> To the extent that the County argues that the name of a deceased minor is exempt under 65 P.S. § 67.708(b)(30), we note that such an interpretation is inconsistent with the Coroner's Act, which mandates disclosure of coroner records without consideration of the decedent's age.



of a reviewing court in this instance to determine whether the facts before us, or after further development of the record, warrant a finding of bad faith. We note that the County engaged in a timely response to the Request, provided a detailed final response and fully participated on appeal, and a finding of bad faith is typically reserved only for an egregious or blatant violation of the RTKL.

### CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the County is required to provide the requested information within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Lancaster County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL; however, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>3</sup> 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: December 4, 2023**

*/s/ Bandy L. Jarosz*

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BANDY L. JAROSZ, ESQ.  
APPEALS OFFICER

Sent to: Jack Panyard (via portal only)  
Jacquelyn E. Pfursich, Esq. (via portal only)  
Tammy Bender (via portal only)

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<sup>3</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).



**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:
	:
<b>JACK PANYARD AND</b>	:
<b>LANCASTERONLINE - LNP,</b>	:
<b>Requester</b>	:
	:
<b>v.</b>	:
	:
<b>LANCASTER COUNTY,</b>	:
<b>Respondent</b>	:

**Docket No: AP 2024-0181**

**FACTUAL BACKGROUND**

On December 27, 2023, Jack Panyard and LancasterOnline - LNP (collectively “Requester”) submitted a request (“Request”) to Lancaster County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[T]he name of the 11-year-old girl who died in a car crash on the 6000 block of Old Philadelphia Pike in Salisbury Township at 10:42 p.m., Dec[ember] 24, 2023 from the Lancaster County Coroner’s Office.

On January 10, 2024, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the County denied the Request, arguing that the requested records are exempt from public access because they would identify the name of a minor, 65 P.S. § 67.708(b)(30), and are related to a noncriminal investigation, 65 P.S. § 67.708(b)(17). The County also stated that to the

extent the Request seeks the disclosure of information and not records, the Request is moot because the requested information is already publicly available.<sup>1</sup>

On January 16, 2024, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. Specifically, the Requester argues that the name, cause and manner of death are subject to release without consideration of age. The Requester also argues that the County is acting in bad faith. The OOR invited both parties to supplement the record and directed the County to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On January 26, 2024, the County submitted a position statement, reiterating its reasons for denial, while also arguing that the Coroner’s Act does not make the investigative file of the Coroner subject to public disclosure under the RTKL, and that the County has not acted in bad faith. In support of its position, the County submitted an exemption log identifying six withheld records,<sup>2</sup> as well as the attestation of Stephen Diamantoni, M.D., the County Coroner.<sup>3</sup>

### LEGAL ANALYSIS

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence

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<sup>1</sup> To the extent the County maintains its argument on appeal, the OOR finds that as the Request seeks the name of an individual, it clearly seeks a record under the RTKL. *See* 65 P.S. § 67.102 (defining a “record”); *Bartholomew v. West Manchester Twp.*, OOR Dkt. AP 2020-0777, 2020 PA O.O.R.D. LEXIS 718 (a request for a name is a request for a record under the RTKL). Further, as the County has not provided the Requester with any responsive records, this matter cannot be considered moot. *See Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019) (holding that an appeal is properly dismissed as moot where no controversy remains).

<sup>2</sup> The County’s position statement and the Diamantoni Attestation both state that a total of eight records were withheld; however, the exemption log consists of six identified records.

<sup>3</sup> The attestation was made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

The County has identified six responsive records that it argues are exempt from public disclosure as records relating to a noncriminal investigation. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[i]nvestigative materials, notes, correspondence and reports.” 65 P.S. § 67.708(b)(17)(ii). Section 1218 of the Coroner’s Act (“Act”) provides that a county coroner, “shall investigate the facts and circumstances concerning a death that appears to have happened within the county....” 16 P.S. § 1218-B; *see also* 16 P.S. § 1219-B. The OOR has previously found that this statutory authority grants coroners the ability to conduct noncriminal investigations. *See Walbert v. Chester Cnty.*, OOR Dkt. AP 2021-1308, 2021 PA O.O.R.D. LEXIS 1367 (finding that “communications within the office and with the police constitute records related to a noncriminal investigation authorized by the ... Act”). In support of the County’s position, the Diamantoni Attestation and the County’s exemption log identify the withheld records as handwritten internal notes of the Coroner regarding the investigation, text messages between the Chief Deputy Coroner and the Coroner, as well as between the pathologist and Chief Deputy Coroner, an email between Deputy Coroners, and case management system entries. *See Diamantoni Attestation*, ¶¶ 6-7.

While Section 1252-B of the Act provides that autopsy, toxicology, inquisition and coroner’s reports are available upon payment of fees, Dr. Diamantoni attests that no official reports

existed at the time of the Request. *See* 16 P.S. § 1252-B; Diamantoni Attestation, ¶ 5. Rather, records possessed by the County Coroner include communications and notes that are related to the County Coroner’s investigation into the cause and manner of death of the child who is the subject of the Request. The Act does not provide for access to communications and investigative notes. *See Morgan v. Chester Cnty.*, OOR Dkt. AP 2023-1105, 2023 PA O.O.R.D. 1572 (communications are not available for a fee under the Act). Therefore, internal investigation notes and communications need not be provided under Section 708(b)(17) of the RTKL.<sup>4</sup> 65 P.S. § 67.708(a)(1); *see also Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only meet its burden by a preponderance of the evidence, the lowest evidentiary standard, which is tantamount to a “more likely than not” inquiry), *appeal partially granted*, 280 A.3d 870 (Pa. 2022).

However, the Request does not actually seek the above-referenced records, but instead seeks a specific piece of information, a name. The RTKL contemplates that a coroner will report “the name of the deceased individual,” no matter where that piece of information is ultimately contained. 65 P.S. § 67.708(b)(20). In a similar case, the OOR held that “the name of a deceased individual is public, without consideration to the type of record the information may be contained within.” *Panyard and LancasterOnline – LNP v. Lancaster Cnty.*, OOR Dkt. AP 2023-2662, 2023 PA O.O.R.D. LEXIS 2836. Otherwise, a coroner can simply withhold a name, without any time limitations, due to its relationship to the coroner’s noncriminal investigation and its inclusion within investigative records.

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<sup>4</sup> The Requester seeks a finding of bad faith, asserting that the County withheld records that the Requester believes are public. Under the RTKL, a finding of bad faith is appropriate where an agency refuses to comply with its statutory duties under the RTKL. *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 243 A.3d 19, 28-29 (Pa. 2020); *California Univ. of Pa. v. Bradshaw*, 210 A.3d 1134 (Pa. Commw. Unpub. 2021) *appeal denied* 2019 PA LEXIS (Pa. 2019); *Office of the Dist. Atty. of Phila. v. Bagwell*, 155 A.3d 1119 (Pa. Commw. Ct. 2017). In this matter, the County identified records and timely responded to the Request. While the OOR is partially granting the appeal, the OOR declines to make a finding of bad faith.

## CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the County is directed to provide the requested name. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Lancaster County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>5</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: February 12, 2024**

*/s/ Kathleen A. Higgins*

KATHLEEN A. HIGGINS  
DEPUTY CHIEF COUNSEL

Sent via OOR portal to: Jack Panyard;  
Kevin J. McKeon, Esq.;  
Tammy L. Bender, AORO

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<sup>5</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA  
CIVIL ACTION

COUNTY OF LANCASTER,	:	
Petitioner,	:	No. CI-18-09547
	:	LEAD CASE
v.	:	
	:	PETITION FOR REVIEW PURSUANT TO
CARTER WALKER and LNP MEDIA	:	THE PENNSYLVANIA RIGHT TO
GROUP,	:	KNOW LAW
Respondents.	:	
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COUNTY OF LANCASTER,	:	Consolidated Case
Petitioner,	:	
v.	:	PETITION FOR REVIEW PURSUANT TO
	:	THE PENNSYLVANIA RIGHT TO
	:	KNOW LAW
BARBARA MILLER and PENNLIVE	:	
GROUP,	:	
Respondents.	:	
<hr/>		
PA MEDIA GROUP	:	
and	:	
LNP MEDIA GROUP, INC.,	:	Consolidated Case
Plaintiffs,	:	
v.	:	CIVIL ACTION—MANDAMUS
STEPHEN DIAMANTONI	:	
CORONER,	:	
Defendant.	:	
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**OPINION**

This case is before the court on the motions for judgment on the pleadings filed in the above-captioned mandamus action, which was consolidated with appeals from the decision of the Pennsylvania Office of Open Records involving requests by plaintiffs PA Media Group and LNP Media Group for autopsy reports and toxicology records. Plaintiffs ask in their mandamus action for this court to order Defendant, Stephen Diamantoni, the Coroner for Lancaster County



(“Coroner”), to deposit all of his official records and papers with the Lancaster County Prothonotary for each and every calendar year in which he has occupied the office of Coroner. For the reasons explained below the mandamus will be granted and the right-to-know appeals will be dismissed as moot.

## **I. PROCEDURAL BACKGROUND**

These actions began when Barbara Miller, a reporter with PennLive, and Carter Walker, a reporter with LNP Media Group, sought to gain access to the Coroner’s autopsy and toxicology reports. They filed separate requests under the Right to Know Law, 65 P.S. § 67.101 et seq. (“RTKL”), seeking access to these records. The Coroner denied access to these records, relying on exclusions contained in the Coroner’s Act, 16 P.S. § 1201-B et seq. The denials were timely appealed to the Office of Open Records (“OOR”) which entered an order on March 26, 2018, directing production of the requested records.

The Coroner filed petitions for review of the OOR’s decisions, on April 4, 2018, and November 2, 2018. The two OOR petitions were consolidated. At a status conference on November 6, 2018, the parties agreed that the OOR appeals would be stayed and that PennLive and LNP Media would file a mandamus action to address their request for records. Plaintiffs, PA Media Group<sup>1</sup> and LNP Media Group, Inc. filed their mandamus complaint on January 7, 2019, and an amended complaint on April 17, 2019. The pleadings closed on May 24, 2019, after which the parties filed cross-motions for judgment on the pleadings. All parties agree that no factual disputes exist and that the court can decide the mandamus action as a matter of law. The

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<sup>1</sup> PA Media Group supports the online presence known as PennLive.



parties are joined in their positions by four amici curiae, two for plaintiffs and two for defendant.<sup>2</sup>

## II. FACTS

Defendant, Stephen Diamantoni is the elected coroner of Lancaster County and is a “coroner” as defined by the Coroner’s Act. 16 P.S. § 1202-B. Lancaster County is a county of the third class. Part of the duties of the Coroner, as required by the Coroner’s Act, is to perform autopsies and related medical and legal investigations concerning the death of persons who die in Lancaster County and whose deaths were sudden, unexplained, and/or suspicious. During the course of performing these duties, the Coroner creates official papers, records, and reports including autopsy reports, toxicology reports, and related records regarding the deaths of persons in Lancaster County. The Coroner acknowledges that during his tenure he has performed these duties and created these reports.

Section 1236-B of the Coroner’s Act provides:

In counties of the third, fourth, fifth, sixth, seventh and eighth classes, every coroner, within 30 days after the end of each year, shall deposit all official records and papers for the preceding year in the Office of the Prothonotary for the inspection of all persons interested therein.<sup>3</sup>

16 P.S. § 1236-B (emphasis added). The Coroner annually deposits Coroner View Reports within 30 days after the end of each year, which state the cause of death, but has never deposited any other records with the Prothonotary.

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<sup>2</sup> Writing in support of plaintiffs are The News Media Alliance and Pennsylvania Newsmedia Association and the Reporters Committee for the Freedom of the Press. Writing in support of defendant are the Pennsylvania District Attorneys Association and the Pennsylvania State Coroner’s Association.

<sup>3</sup> The Coroner’s Act was amended to add § 1236-B in place of § 1251, effective December 28, 2018. Prior to the December 28, 2018, amendments, § 1251 provided, “Every coroner, within thirty (30) days after the end of each year, shall deposit all of his official records and papers for the preceding year in the office of the prothonotary for the inspection of all persons interested therein.”

Plaintiffs, PA Media Group and LNP Media Group are print and digital news organizations and the publishers of the Patriot News and the LNP newspaper respectively. In 2018 and 2019, reporters for both plaintiffs have gone to the Lancaster County Prothonotary's Office and requested to see the official records and papers for the preceding year filed by the Coroner pursuant to Section 1236-B of the Coroner's Act.<sup>4</sup> The only records that have been filed are the view reports mentioned above.

### **III. DISCUSSION**

The parties agree that the issue the court must resolve is whether the provisions of the Coroner's Act set forth a non-discretionary, statutory duty on the part of the Coroner to deposit with the Prothonotary his official records and papers including autopsy reports, toxicology reports, and related reports. Plaintiffs argue it does. The Coroner raises three direct objections in response: (1) the disclosure of "private and confidential medical and psychiatric data in autopsy reports" is in contravention of the recently enacted Case Records Public Access Policy of the Unified Judicial System, 204 Pa. Code § 213.81, Section 1.0(K); (2) plaintiffs, as media entities, are not appropriate recipients of such information; and (3) such disclosure would violate statutory and constitutional privacy guarantees and contravene public policy. The court will review each of the Coroner's objections to disclosure in the order raised.

At the outset, it is important to recognize that the Pennsylvania Supreme Court has spoken clearly on the duties of a coroner under the Coroner's Act prior to its amendment in December 2018. Though the Coroner's Act has been amended, the observations and holdings of the Supreme Court in Penn Jersey Advance, Inc. v. Grim, 962 A.2d 632 (Pa. 2009), remain

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<sup>4</sup> Prior to December 28, 2018, plaintiffs would have needed to request to see the records pursuant to Section 1251.



binding on this court. Similar to the present case, in Penn Jersey, newspapers filed a mandamus action seeking to compel the Lehigh County Coroner to deposit all of his official records and papers, including an autopsy report, related to the death of a police officer. The Supreme Court squarely addressed Section 1251, the predecessor of Section 1236-B,<sup>5</sup> to determine whether to grant the mandamus.

The Supreme Court held that autopsy reports are official records and accordingly must be deposited with the Prothonotary as directed by statute. Neither party here argues that the reports are not official, but the Pennsylvania State Coroner's Associations posits that a different statute, 16 P.S. §405, would allow the prothonotary and the coroner to agree that the records be kept at the coroner's office instead. State Coroner Br. 8. But, 16 P.S. §405, deals with the storage of county records, and gives county commissioners (not prothonotaries) the power to contract with other persons for storage/retrieval/transmission of county records. Section 405 does not mention the coroner at all and the court finds this argument unpersuasive. The question has been answered: the duty to deposit the records is not discretionary but is obligatory. The Supreme Court went further in its holding, though, and explained:

In reaching this holding, we have not ignored the concern . . . that, if autopsy reports are defined as "official records," the public may be able to gain access to material such as potentially privileged information, related to the decedent's medical history and graphic photographs taken during the autopsy. . . . [W]e note that [this] concern, while certainly legitimate, does not justify reclassifying autopsy reports from "official" records to "unofficial" ones. As we noted in *Buchanan*, trial courts are adequately equipped and authorized to protect autopsy reports from disclosure based on "judicial discretion and necessity" under appropriate circumstances. This inherent power provides trial courts with the means to limit public access to autopsy reports (or portions thereof) based on privacy or privilege concerns where warranted. For example, if graphic photographs or items of

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<sup>5</sup> Section 1251 and Section 1236-B contain identical language, except that Section 1236-B limits the disclosure to counties of the third, fourth, fifth, sixth, seventh, and eighth classes.

information subject to a claim of privilege are included as part of an autopsy report, anyone seeking to protect an interest in such material, and having standing to do so, can seek appropriate relief from the trial court.

Penn Jersey, 962 A.2d at 636 (citations and quotations omitted). See also Hearst Television, Inc. v. Norris, 54 A.3d 23, 32 (Pa. 2012) (“Section 1236.1(c) [now Section 1236-B] allows the coroner to charge fees for records, but does not afford the coroner any discretion with regard to releasing such records.”). The Coroner argues that since Penn Jersey was decided, various new regulations and case law call into question the mandatory duty of the Coroner.

The Coroner cites to no case law directly supporting his position that he is prohibited from depositing the records identified by Section 1236-B. Instead, the Coroner’s real focus is on the phrase “for the inspection of all persons interested therein.” The Coroner seeks to control who inspects the records after they are deposited with the Prothonotary. However, what happens after the Coroner fulfils his statutory duty by depositing the records is not within the statutory purview of the Coroner. Moreover, the Coroner has no standing to assert potential rights of parties who are not presently before the court.

#### **A. The Unified Judicial System’s Public Access Policy**

On January 6, 2018, in an effort to safeguard private information, the Supreme Court of Pennsylvania implemented the Case Records Public Access Policy of the United Judicial System of Pennsylvania, 204 Pa. Code § 213.81 (“Public Access Policy”). This policy is not a creature of the legislative branch but was promulgated by the Supreme Court which also decided Penn Jersey, holding that a coroner’s autopsy reports are official records that must be deposited with



the Prothonotary.<sup>6</sup> While the other arguments of the Coroner were directly addressed by Penn Jersey, the Public Access Policy was not in effect when Penn Jersey was decided.

The Public Access Policy, as evidenced by its title, applies to public access to “case records.” Case records are defined as:

(1) documents for any case filed with, accepted and maintained by a court or custodian; (2) dockets, indices, and documents (such as orders, opinions, judgments, decrees) for any case created and maintained by a court or custodian. This term does not include notes, memoranda, correspondence, drafts, worksheets, and work product of judges and court personnel. Unless otherwise provided in this policy, this definition applies equally to case records maintained in paper and electronic formats.

204 Pa. Code § 213.81, Section 1.0(B). The Coroner’s records are simply not “case records” according to this definition. Nor are they filed “for any case” as there would be no civil case maintained by the Prothonotary related to any such filing—they instead are deposited in the Prothonotary’s office by statutory mandate.

Though the Supreme Court would be well aware of its case law in which it held that the records of a coroner are public and must be deposited each year with the Prothonotary, nowhere in the Public Access Policy does the Supreme Court reference reports of coroners. Perhaps most illuminating on this issue is the absence of any mention of records sought by plaintiffs in the Public Access Policy’s list of records where public access is limited, which relies on case law and statutory law and which was compiled by the Administrative Office of the Pennsylvania Courts. The list was updated as recently as August 16, 2019. See 49 Pa.B. 4544.

As explained in Section III.C below, while privacy and public-policy concerns are legitimate and important, the Supreme Court has recognized the ability of the trial courts to

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<sup>6</sup> See Pa. Const. Art. V § 10(c) (“The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts . . .”); 42 Pa.C.S.A. § 1702.

protect such interests “under appropriate circumstances” when a party has standing to assert such a privilege or concern. The Supreme Court, though having had the opportunity to specifically address reports of coroners in the Public Access Policy and its 2018 amendments, has chosen not to do so, nor has it addressed coroner records in recently proposed amendments. See 2019 PA Reg. Text 527046.

**B. Coroner’s Act’s Definition of “All Persons Interested Therein”**

The Coroner asserts that the phrase “for the inspection of all persons interested therein,” contained in Section 1236-B of the Coroner’s Act, excludes news organizations like plaintiffs.

Furthermore, the phrase “for the inspection of all persons interested therein” raised no concerns with the Supreme Court in Penn Jersey and this court sees no reason to prohibit disclosure based upon it. Media parties in Penn Jersey similar to those in the present case were seeking disclosure and a coroner was refusing to provide records. There is certainly a legitimate interest, as asserted by plaintiffs, in reviewing records to determine the effect of opioids on deaths in Lancaster County.

The parties agree that in order to view the Coroner’s records deposited with the Prothonotary, a person would need an “interest” in the records, but disagree on what is meant by “interest.” While the Supreme Court in Penn Jersey did not specifically address what is meant by “interested,” it did state that trial courts are able to restrict “public access” to a coroner’s records where warranted. Penn Jersey, 962 A.3d at 637. Clearly, the Supreme Court interpreted “persons interested” to refer to any persons who would like to view the records, rather than the Coroner’s more narrow reading as “a specific segment of the population benefitting from the action of the coroner.” Coroner br. 6. Plaintiffs agree that there may exist exceptions to the disclosure of certain records, but such exceptions are best dealt with on a case-by-case basis.



The case-by-case approach is one directed by the Pennsylvania Supreme Court. See Penn Jersey, 962 A.3d at 636.

### **C. Statutory and Constitutional Privacy Guarantees and Public Policy**

The Coroner and his amici contend that various constitutional and statutory privacy protections prohibit the Coroner from complying with his statutory duty under the Coroner's Act, and public policy also prohibits him from fulfilling this obligation. For the Coroner's constitutional defense, he relies on Pa. State Educ. Ass'n v. Dep't of Cmty. & Econ. Dev., 148 A.3d 142 (Pa. 2016) (hereinafter "PSEA"). The Coroner then asserts that along with the Public Access Policy discussed above, the Vital Statistics Act prohibits disclosure; and finally argues that it is against public policy to deposit the records.

The PSEA case involved a request for injunctive relief to prevent the release of home addresses of public-school employees, and a declaration that the home addresses of public-school employees are exempt from public access. The Pennsylvania Supreme Court described the case as involving "an examination of the scope of the 'personal security' exception to disclosure under the Right to Know Law" and reiterated that "certain types of information, including home addresses, implicated the right to privacy under Article 1, Section 1 of the Pennsylvania Constitution and thus required a balancing to determine whether the right to privacy outweighs the public's interest in dissemination." PSEA, 148 A.3d at 144. The Court reaffirmed this analysis when considering privacy rights and public disclosure. See id.

However, there is no case law to support the proposition that any constitutional or common-law rights to privacy apply to the dead, or even if they did, that a party presently before the court has standing to assert such rights. Under the Restatement (Second) of Torts § 652I:

The right protected by the action for invasion of privacy is a personal right, peculiar to the individual whose privacy is invaded. The cause of action is not assignable, and it cannot be maintained by other persons such as members of the individual's family, unless their own privacy is invaded along with his.

Restatement (Second) of Torts § 652I(a). Furthermore, the right to privacy under the Pennsylvania Constitution is a “personal right.”<sup>7</sup> PSEA, 148 A.3d at 161 (Wecht, J., concurring) (“We have recognized that the personal right to privacy emanating from Article 1, Section 1 protects one's home address or other personal information from being disclosed by state actors unless the public interest in the dissemination of that information outweighs the potential invasion of any privacy interest.”); see also Clayman v. Bernstein, 38 Pa. D. & C. 543, 548 (C.P. Phila. 1955) (quoting 1 Cooley on Torts (4<sup>th</sup> ed.) 449, § 135) (“It may be conceded that [the right to privacy] is a personal right and ‘One has no right of privacy with respect to his relatives, living or dead.’”).

Next, the Coroner contends that an example of records not available to the public is information gathered under the Vital Statistics Law, 35 P.S. § 450.101 et seq. Relying on the definition of “vital statistics” as including a “compilation” of data, the Coroner concludes that a coroner’s records are vital statistics and thus prohibited from production. However, as explained by the Coroner’s amicus curiae, Pennsylvania State Coroner’s Association, “the autopsy is the external and internal examination of the deceased . . . .” State Coroner Br. 9. Despite the assertions of the Coroner, an autopsy is not a “compilation” governed by the Vital Statistics Act. Moreover, the Vital Statistics Act’s prohibition of the disclosure of records is limited to records

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<sup>7</sup> “In the absence of statute, the action for the invasion of privacy cannot be maintained after the death of the individual whose privacy is invaded.” Restatement (Second) of Torts § 652I(b).



of the Department of Health and records “created under” the Vital Statistics Act. 35 P.S. § 450.801. The Vital Statistics Act mandates only that when a case has been referred to a coroner, the coroner “shall make an immediate investigation and shall supply the necessary data, including the medical certification of the death.” 35 P.S. § 450.503. As the records sought by plaintiffs were not “created under” the Vital Statistics Act or held by the Department of Health, the disclosure of these records is not prohibited under the Vital Statistics Act.

The Coroner also contends that the language in the Vital Statistics Act<sup>8</sup> should inform this court’s interpretation of the “persons interested therein” under the Coroner’s Act. The court is not persuaded by this argument.<sup>9</sup> The Coroner’s Act does not make the Coroner the guardian of distribution of the records he maintains as an elected official. Instead, the legislature, rightly or wrongly, has directed the Coroner to deposit all official records and papers for the preceding year in the Office of the Prothonotary. Once the Coroner deposits such records they are “for the inspection of all persons interested therein.” Should any controversy arise as to disclosure once the Coroner deposits the records, the trial courts are the ones equipped and authorized to:

protect autopsy reports from disclosure based on “judicial discretion and necessity” under appropriate circumstances. This inherent power provides trial courts with the means to limit public access to autopsy reports (or portions thereof) based on privacy or privilege concerns where warranted. For example, if graphic photographs or items of information subject to a claim of privilege are included as part of an autopsy report, anyone seeking to protect an interest in such material, and having standing to do so, can seek appropriate relief from the trial court.

Penn Jersey, 962 A.2d at 636 (emphasis added) (quoting Commonwealth ex rel. Dist. Attorney, 800 A.2d 568, 575 (Pa. 2005)). The standing mentioned by the Supreme Court may also

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<sup>8</sup> The Vital Statistics Act provides that vital statistics records should only be disclosed where it is found that the applicant “has a direct interest in the content of the record and that the information contained therein is necessary for the determination of personal or property rights.” 35 P.S. § 450.804.

<sup>9</sup> See Section III.B above for a more in-depth discussion of “persons interested therein.”

manifest where information is gathered in criminal investigations and governed by the Criminal History Records Information Act, 18 Pa.C.S.A. § 9101 et seq., but the challenge would need to be asserted by the Office of the District Attorney on a case-by-case basis, not as the blanket prohibition sought by the Coroner here.

The Coroner and his amici also make an overarching public-policy argument, though not specifically articulated, that the legislature is wrong and its mandate on coroners to deposit records is misguided. This argument is one better taken up with the legislature, which amended the Coroner's Act less than one year ago. It is not the role of the court to substitute its judgment for that of the legislature. The legislature is presumed to know about the current body of case law. Furthermore, "it is well-settled that if the legislature in a later statute uses the same language used in a prior statute which has been construed by the courts, there is a presumption that the repeated language is to be interpreted in the same manner as such language had previously interpreted when the court construed the earlier statute." PSEA, 148 A.3d at 157; see also 1 Pa.C.S.A. § 1922(4). This court must construe the December 2018 statutory amendments to the Coroner's Act as consistent with previous court interpretations and with the Pennsylvania Constitution, and must presume that the legislature did not intend to violate the Constitution of this Commonwealth when enacting them. 1 Pa.C.S.A. § 1922(3).

Despite the conclusion of this court that the Coroner is obligated to deposit his records with the Prothonotary as directed by statute, the current statutory scheme does create procedural due process concerns. Section 1236-B of the Coroner's Act provides a 30-day delay between the end of the prior year and when the Coroner must deposit his records. As plaintiffs point out, this is adequate time for an interested party to raise an issue with the court regarding the availability of the records. Left unaddressed by plaintiffs, though, is how a citizen is expected to know that



the intrusive reports of the Coroner, created as a result of the death of a loved one, are mandated by law to be deposited with the Prothonotary, and that an interested party may petition the court to seal or otherwise restrict from access certain information. The Court in PSEA noted an “almost complete lack of procedural due process for individuals whose personal information is subject to disclosure.” PSEA, 148 A.3d at 158. While the individual whose information is subject to disclosure under the Coroner’s Act is deceased, there still may be rights that a third party could raise, though the court expresses no opinion on this here.<sup>10</sup> While such privacy and public policy concerns are legitimate and important, the Supreme Court has recognized the ability of the trial courts to protect such interests “under appropriate circumstances” when a party has standing to assert such a privilege or concern. The Coroner does not have standing to assert the potential privacy concerns of a past or future decedent or that of his or her family. “[A]nyone seeking to protect an interest in such material, and having standing to do so, can seek appropriate relief from the trial court.” Penn Jersey, 962 A.2d at 637. This is not the situation in the current case—no third parties with potentially enforceable rights are before the court.

An appropriate order follows.

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<sup>10</sup> It is also unclear at what point a district attorney’s office is to seek a protective order where public access to a coroner’s autopsy report might harm an ongoing criminal investigation.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA  
CIVIL ACTION

COUNTY OF LANCASTER,	:	
Petitioner,	:	No. CI-18-09547
	:	LEAD CASE
v.	:	
	:	PETITION FOR REVIEW PURSUANT TO
CARTER WALKER and LNP MEDIA	:	THE PENNSYLVANIA RIGHT TO
GROUP,	:	KNOW LAW
Respondents.	:	
<hr/>		
COUNTY OF LANCASTER,	:	Consolidated Case
Petitioner,	:	
v.	:	PETITION FOR REVIEW PURSUANT TO
	:	THE PENNSYLVANIA RIGHT TO
	:	KNOW LAW
BARBARA MILLER and PENNLIVE	:	
GROUP,	:	
Respondents.	:	
<hr/>		
PA MEDIA GROUP	:	
and	:	
LNP MEDIA GROUP, INC.,	:	Consolidated Case
Plaintiffs,	:	
v.	:	CIVIL ACTION—MANDAMUS
	:	
STEPHEN DIAMANTONI,	:	
CORONER,	:	
Defendant.	:	
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**ORDER**

AND NOW, this 23<sup>rd</sup> day of August 2019, upon consideration of the record and the parties' written submissions, it is hereby ORDERED and DECREED:

1. The request for mandamus filed by PA Media Group and LNP Media Group, Inc. is GRANTED.
2. The Coroner of Lancaster County is ORDERD to:

- a. deposit all of his official records and papers for each and every calendar year in which he has occupied the office of coroner with the Lancaster County Prothonotary within sixty (60) days from the date of this order;
  - b. on or before January 30 of the year following each calendar year he remains in office deposit his official records and papers as required by 16 P.S. § 1236-B; and
  - c. the records and papers deposited shall include autopsy reports, toxicology reports, inquests and other related documents pertaining to the actions completed by the Coroner's office as set forth under the Coroner's Act.
3. The petitions for review filed on April 25, 2018, and November 2, 2018, are DISMISSED as moot.

BY THE COURT:



LEONARD G. BROWN, III, JUDGE



ATTEST:

  
Deputy

Copies to: Craig J. Staudenmaier, Esquire *ESERVED*  
✓ Christina L. Hausner, Esquire  
✓ Susan M Shanaman, Esquire  
Heather F. Gallagher, Esquire *ESERVED*  
✓ Kurt Wimmer, Esquire  
✓ Melissa Bevan Melewsy, Esquire  
✓ Kyle Applegate, Esquire  
✓ *JOSEPH D. BONN, ESQ.*

# APPENDIX B

*LNP LancasterOnline Articles*

- Olivia M. Miller, *Coroner IDs Girl Killed by Horse*, LNP, July 3, 2024, at A9.
- Staff, *Boy Who Was Killed in Farm Accident Identified*, LNP, June 12, 2024, at A10.
- Jack Panyard, *Amish Boy Dies After Being Struck*, LNP, Aug. 29, 2023, at A3.
- Staff, *Coroner Identifies 5-Year-Old Who Died On Farm*, LNP, July 27, 2023, at A9.
- Ashley Stalnecker, *Boy, 4, Found Dead in Parked Vehicle*, LNP, Aug. 27, 2021, at A10.
- Staff, *Sunday's Fiery Fatal Tanker Truck Crash Ruled Accidental*, LNP, May 9, 2024, at A5.
- Staff, *Driver Who Died in Crash Friday Named*, LNP, Feb. 26, 2024, at A8.
- Jack Panyard, *Single-Vehicle Crash Claims County Man*, LNP, Feb. 22, 2024, at A3.
- Staff, *Smoke, Burns Killed Bainbridge Victim*, LNP, Jan. 23, 2024, at A1.
- Staff, *Coroner IDs Teen Killed in City Saturday*, LNP, Jan. 8, 2024, at A3.
- Jack Panyard, *Man Found Dead in Car in Cocalico Creek*, LNP, Dec. 13, 2023, at A5.
- Staff, *2 Found Dead Are ID'd*, LNP, Nov. 14, 2023, at A1.
- Staff, *Death of Man Found On Street Ruled Homicide*, LNP, Apr. 9, 2021, at A3



PA. LEGISLATURE

# House passes marriage bill

Measure would repeal state’s same-sex marriage ban, codify marriage equality

**ZACK HOOPES**  
PENNLIVE.COM

A bill that would repeal Pennsylvania’s same-sex marriage ban passed the state House of Representatives Tuesday on a bipartisan vote, with proponents saying the change was necessary to protect marriage equality if federal case law was overturned.

The measure passed 133-to-68 in Tuesday’s final vote, with all but one member of the Democratic majority and 32 Republicans in support. The bill now heads to the GOP-controlled state Senate.

The bill would eliminate a clause in state law that requires marriage to be “between one man and one woman,” and declaring that same-sex marriages from other jurisdictions will not be honored in Pennsylvania.

That statute is unenforceable, having been superseded by the U.S. Supreme Court’s 2015 decision in Obergefell v. Hodges, which rendered same-sex marriage bans unconstitutional.

Further, in 2022, Congress passed — and President Joe Biden signed — a law prohibiting states from refusing to recognize marriages from other states based on the sex, race, ethnicity, or national origin of the married couple.

The bill that passed the House on Tuesday would also change the legal definition of marriage to be “a civil contract between two individuals,” as opposed to



MATT ROURKE | AP FILE PHOTO

The Pennsylvania Capitol is seen, Feb. 6, in Harrisburg. A bill that would repeal Pennsylvania’s same-sex marriage ban passed the state House of Representatives Tuesday on a bipartisan vote, with proponents saying the change was necessary to protect marriage equality if federal case law was overturned.

an exclusively heterosexual arrangement.

Proponents argued that the change is necessary to ensure that — regardless of one’s personal feelings about same-sex relationships — Pennsylvania upholds the principle of equal legal protections.

What this bill is about is our laws reflecting established jurisprudence.

— state Rep. Malcolm Kenyatta, D-Philadelphia

“I don’t need your respect, I don’t need your acceptance, I don’t need you to understand my relationship or for it to line up with what is taught in

your particular faith,” said Rep. Malcolm Kenyatta, D-Philadelphia, who himself is in a same-sex marriage.

“What this bill is about is our laws accepting established jurisprudence,” said Kenyatta, the bill’s prime sponsor.

In pitching the idea earlier this year, Kenyatta had voiced concern over the recent suggestion by conservative U.S. Supreme Court Justice Clarence Thomas that — in light of the court’s ruling overturning federal abortion rights — the court should revisit similar rulings on contraception and the Obergefell same-sex marriage precedent.

If Obergefell were to be overturned, Pennsylvania would be one of about two dozen states that would revert to laws invalidating same-sex marriages performed in-state, accord-

ing to a Poynter Institute analysis.

“Throughout this commonwealth there are loving couples who are raising families together who don’t deserve to have their family torn apart because a court decision is overturned,” said Rep. Jessica Benham, D-Allegheny County.

Those who have opposed Kenyatta’s measure have said the state should have a specific interest in heterosexual marriage, although for differing reasons. During a committee meeting last month, Rep. Paul Schemel, R-Franklin County, argued that this was necessary to promote procreation and the raising of children by their biological parents.

Rep. Stephanie Borowicz, R-Clinton County, couched her opposition Tuesday in specifically religious terms, describing marriage as “a sacred covenant institution created by god between a man and a woman” and noting that Democratic leaders — such as Barack Obama and Joe Biden — had opposed same-sex marriage early in their careers.

Approval of same-sex marriages by the American public has risen steadily over nearly three decades, according to polling from Gallup, but did not exceed the 50% mark until 2011. Currently, around 70% of Americans believe same-sex couples should have the same marriage rights as others, according to polling averages.

FATALITY

## Coroner IDs girl killed by horse

Anna King, 9, of Salisbury Twp. was pulled through a field by a horse she was leading

**OLIVIA MILLER**  
OMILLER@LNPNEWS.COM

A 9-year-old Amish girl died after a horse pulled her down a road in Salisbury Township last week, according to the Lancaster County coroner.

Anna King, 9, of Salisbury Township, died June 25 after something spooked the horse she was leading, causing it to run, according to coroner Dr. Stephen Diamantoni. King was on foot, caught in the reins and pulled by the running horse.

Emergency crews responded to the 100 block of Snake Lane at 10:30 a.m. to help the girl.

The coroner’s office pronounced her dead at Lancaster General Hospital and determined her cause of death was multiple traumatic injuries, ruling it an accident.

State police responded to the scene and said King died after being pulled through a field.

King was the daughter of Ivan and Mary S. Lantz King

and attended the Old Order Amish Church, according to her obituary. She is survived by her parents, five brothers and three grandparents.

This is the second farm-related death covered by LNP | LancasterOnline this year. A 3-year-old Amish boy from Christiana was killed June 3 when he came in contact with ventilation machinery in a barn.

Lancaster County, the state’s leading agricultural producer, has more farm-related deaths than any other

county in the state.

The county has seen from one to seven farm deaths a year since 2000, and children are the most likely victims. Children 5 or younger account for 13 of the 25 farm deaths covered by LNP since 2016; teenagers and young children account for six other deaths.

In 2022, four people, including two toddlers and a teenager, died in accidents on farms. In 2023, two young children and one teenager, all Amish, died.

CRIME

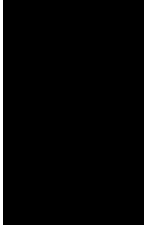
## City man faces child sex charges

Police say he molested a girl in his care over a span of 3 years

STAFF

A Lancaster city man sexually abused a girl in his care for years, taking lewd photographs of her and molesting her for three years, according to Ephrata police.

Eugene Paul Gibbons, 43, of the 100 block of East Chestnut Street, has been charged with two counts of involuntary deviate sexual intercourse and seven other offenses after po-



Eugene Paul Gibbons

lice accused him of sexually abusing a girl.

The girl initially told Lancaster County Children’s Alliance that Gibbons had been taking pictures of her in various states of undress since she was in eighth

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## Home rule: Charter would up residents’ voices

Continued from A3  
tive for residents who are fresh to the process of petitioning.

An ordinance adoption must require a higher threshold of signatures, commissioners said, tentatively agreeing to 10% of votes in the most recent mayoral election. Right now, residents must gather double that amount of signatures to influence ordinances.

Discussion relating to gathering support through signatures will continue at the commission’s next meet-

ing on July 18 at City Hall, 120 N. Duke St.

### Preparing for charter draft

The commission on Tuesday reiterated its plan to deliver a draft of a home rule charter by the end of the month. That gives residents time to review the new plan and offer feedback to commissioners before a final draft of the charter is approved by the end of August. The commission is required to deliver a ballot question to the county

elections board by Sept. 1. Election Day is Nov. 5.

Residents will be able to attend multiple informational sessions to learn more about the charter on July 29, July 31 and Aug. 6. A public hearing is planned for Aug. 8 for people to share their thoughts on the draft charter.

In the meantime, commissioners will continue to meet every other Thursday, with the next meeting in two weeks. Residents are always permitted to attend meetings and offer their thoughts.

FATALITY

## Woman dies after fall from bridge

STAFF

A woman died Tuesday morning after dropping off a bridge over Route 30 in Manheim Township into traffic, according to police and the Lancaster County Coroner’s Office.

Manheim Township police said they received a call that a woman was sitting on the side wall of the bridge above Route 30 at New Holland Pike, near Lancaster Country Club, at 5:32 a.m. By the time police arrived, she had fallen into traffic and been struck by multiple vehicles.

The coroner’s office responded to the scene and pronounced the woman dead at 6:49 a.m. The cor-

oner has not determined the woman’s cause and manner of death, and the Lancaster County Forensic Center is investigating.

Both eastbound lanes of Route 30 were closed for about 2½ hours. Pennsylvania’s road monitoring website, 511PA, showed traffic was backed up from the Route 23 exit to the westbound Route 283 exit just east of Park City Center.

Police said they have identified the woman but did not release her name Tuesday.

They are asking anyone who was in the area Tuesday morning to contact the department at 717-569-6401, police@manheimtownship-police.org or through the Crimewatch webpage.

## Survey: Parks

Continued from A3

“This event will provide an update on the Manheim Township Comprehensive Plan, as well as encourage people to take the Parks and Recreation survey if they have not already,” Recreation Director Matthew Stopa said in an email.

The township’s board of commissioners hired Michael Baker International as a consultant to help update the previous parks and recreation plan, which was dated and did not project out beyond 2022, Assistant Township Manager Andy Bowman said in an email.

“We are looking to get public input to help guide the development and future of our parks, recreation, and open space network,” Bowman said.

Although it employs the same consultant, the parks and recreation project is parallel to, not

a part of, the township’s overall comprehensive plan update.

“Each project and plan will however work together when completed to help direct and inform the elected officials as they plan for the future of the township,” Bowman said.

The parks and recreation plan has two parts: a strategic business plan and a capital improvement plan. A draft of the strategic plan is nearing completion, while the capital improvement plan is anticipated to need another 12 to 14 months, Bowman said.

The capital improvement plan will include master plans for several of the township’s current parks. The approved budget for that planning process is \$55,000 and is part of the contracted services included in the administrative operating budget, Bowman said. The strategic business plan has a budget of \$40,000.

## Trees

Continued from A3

the program include three in Lancaster County: 261 Beattys Tollgate Road in East Donegal Township, 321 W. Chestnut St. in Lancaster city and 121 Skymeadow Lane in Manheim Township.

Pennsylvania Interfaith Power & Light is the state branch of the national nonprofit Interfaith Power & Light, a faith-based organization that advocates for action on climate change.

These planting efforts are affiliated with the 10 Million Trees for Pennsylvania project backed by the Chesapeake Bay Foundation. In 2018, project backers set a goal of planting 10 million trees across the state by 2025. Those efforts complement the foundation’s work toward meeting the state’s mandated pollution reduction goals for the Chesapeake Bay watershed.

For more information, or to volunteer to help facilitate the PA Plants Native! project, contact Ruth Douglas Miller at creationcare@paipr.org.

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Mon-Fri, September 16-20, 2024
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Mon-Sat, September 23-28, 2024
- **Island Hopping in New England**  
Mon-Fri, Sept 30-Oct 4, 2024
- **Myrtle Beach, Charleston & Savannah**  
Sun-Fri, October 6-11, 2024
- **New England's Finest Foliage**  
Mon-Fri, October 14-18, 2024
- **Haunted Happenings in Salem**  
Thurs-Sat, October 24-26, 2024
- **Smoky Mountains & Biltmore**  
Wed-Sun, Nov 20-24, 2024
- **Country Christmas, Nashville & Pigeon Forge**  
Sat-Thurs, Nov 30-Dec 5, 2024

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Sat, September 14, 2024
- **Washington DC & Bible Museum**  
Sat, September 21, 2024
- **NYC Feast of Little Italy & Do As You Please**  
Sat, September 28, 2024

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House on Tuesday would also change the legal definition of marriage to be "a civil contract between two individuals," as opposed to

spect, I don't need your acceptance, I don't need you to understand my relationship or for it to line up with what is taught in

would be one of about two dozen states that would revert to laws invalidating same-sex marriages, per-

Americans believe same-sex couples should have the same marriage rights as others, according to polling averages.

Lancaster County Prothonotary E-Filed: 15 Jul 2024 03:47:28 PM Case Number: CU24-00035

## FATALITY

# Coroner IDs girl killed by horse

*Anna King, 9, of Salisbury Twp. was pulled through a field by a horse she was leading*

**OLIVIA MILLER**  
OMILLER@LNPNEWS.COM

A 9-year-old Amish girl died after a horse pulled her down a road in Salisbury Township last week, according to the Lancaster County coroner.

Anna King, 9, of Salisbury Township, died June 25 after something spooked the horse she was leading, causing it to run, according to coroner Dr. Stephen Diamantoni. King was on foot, caught in the reins and pulled by the running horse.

Emergency crews responded to the 100 block of Snake Lane at 10:30 a.m. to help the girl.

The coroner's office pronounced her dead at Lancaster General Hospital and determined her cause of death was multiple traumatic injuries, ruling it an accident.

State police responded to the scene and said King died after being pulled through a field.

King was the daughter of Ivan and Mary S. Lantz King

and attended the Old Order Amish Church, according to her obituary. She is survived by her parents, five brothers and three grandparents.

This is the second farm-related death covered by LNP | LancasterOnline this year. A 3-year-old Amish boy from Christiana was killed June 3 when he came in contact with ventilation machinery in a barn.

Lancaster County, the state's leading agricultural producer, has more farm-related deaths than any other

county in the state.

The county has seen from one to seven farm deaths a year since 2000, and children are the most likely victims. Children 5 or younger account for 13 of the 25 farm deaths covered by LNP since 2016; teenagers and young children account for six other deaths.

In 2022, four people, including two toddlers and a teenager, died in accidents on farms. In 2023, two young children and one teenager, all Amish, died.

## CRIME

# City man faces child sex charges

*Police say he molested a girl in his care over a span of 3 years*

## STAFF

A Lancaster city man sexually abused a girl in his care for years, taking lewd photographs of her and molesting her for three years, according to Ephrata police.

Eugene Paul Gibbons, 43, of the 100 block of East Chestnut Street, has been charged with two counts of involuntary deviate sexual intercourse and seven other offenses after po-



Eugene Paul Gibbons

lice accused him of sexually abusing a girl.

The girl initially told Lancaster County Children's Alliance that Gib-

bons had been taking pictures of her in various states of undress since she was in eighth

grade in 2021, according to charging documents. She said Gibbons had molested her, had sexual contact with her and claimed the photographs were references for drawings he was working on.

The girl said Gibbons told her to keep the photos and activity between them because they could get in trouble, according to charging documents. She eventually told

another person, who interrupted a photo session and got her out of Gibbons' home.

Police searched Gibbons' home and said they found photographs and evidence that supported the girl's accusations. They charged him Monday.

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Continued from A3

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CRIME

2 charged in Rapho Twp. with neglecting 4 children

Police say they were living in filthy conditions in apartment

OLIVIA MILLER  
OMILLER@LNPNEWS.COM

Two Rapho Township residents face criminal charges after four children in their care were found living in filthy conditions last week, according to Manheim Borough police.

Sarah Clinger, 32, and Ulyssiss Torres, 28, were both charged Saturday with four counts of endangering the welfare of children.

On Friday around 6 p.m., police responded to an apartment in the 1800 block of Habecker Road for a report of a child-family offense, charging documents said.



Sarah Clinger



Ulyssiss Torres

Clinger let the officer into the home, where the officer saw Torres, who is Clinger's boyfriend and the father of two of her four children, and another man cleaning, charging documents said. Police said Clinger is the mother of all four children, and when she isn't home,

Torres watches them. Charging documents didn't specify all the children's ages.

Inside the home, the officer observed dark-circle stains on the ground that appeared to be feces, as well as trash bags filled with garbage, charging documents said. The floors were slippery and sticky and had a wet filmlike consistency.

The home had many flies and bugs, charging documents said. When the fire alarm was removed from the ceiling, cockroach feces were found inside.

A room for a 5-year-old

had a dirty, ripped mattress with no mattress covering or blanket, charging documents said. The 5-year-old's clothes were scattered across the floor.

A 1-year-old was inside a child pen that was placed on the floor with no secured bottom, charging documents said. Police said the pen, where the child spends long periods of time, was covered in a dirty substance.

In Clinger and Torres's room, the officer saw a crib for a newborn, which a child sleeps in, covered with clothes and other items, charging documents said. The room also had rotten food, beverages, cigarette

butts and trash everywhere.

The bathroom also had a child's potty that was covered with feces, charging documents said.

The officer saw two of the children more closely and described their appearance as dirty and unbathed, with feet that looked black, charging documents said.

It was reported that one of the children gets out of the home regularly, and the neighbors must get the child from the parking lot, charging documents said. Police said the child almost got hit by a vehicle last week.

When a neighbor brought the child back from the near miss in the parking lot, there

wasn't an adult present, charging documents said.

Clinger and Torres are both being held in Lancaster County Prison after failing to post bail. Charging documents didn't specify where the children are now. Clinger and Torres are scheduled for a preliminary hearing on June 13.

In 2023, Torres was charged with terroristic threats, harassment, firearm not to be carried without a license and theft, all in Lancaster County.

Clinger's attorney listed in court records didn't respond to a message left Tuesday afternoon. Torres didn't have an attorney listed in court records.

In brief

MANHEIM TWP.

Station sells \$5M lottery ticket winner

A Lancaster County gas station this week sold a Pennsylvania Lottery MONOPOLY Own It All scratch-off ticket worth \$5 million.

The Speedway convenience store in the 3100 block of Oregon Pike in Manheim Township earned \$10,000 for selling the ticket. Scratch-offs are distributed randomly, so after a prize is claimed, the lottery learns where the winning tickets went.

MONOPOLY Own It All is a \$50 game with prizes up to \$5 million. Scratch-off prizes expire a year later, so winners should immediately sign their ticket and call the lottery at 800-692-7481 to claim their winnings.

FATALITY

Boy who was killed in farm accident identified

Benjamin Blank, 3, contacted ventilation machine

STAFF

The 3-year-old Christiana boy killed in a farming accident last week was a member of the Old Order Amish church, according to his obituary, and is survived by his parents and four siblings.

Benjamin Blank, son of John R. and Sadie F. Stoltzfoos Blank, died June 4 on his home farm in the 200 block of Bell Road, Colerain Town-

ship, after he came in contact with a ventilation machine in a barn that evening. Neighbors were attempting to help him as emergency crews arrived.

Ventilation machines, typically fans, move air through barns to remove moisture and provide fresh air.

The responding coroner said the boy died of multiple traumatic injuries and ruled the death an acci-

dent.

The Lancaster County Coroner's Office provided the boy's name Monday after LNP | LancasterOnline filed a Right-to-Know request for the information.

Lancaster County, the state's leading agricultural producer, has more farm-related deaths than any other county in the state. This was the first farm-related death LNP | LancasterOnline has covered this year.

The county has seen from one to seven farm deaths a year since 2000, and children are the most likely victims. Children 5 or younger account for more than half of the 24 farm deaths covered by LNP since 2016; teenagers account for five other deaths.

In 2022, four people, including two toddlers and a teenager, died in accidents on farms. In 2023, two young children and one teenager, all Amish, died.

VOTING

New portal open for mail-in ballot applications

STAFF

A redesigned online portal for Pennsylvania voters who want to apply for mail-in ballots is now live, state officials announced Tuesday. Voters

can now request a mail-in ballot for the Nov. 5 presidential election through the site months in advance.

Online applications from the Department of State are

generally processed more quickly than alternative methods of applying for a mail-in ballot. Voters also can print out an application at home and mail it to their

county elections office or fill out a form at the elections office in person.

State residents can register to vote through the Department of State website.

Pennsylvania voters must newly apply for a mail-in ballot for each upcoming election, unless they opt to join the "annual mail-in voter list," as the Department of State's website calls it.

Voters on the annual list get a mail-in ballot application sent to them in February, ahead of the primary. They can then apply to receive mail-in ballots for both the primary and the general election without having to apply again twice in the same year. Otherwise, voters need to apply for a mail-in ballot for each individual election.

Voters on the annual mail-in voter list still must apply to receive mail-in ballots each year, though they automatically receive the application in the mail to do so.

To apply for a ballot for the upcoming presidential election on the redesigned website, visit lanc.news/mail-ballotapply.

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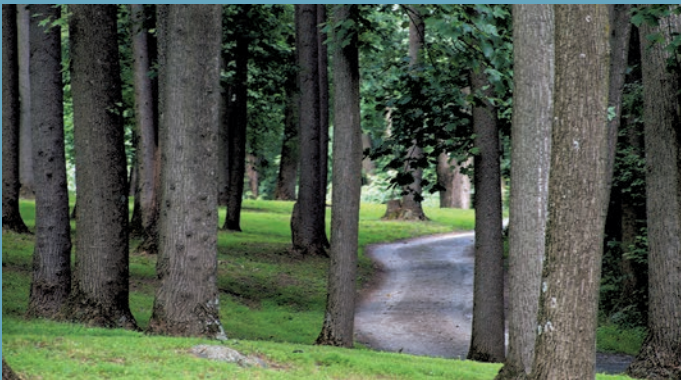
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FATALITY

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STAFF

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LNP | LANCASTER, PA

LOCAL

TUESDAY, AUGUST 29, 2023 A3

FUNDRAISING

# DOUBLING THE FUN



Attendees pose for pictures during the ExtraGive Fest on East King Street in Lancaster on Nov. 19, 2021.

## One World Festival and ExtraGive to be held on same November day

LUCY ALBRIGHT  
LALBRIGHT@LNPNEWS.COM

Lancaster County Community Foundation's ExtraGive donation drive is getting some extra flair this year.

The Nov. 17 fundraiser that has raised more than \$90 million since 2012 is combining two festivals to celebrate Lancaster County's generosity and its cultural scene. Both festivals will be held in Freedom Hall at the Lancaster County Convention Center, 25 S. Queen St., in downtown Lancaster.

One World Festival will showcase the county's cultural diversity through dance, music, food and artisan vendors from noon to 8 p.m.

"One of the great things about this festival is the variety," said Tom Daniels, the festival's entertainment coordinator. "Every culture has a unique style." Giving stations and local entertainment will continue at 8 p.m. during the 12th annual fundraiser's traditional ExtraGive Fest, which runs until midnight.

"We just thought combining the celebratory part of ExtraGive Fest along with the One World Festival would be a fabulous dual celebration, where we would celebrate not only the generosity of Lancaster County but also the cultural vibrancy," said Deepa Balepur, an organizer of One World Festival.

Both ExtraGive Fest and One World Festival are free and open to the public. Nonprofits have until Oct. 10 to register to participate in this year's ExtraGive.

Groups that sign up by Sept. 11 will be entered to win a \$1,000 prize.

More than 200 nonprofits have applied so far, according to a Monday email from Valentina Schade, the foundation's communications manager. Schade said that in 2022 about 450 organizations participated in the fundraiser.

Significant changes introduced at last year's ExtraGive, page A4

CRIME

## Man charged with posing as a police officer

2nd time Ephrata Twp. resident accused of impersonating public servant this year

JACK PANYARD  
JPANYARD@LNPNEWS.COM

An Ephrata Township man has been charged with impersonating a public servant for the second time this year after entering an auto shop in July with full law enforcement gear and uniform.

Sean Quick, 55, entered Park Place Automotive, an auto repair

shop in West Earl Township, southwest of Akron, on July 5 in full police gear, including a bulletproof vest, stun gun, firearm, flashlight and handcuffs. He also had a patch attached to his uniform that said "Agent," according to police.

Staff told police Quick's uniform gave them the impression he was employed in law enforcement or was some type of public servant. A police affidavit did not say whether Quick requested anything from the staff at

OFFICER, page A22

FATALITY

## Amish boy dies after being struck

11-year-old was riding scooter near his home in East Drumore Twp. on Friday

JACK PANYARD  
JPANYARD@LNPNEWS.COM

An Amish boy was killed Friday in Drumore Township when he was struck by a passing vehicle, according to Lancaster County Coroner Stephen Diamantoni.

Samuel K. Fisher, 11, of Slate Hill Road, was riding a scooter on the road near his home when he was hit by a car, the coroner

said, and he died of multiple traumatic injuries. Diamantoni ruled Fisher's death accidental.

According to his obituary, Fisher is survived by his parents, four siblings and three grandparents. He attended an Old Order Amish church. A funeral for Fisher was held Monday and his body will be interred at Wakefield Amish Cemetery.

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## FATALITY

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LNP | LANCASTER, PA

LOCAL/WORLD

THURSDAY, JULY 27, 2023 A9

## Penn Twp.: Leaves new EMS authority

Continued from A3

signed on to the deal in February, then withdrew earlier this week to contract with Penn State Health, which opened the Lancaster Medical Center hospital in East Hempfield Township in October. The contract will begin in January.

The Municipal Emergency Services Authority, or MESA, is a successor of sorts to Northwest EMS. The 12 municipalities served by Northwest and Northwest officials began exploring funding options a couple years ago in response to estimates that Northwest was facing insolvency within several years.

Ultimately eight of the 12 agreed to join — Conoy, East Donegal, Elizabeth, Mount Joy, Penn and West Donegal townships and Elliptown and Marietta boroughs.

Voting against were Clay, Conewago (in Dauphin County) and Rapho townships and Manheim Borough.

That meant, by January 2024, those who opted against joining MESA would have to find an EMS provider, as required by state law.

Manheim and Rapho contacted Penn State Health more than a year ago to see what it might be able to provide if they opted not to join the authority, Scott Buchle, prehospital services director for Life Lion, said Wednesday.

Life Lion, which also has a location in Hershey, Dauphin County,

already serves part of Rapho, and on July 20, officials decided to go with it as the provider for the entire township starting in January. On Tuesday night, Manheim voted to go with Life Lion as well.

### Life Lion makes inroads

Penn Township Manager Mark Hiestler said Tuesday that supervisors felt MESA was more complicated.

MESA hasn't adopted a fee structure, but officials are eyeing a price similar to what Northwest EMS charges — about \$75 per house-hold per year.

Life Lion proposed to Manheim, Penn and Rapho a \$5 per person charge for the first three years, then \$7 per person the remaining two years.

Hiestler credited those involved in MESA with trying to do something creative and local.

Debra Dupler, MESA's chair, said in a statement Tuesday that "Penn's decision is unfortunate. However, our focus at MESA remains on preparing to operate a local solution to the local EMS crisis for the long-term. Together, the remaining municipalities that formed MESA will benefit from a sustainable community-led EMS organization in which residents will always have a voice."

Buchle said it does not contact

municipalities.

"We were always led to believe Penn wanted to keep all their options open," Buchle said. "All of the expansion that Penn State Life Lion has done in the past eight years has been in response to requests or inquiries from municipalities or EMS agencies."

Two years ago, Life Lion bought Susquehanna Valley EMS, which operates out of Manheim Township, just north of Lancaster city. That acquisition — and now agreeing to serve Manheim Borough, Penn and Rapho — gives it potential patients for its new hospital.

However, by law, ambulances must in most cases take patients to their hospital of choice.

Asked if Life Lion is in talks with any other municipalities or EMS providers in Lancaster County, Buchle said, "At the moment, there's really nothing active."

Buchle said all EMS agencies end up relying on one another because they provide mutual aid. "The big message we want to get across ... We're not out poaching anybody," he said.

Collectively, with the addition of Manheim Borough and Penn and Rapho townships, Life Lion serves 63 municipalities: Berks, Cumberland, Dauphin, Lancaster, Lebanon, Perry and York counties. Last year, Life Lion responded to 97,000 calls to 911.

## King: To be 1st leader of Steinman Institute

Continued from A3

sentiments on King's ability to guide WITF and LNP in community-oriented work.

"I see brings to this nascent endeavor the organizational skills, intellectual curiosity, and understanding of community that will set the Steinman Institute on course to address the challenges facing community journalism and promote civic engagement," Krasne said in a statement. "The WITF/LNP combination will

be enhanced by the efforts she will ignite through her leadership of The Institute."

King has previous experience in the nonprofit world as executive director for Assets, a nonprofit economic development organization. She has completed coursework in nonprofit management and fundraising at the University of Pittsburgh's Graduate School of Public and International Affairs, and she is a board member for nonprofit Lancaster City Alliance.

## Municipal brief

### ELIZABETHTOWN

● **When:** Council meeting, July 20.

● **What happened:** Council unanimously approved a conditional use request from the Elizabethtown Area School District for its proposal to build a field house that could exceed 10,000 square feet on its campus at 600 E. High St. The approval followed a public hearing at the start of the meeting. Council member Jeffrey McCoubert did not participate and abstained from the vote because he is a paid coach for two district athletic teams.

● **Background:** The field house is part of proposed upgrades to the district's athletic facilities that include a new track and artificial turf for the Thompson football field, along with a more accessible spectator entrance and improved emergency services access. The project's highest cost is \$15 million, depending upon whether the school's board chooses to build a two- or three-story field house. A three-story field house, with a weight room, would measure about 15,000 square feet. The school board will vote Aug. 8 to authorize seeking bids on the project. A vote on accepting or rejecting the bids is slated for the board's Sept. 12 meeting.

● **Hearings:** School district consultant Hugh Cadow of E.A. Group said the project would be in an institutional zone. He noted the borough's zoning board granted variances for the building's elevation and setback. The maximum height for an accessory building in that zone is 20 feet; a three-story field house would be 32.5 feet. The building would be 70 feet from the rear property line rather than the required 100 feet. Cadow said the new facility would consolidate the district's athletic activities for sports teams and physical education. The existing number of parking spaces is sufficient. Plans call for two bus spaces for visiting sports teams behind the field house.

● **Lighting:** Council President Marc Hershey and resident Juana Ritchey, who lives across the street from the field, asked about plans for controlling light pollution. Cadow said the field house would have downward-shielded LED lights with pedestrian-scale lighting around the track. No new field lights are planned. The approved conditions include the requirement to provide a lighting plan that prevents light pollution.

● **Conditional use denial:** Without comment, council unanimously denied a conditional use request from DeRosier Capital 7 of Trefton, New Jersey, which is seeking to build a five-story, 44-unit apartment complex at 449 and 451 W. High St., next to the Lots at Savoy. The developer, which also owns the Savoy building, was seeking a 20% reduction in the number of required parking spaces for both units; a conditional use hearing was held June 15. Asked

about the denial after the meeting, Clark cited parking as the main concern.

● **Military banners:** Council approved the placement of military banners on utility poles starting at Market Square and extending onto North and South Market streets and East and West High Streets. A project of the Elizabethtown Lions Club, the banners will showcase veterans' names, photos, service branches and years. So far, there is

community interest for 50 to 175 banners, club member Greg Hitz Sr. said. He anticipates the banners will be hung by Veterans Day in November. Joseph Sharpe of the Elizabethtown American Legion said the Legion would fund banners for two Congressional Medal of Honor recipients, both deceased: Robert D. Reem (Marine Corps, Korean War) and William D. Port (Army, Vietnam War). Hershey and council Vice President Phil Clark thanked the club.

● **Quotable:** "I think since I've been on council, there's been one comment I've heard from more and more people: Why don't we have banners like other towns do for the veterans?" Clark said.

● **One-way traffic:** Pamela Roberts, planning and zoning director, reported that borough engineers completed a traffic study on the feasibility of one-way traffic on West Willow Street, from North Poplar toward North Market Street, and on West Washington Street, from South Market Street toward South Poplar Street. The study showed those changes would be a "reasonable combination to do," Roberts said. The borough's next step is to contact Pennsylvania Department of Transportation to revisit the Willow Street traffic signal permit.

● **Discussion:** Council member Thomas Shaud questioned whether Washington Street could be one way toward Market Street because of traffic congestion during ballgames by the GEARS during Poplar Street. Hershey said that with parking currently on both sides of Washington, it's difficult for two vehicles to pass each other, so another option is to restrict parking to one side. He noted vehicles can travel down Poplar to Union Street, where there is a traffic light at Market — a state road. Council agreed to consult with PennDOT.

● **Sale of building:** Borough Manager Rebecca Denlinger said that the former public works building, 101 Plum St., was considered for storage and training space for the police department. However, staff determined it would not meet those needs. Council agreed to recommend the property be appraised to sell. The commercially zoned building is surrounded by R-2 residential zoning.

— Diane M. Bitting, For LNP/LancasterOnline

## In brief

### LITTLE BRITAIN TWP.

## Coroner identifies 5-year-old who died on farm

The 5-year-old boy who died Monday in a farm-related accident in Little Britain Township was Samuel K. Yoder, son of Jacob M. and Sarah S. Yoder, of North Bottom, the coroner said.

Samuel died after he was hit in the head by a heavy pipe that fell from a mule-drawn wagon, said Coroner Dr. Stephen Diamantoni, who ruled the death accidental.

Lancaster County and Pennsylvania's top agricultural producer — had more farm-related deaths in the last 20 years than any other county. It has seen anywhere from one to seven farm deaths a year since 2000. In 2022, four people, including two toddlers and a teenager, died in accidents on county farms.

Children are the most likely to die in farm-related accidents here. Children 5 or younger account for more than half of the 21 farm deaths covered by LNP/LancasterOnline since 2016; teenagers accounted for four other deaths.

### COMMUNITY

## List of National Night Out events gets longer

More National Night Out events are planned for Lancaster County next week.

### LANCASTER TOWNSHIP

● **What:** Hamilton Park United Church of Christ to host National Night Out celebration featuring food, games and entertainment by local law enforcement.

● **When:** 6 to 8 p.m. Aug. 1.

● **Where:** J. Robert Eckerdode Hamilton Park, Maple Avenue.

● **More info:** 717-597-9791; smallgroups@hupcc.org

### WEST COCALICO

● **What:** Schoenewick West Cocalico National Night Out celebration will feature a car cruise/show, meet and greet with local police and first responders, games, food trucks, face painting, dunk tank and music. Car cruise/show requires reservation at SchoenewickCA@gmail.com.

● **When:** 5 to 8 p.m. Aug. 1.

● **Where:** 125 N. King St., Denver.



Irish singer Sinéad O'Connor performs during the Italian State RAI TV program "Che Tempo che Fa" in Milan, Italy, in 2014. O'Connor, the gifted Irish singer-songwriter who became a superstar in her mid-20s but was known as much for her private struggles and provocative actions as for her fierce and expressive music, has died at 56.

### SINÉAD O'CONNOR

## Gifted, provocative singer-songwriter from Ireland dies

SYLVIA HUI ASSOCIATED PRESS

LONDON — Sinéad O'Connor, the gifted Irish singer-songwriter who became a superstar in her mid-20s and was known as much for her private struggles and provocative actions as for her fierce and expressive music, has died at 56.

"It was with great sadness that we announce the passing of our beloved Sinéad. Her family and friends are devastated and have requested privacy at this very difficult time," the singer's family said in a statement reported Wednesday by the BBC and RTE.

No cause was disclosed.

She was public about her mental illness, saying that she was diagnosed with bipolar disorder. O'Connor posted a Facebook video in 2017 from a New Jersey motel where she had been living, saying that she was staying alive for the sake of others and that if it were up to her, she'd be "gone."

When her teenage son Shane died by suicide last year, O'Connor tweeted there was "no point living without him" and she was soon hospitalized. Her final tweet, sent July 17, read: "For all mothers of suicidal children."

Recognizable by her shaved head and with a multi-octave mezzo soprano of extraordinary emotional range, O'Connor began her career singing on the streets of Dublin and soon rose to international fame.

She was a star from her 1987 album, "The Lion and the Cobra," and became a sensation in 1990 with her cover of Prince's ballad "Nothing Compares 2 U," a searing, shattering performance that topped charts from Europe to Australia and was heightened by a powerful video featuring the gray-eyed O'Connor in intense close-up.

She was a lifelong nonconformist — she said she shaved her head in response to record executives pressuring her to be conventionally glamorous — but her political and cultural stances and troubled private life often overshadowed her music.

A critic of the Roman Catholic Church well before allegations of sexual abuse were widely reported, O'Connor made headlines in October 1992 when she tore up a photo of Pope John Paul II while appearing on NBC's "Saturday Night Live" and denounced the church as the enemy.

The next week, Joe Pesci hosted "Saturday Night Live," held up a repaired photo of the Pope and said if he had been on the show with O'Connor he "would have her such a snack." Days later, she appeared at an all-star tribute for Bob Dylan at Madison Square Garden and was immediately booed. She was supposed to sing Dylan's "I Believe in You," but switched to an a cappella version of Bob Marley's "War," which she had sung on "Saturday Night Live."

Although consoling and encouraged on stage by her friend Kris Kristofferson, she left and broke down, and her performance was kept off the concert CD. Years later, Kristofferson recorded "Sister Sinéad," for which he wrote, "And maybe she's crazy and maybe she ain't but so was Picasso and so were the saints." She also feuded with Frank

### GET HELP

If you or someone you know is in crisis and needs immediate help, contact the following organizations:

- National Suicide Prevention Hotline, suicidepreventionhelpline.org, 800-273-8255. (Also, 988 has launched nationally as the new three-digit dialing code that will route callers to the National Suicide Prevention Lifeline.)
- Those who are deaf or hard of hearing can contact the National Suicide Prevention Lifeline via TTY at 800-799-4889.
- Lancaster Crisis Intervention, 717-394-2631.
- If you are LGBTQ+, thetherunproject.org/get-help.

Sinéad over her refusal to allow the playing of "The Star-Spangled Banner" at one of her shows and accused Prince of physically threatening her. In 1989 she declared her support for the Irish Republican Army, a statement she retracted a year later. Around the same time, she skipped the Grammy ceremony, saying it was too commercialized.

In 1999, O'Connor caused uproar in Ireland when she became a priestess of the breakaway Latin Tridentine Church — a position that was not recognized by the mainstream Catholic Church. For many years, she called for a full investigation into the extent of the church's role in the conclave child abuse by clergy. In 2010, when Pope Benedict XVI apologized to Ireland to atone for decades of abuse, O'Connor condemned the apology for not going far enough and called for Catholics to boycott Mass until there was a full investigation into the Vatican's role.

"People assumed I didn't believe in God. That's not the case at all. I'm Catholic by birth and culture and would be the first at the church door if the Vatican offered sincere reconciliation," she wrote in The Washington Post in 2010.

O'Connor announced in 2018 that she had converted to Islam and would be adopting the name Shahada' Davit, later Shahada Sadagat — although she continued to use Sinéad O'Connor professionally.

O'Connor was born on Dec. 8, 1966. She had a difficult childhood, with a mother she alleged was abusive and encouraged her to shoplift. As a teenager she spent time in a church-sponsored institution for girls, where she said she washed priests' clothes for no wages. But a nun gave O'Connor her first guitar, and soon she sang and performed on the streets of Dublin, her influences ranging from Dylan to Siouxsie and the Banshees.

Her performance with a local band caught the eye of a small record label, and, in 1987, O'Connor released, "The Lion and the Cobra," which sold hundreds of thousands of copies and featured the hit "Mandinka," driven by a hard-rock guitar riff and O'Connor's piercing vocals.

O'Connor's then 20-year-old, co-produced the album. "Nothing Compares 2 U" received three Grammy nominations and was the featured track on her acclaimed album, "I Do Not Want This I Haven't Got," which helped lead Rolling Stone to name her Artist of the Year in 1991.

## In brief

### LITTLE BRITAIN TWP.

## Coroner identifies 5-year-old who died on farm

The 5-year-old boy who died Monday in a farm-related accident in Little Britain Township was Samuel K. Yoder, son of Jacob M. and Sarah S. Stoltzfus Yoder, of Peach Bottom, the county coroner said.

Samuel died after he was hit in the head by a heavy pipe that fell from a mule-drawn wagon, said Coroner Dr. Stephen Diamantoni, who ruled the death accidental.

Lancaster County — Pennsylvania's top agricultural producer — had more farm-related deaths in the last 20 years than any other county. It has seen anywhere from one to seven farm deaths a year since 2000. In 2022, four people, including two toddlers and a teenager, died in accidents on county farms.

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A10 FRIDAY, AUGUST 27, 2021

YORK COUNTY

## Boy, 4, found dead in parked vehicle

Police investigating as a heat-related death

ASHLEY STALNECKER

ASHLEY STALNECKER

The death of a 4-year-old boy who was found in a parked vehicle in East Manchester Township, York County, on Tuesday afternoon is being investigated as a heat-related death.

Family members found the boy, identified as Dameron Erb, unresponsive in the closed, parked vehicle Tuesday afternoon after they returned to the home. The child was found in the back seat of a 2006 Ford Focus. The boy was found in the back seat of a 2006 Ford Focus. The boy was found in the back seat of a 2006 Ford Focus.

Deputy coroner Carissa McLean certified the death at 2:38 p.m. Tuesday after responding to the scene on the 400 block of Blossom Drive. An autopsy was conducted at the Lehigh Valley Hospital in Allentown on Thursday morning, but the cause and manner

of Erb's death is still pending additional testing, according to the coroner's report. The Northeast Regional Police Department is investigating the case further, and the coroner's report indicates the death is being investigated as heat-related.

Kids and Car Safety, an organization that researches cases with children left unattended in and around vehicles, has recorded 12 child deaths related to hot cars in Pennsylvania between 1995 and 2016. If heat is ruled a factor in Erb's death, it would mark the 13th death of that nature since 1995 and the first since 2016.

When Erb was found, temperatures were in the 90s, according to past weather reports. After an hour, temperatures in a car can rise to 45 degrees higher than the outdoor temperature.

## In brief

MILLERSVILLE

### Police seek MU student missing since Tuesday

Police are searching for a 20-year-old Millersville University student who has been missing since Tuesday.



Matthew Mindler

First-year student Matthew Mindler, of Hellertown, Northampton County, was reported missing Wednesday night, according to university police, who said he hasn't been seen in his room or returned calls from family members.

He was last seen about 8:11 p.m. Tuesday exiting his residence hall at West Village, walking toward a parking lot near Centennial Drive, police said.

At the time, Mindler was wearing a white Millersville University hoodie with black stripes on the sleeves, jeans and white sneakers and had a black backpack, police said.

Mindler has not attended classes since Tuesday, according to university officials. University officials said they have notified local police departments and filed a missing adult report with the National Crime Information Center.

Anyone with information about Mindler's whereabouts is asked to contact university police, 717-871-4357, or the local chief, Pete Anderson, directly at 717-871-5972 or peter.anderson@millersville.edu. Information can be reported anonymously through the Millersville LiveSafe safety app, officials said.

## Obituaries

OTHER OBITUARIES ON PAGE A11

### Maria Y. Rodriguez Oliveri



Maria Y. Rodriguez Oliveri

Maria Y. Rodriguez Oliveri, 66, of Lancaster passed away Tuesday, August 24, 2021 at Hospice & Community Care in Mount Joy. Born in Villalba, Puerto Rico she was the daughter of the late Adolfo Rodriguez and Carmen Oliveri.

She was educated in Puerto Rico where she received her Bachelor's degree. Maria worked several places throughout the years but most of her life helped raise and care for her family.

Maria was a kind, religious woman who gave very good advice to the people who asked. She was a wonderful mother and grandmother who

cared deeply for her family.

She is survived by two daughters, Hermarie Santiago wife of Brian, Desiree Santiago both of Lancaster; three grandchildren, Camila, Leah and Lailah. She is also survived by six siblings, Jose Rodriguez, Jorge Rodriguez, Noelia Rodriguez, Judith Rodriguez, Javier Rodriguez, Adolfo Rodriguez and a host of loving nieces and nephews. She was preceded in death by a daughter, Jessica Santiago and brother, Doel Rodriguez. Funeral services will be held at 11 AM on Monday, August 30, 2021 at Family of Christian Churches, 103 Locust St., Lancaster, PA 17602. Family and friends will be received at the church on Sunday, August 29, 2021 from 2-7 PM and again at the church on Monday from 10-11 AM. Interment in Conestoga Memorial Park. To send an online condolence, please visit: SnyderFuneralHome.com

Charles F. SNYDER  
FUNERAL HOME & CEMETERY  
717.393.9661

### Vera W. (Nolt) Shirk

Vera W. (Nolt) Shirk, 87, of Narvon, passed away at home on Wednesday, August 25, 2021.

Born in Churchtown, she was the daughter of the late Harry and Emma (Wawer) Nolt. She was married to the late Noah M. Shirk, with whom she married on September 17, 1960. Vera was a member of Churchtown Mennonite Church, Weaverland Conference. She was a homemaker and also was employed by Goodwill for twenty years, where she was a manager at their East Earl and Morgantown locations. She enjoyed quilting.

Surviving are children: Ella Mae wife of Raymond Martin of Clyde, NY; Mary Jane wife of Warren Martin of Rose, NY; Clair husband of Pauline (Nolt) Shirk of Mio, MI; Dianne S. wife of the late J. Nelson Martin of Terre Hill, PA; Adam W. husband of Nancy J. (Sadtler) Shirk of Martville, NY and Sharon A. wife of Lester

Zimmerman of Narvon, PA. Also surviving are thirty-nine grandchildren, one hundred and twenty-eight great-grandchildren and seven great-great-grandchildren.

In addition to her parents and her husband, she is predeceased by one grandchild and five great-grandchildren.

A funeral service will be held on Tuesday, August 31, 2021 at 9:30 AM at Churchtown Mennonite Church, Weaverland Conference, 2207 Main St., Narvon, PA 17555, with Bishop Leon S. Zimmerman officiating. Interment will be in the adjoining church cemetery. A viewing will be held on Monday, August 30, 2021, at Sunny Crest Home, 2587 Valley View Rd., Morgantown, PA 19543 from 2:00 PM to 4:00 PM and 6:00 PM to 8:00 PM.

Kindly omit flowers. C. Stanley Eckenroth Home for Funerals in Terre Hill, PA is entrusted with the funeral arrangements.

## Rowe: Claims innocence in Mirack murder

Continued from A1

Rowe said he was under the impression that the death penalty wasn't being carried out in Pennsylvania, but that his attorney told him it would be reinstated in three years and he should take the plea and challenge his conviction from prison. And with the death penalty off the table as part of the plea agreement being offered by the prosecution, Rowe said he would still be able to see his family.

His attorneys, Rowe said, told him, "Throw us under the bus. We're used to it." On cross-examination

Thursday, Assistant District Attorney Ande Gonzalez asked Rowe if he had lied when he pleaded guilty.

Rowe said he did. "So we're supposed to believe a liar?" Gonzalez asked before pointing out that, as part of his guilty plea on Jan. 8, 2019, Rowe was repeatedly asked if he was pleading guilty of his own free will.

Rowe replied, "Free will and being forced to do things by treatment and threats are two different things."

In court filings related to his appeal, Rowe claims that he actually had consensual

sex with Mirack the day she was killed and that someone else was responsible for killing her later that day.

Rowe is also asking that DNA testing be done of a cutting board found next to Mirack's head and presumed to be the murder weapon; it was not tested for DNA and that if the results show someone else's DNA and not his, his filing said.

Rowe had never been a suspect in the killing of schoolteacher Mirack. The killing happened on Dec. 31, 1992, in Mirack's Greendale Estates townhouse in East

Lampeter Township as she was getting ready to go to work.

In 2018, genetic genealogy led detectives to Rowe, known professionally as "DJ Freez," after crime scene DNA matched DNA, that one of Rowe's half sisters uploaded to a public genealogy database.

Rowe was arrested June 25, 2018. He is serving life without the possibility of parole for murder plus 60 to 120 years for the other crimes. Vince Mirack, Christy's brother, declined comment Thursday evening.

## Miller: Award

Continued from A3

Idea is now a reality," Miller said. Miller received her medical degree from Drexel University College of Medicine in 2008 and completed her residency at Lancaster General Hospital in 2009.

Before opening up her own practice at Oyster Point Family Health Center in Lancaster.

Miller said she opened Lat Medicine to give patients the experience she felt they wanted, which was to have excellent medical care and flexible time to connect with their doctor.

As for the future, Miller said, "I hope that it'd not be so remarkable that doctors and patients are able to work and connect in a way that works for everyone. We all go into health care to help others. I'm hoping that we'll all be able to work in a meaningful way that's sustainable; for our profession and for the patients to be able to sustain connection to their medical care and get the care that they need."

## Plaza: Project milestone

Continued from A3

In the fall of next year, the library space will probably finish up Cohen said.

Lancaster city officials are overseeing the plaza space. The city is seeking bids for that project right now. They're due Sept. 8. Construction will likely begin early next year and finish in August 2022, said Cindy McCormick, deputy director of public works.

"I've been in this business for 40 years, and this is the most challenging project I've ever been involved in," Cohen said.

The parking garage itself is not expected to be open to the public until the beginning of 2022, Cohen said. Construction of the hotel event space will finish around then, he said.

In the fall of next year, the library space will probably finish up Cohen said.

Lancaster city officials are overseeing the plaza space. The city is seeking bids for that project right now. They're due Sept. 8. Construction will likely begin early next year and finish in August 2022, said Cindy McCormick, deputy director of public works.

"I've been in this business for 40 years, and this is the most challenging project I've ever been involved in," Cohen said.

## Masks: Lawmakers leave decision to localities

Continued from A1

position supporting local control over the issue.

"We believe that the current approach — allowing local officials to manage and respond as needed — makes the most sense and should be continued," Cutler and Corman wrote in their letter to Wolf.

Wolf wrote to the lawmakers on Wednesday, asking that the Legislature return to Harrisburg and pass a mask mandate, noting that only 59 of 474 school districts implemented mandatory mask requirements as of July 30. Coronavirus vaccines are only available to people 12 and older, leaving masks and social distancing as the primary methods of protecting younger children.

Wolf has consistently said his administration would not enact a statewide mask mandate for schools and insisted local districts should determine what is necessary for their communities. The Centers for Disease Control and Prevention recommends all

K-12 students wear masks throughout the school day to prevent the spread of COVID-19.

On Wednesday, Wolf broke with this position and asked lawmakers to take action — instead of having his own secretary of health issue an order.

### 'Increasingly concerned'

In recent weeks, Wolf said he's become "increasingly concerned" about misinformation being spread about whether districts can implement masking requirements.

"Constituents, primarily parents of young children who are not able to be vaccinated, are very concerned about the lack of a mask mandate in their school district," Wolf wrote to House and Senate leaders. "They report that their school districts are a clear reminder that we must always be vigilant," Cutler and Corman wrote. "However, the impact is not equal everywhere. This is why we con-

tinue to believe it is the best interest of local communities and their healthcare leaders to make their own mitigation decisions."

Local lawmakers like Sens. Scott Martin, R-Martinez Township, and Ryan Aument, R-West Hempfield Township, posted on their social media accounts that they both support local control over mask mandates.

In response to the lawmakers' letter, Wolf's spokesperson Lyndsay Kensinger said Wolf is disappointed in their unwillingness to pass a mandate and "quick action is often what is needed during times of emergency when conditions change. Kensinger did not say Wolf plans to act on his own at this time, but again repeated that the administration hopes the lawmakers will return to Harrisburg soon to address the rise in cases to keep kids in school and parents at work.

"The rise in new cases within the state and across the country is a clear reminder that we must always be vigilant," Cutler and Corman wrote. "However, the impact is not equal everywhere. This is why we con-



Bryan Cutler



Jake Corman

## COVID-19 CASES AT PRESS TIME

### LANCASTER COUNTY

● 58,611 cases\* (1074 per 1000 population).

● 1,065 deaths\*\* (2.0 per 1000).

● 164 new cases reported.\*

### PENNSYLVANIA\*

● 1,284,532 cases (100.3 per 1000).

● 28,158 deaths (2.2 per 1000).

### UNITED STATES

● More than 39.2 million cases (118.8 per 1000).

● More than 650,000 deaths (2.0 per 1000).

### WORLDWIDE

● More than 215 million cases (27.8 per 1000).

● More than 4.8 million deaths (0.6 per 1000).

### VACCINATIONS BY COUNTY\*

● Lancaster: 21,458 partial vaccinations (93.3 per 1,000); 255,587 full vaccinations (468.3 per 1,000).

● York: 18,298 partial (40.7 per 1,000); 199,489 full (444.2 per 1,000).

● Dauphin: 5,472 partial (55.6 per 1,000); 132,771 full (477.1 per 1,000).

● Chester: 38,939 partial (74.1 per 1,000); 297,665 full (567.0 per 1,000).

● Lebanon: 5,449 partial (58.4 per 1,000); 58,334 full (412.7 per 1,000).

● Berks: 23,693 partial (55.3 per 1,000); 193,905 full (460.4 per 1,000).

● State hotline for COVID-19 and vaccine questions: 877-724-3258.

● Map of vaccine providers: pa.gov/guides/get-vaccinated.

● How to get a test: Check the map for testing sites at bit.ly/test\_site\_map. Check with the provider ahead of time because a referral from a health care provider and/or pre-registration may be necessary.

● Lancaster County vaccination and COVID-19 information and resources: vaccinate Lancaster.org

DATA SOURCES: HHS/CDC, BY STATE OF HEALTH, LANCASTER COUNTY COURTESY, U.S. CENSUS BUREAU



**A10** FRIDAY, AUGUST 27, 2021

|||||

**YORK COUNTY**

# Boy, 4, found dead in parked vehicle

*Police investigating as a heat-related death*

**ASHLEY STALNECKER**  
ASTALNECKER@LNPNEWS.COM

The death of a 4-year-old boy who was found in a parked vehicle in East Manchester Township, York County, on Tuesday afternoon is being investigated as a heat-related death.

Family members found the boy, identified as Dameon Erb, unresponsive in the closed, parked vehicle Tuesday afternoon after they reportedly noticed the child was missing from their East Manchester Township home and its surroundings, according to a York County coroner's report.

Deputy coroner Carissa McLyman certified the death at 2:08 p.m. Tuesday after responding to the scene on the 400 block of Blossom Drive.

An autopsy was conducted at the Lehigh Valley Hospital in Allentown on Thursday morning, but the cause and manner

of Erb's death is still pending additional testing, according to the coroner's report. The Northeastern Regional Police Department is investigating the case further, and the coroner's report indicates the death is being investigated as heat-related.

Kids and Car Safety, an organization that researches cases with children left unattended in and around vehicles, has recorded 12 child deaths related to hot cars in Pennsylvania between 1995 and 2016. If heat is ruled a factor in Erb's death, it would mark the 13th death of that nature since 1995 and the first since 2016.

When Erb was found, temperatures were in the 90s, according to past weather reports. After an hour, temperatures in a car can raise to 43 degrees higher than the outdoor temperature.

LNP | LANCASTER, PA

LOCAL

THURSDAY, MAY 9, 2024 A5

## In brief

### FATALITY

#### Drowning ruled cause of death of boy found in pool

The Lancaster County Coroner's Office determined the child who was found unresponsive in an East Hempfield Township swimming pool last week died of drowning.

Just after noon Sunday, emergency crews responded to a home on the 1700 block of Wheatland Avenue for a report of a medical emergency.

A 3-year-old boy was found in a backyard pool, police said. The boy was taken to Lancaster General Hospital, where he was pronounced dead.

Police said early investigations show the boy had walked away from his family and went into a neighbor's pool.

The coroner's office ruled the death an accident. The office didn't provide the name of the boy Wednesday.

### EAST DONEGAL TOWNSHIP

#### Sunday's fiery fatal tanker truck crash ruled accidental

A fiery tanker truck crash that resulted in the death of an East Donegal Township man Sunday was an accident, according to the Lancaster County Coroner's Office.

Jose Vasquez, 31, of the 300 block of Rivermoor Drive, died of smoke inhalation and thermal burns Sunday, the coroner said, after his tanker truck carrying asphalt drove off the road on Furnace Hills Pike in Elizabethtown Township and caught fire.

Emergency crews responded to the 1900 block of Furnace Hills Pike just after 6:30 a.m. for a report of a vehicle on fire. Vasquez was found in the cab of the truck and pronounced dead on scene shortly after 8 a.m.

Police said Vasquez's truck was traveling north of Furnace Hills Pike when it drove off the roadway and hit a utility pole, a fence, an embankment and a tree. The truck then caught fire.

State police continue to investigate the crash.

### EMERGENCY CALL

#### Person dies after being caught under flipped lawnmower

One person died after a lawnmower flipped in East Hempfield Township on Wednesday afternoon.

Emergency crews responded to Oreville and Farmingdale roads, less than a mile from Park City Center, at 12:31 p.m. for a rescue call. A dispatcher with Lancaster County-Wide Communications said a lawnmower had flipped over onto an "elderly" man and crews were working on getting him out.

Lancaster County Coroner Dr. Stephen Diamantoni said his office was called to the scene and pronounced the person dead. The person's name wasn't available Wednesday afternoon because next of kin had yet to be notified.

### INFRASTRUCTURE

## County road plan to be up for feedback

Public comment on 20-year blueprint Connects2050 invited Monday through June 12

### STAFF

The blueprint for future road projects in Lancaster County will be available for public comment for one month starting Monday.

The Lancaster County Metropolitan Planning Organization, which decides where federal transportation funds are spent in the county, is updating its 20-year plan, called Connects2050. Residents identified safety, system maintenance and reliable travel as their top three priorities for the plan during a

survey conducted by the MPO earlier this year.

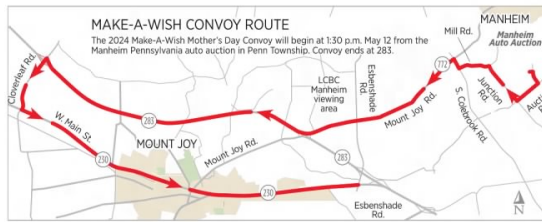
A public comment period will be open from Monday through June 12, during which time residents can comment on the draft plan and the MPO's proposed four-year budget for transportation projects proposed in the county. The documents and comment forms will be posted Monday at [lancompo.org/comment](http://lancompo.org/comment).

In-person comments will be heard during the May 28 Transportation

Technical Advisory meeting at 12:30 p.m. in Room 102/104 of the Lancaster County Government Center, 150 N. Queen St., Lancaster city.

The MPO board is set to vote on both plans during its June 24 meeting.

Residents can request a copy of the documents by mail by writing to Will Clark, Director for Land Use & Transportation Planning Team, Lancaster County Planning Department, 150 N. Queen St., Suite 320, Lancaster, PA 17603, or by calling 717-299-4333.



## Convoy: Event back at Manheim auto auction

Continued from A1

food, games and music. Take-out dinners are available from 11 a.m. to 1 p.m. A few of the organization's leaders and chosen attendees will speak on the main stage at noon. The pickup for an online auction, which is open through Sunday, is 12:30-1:30 p.m. The convoy itself runs from 1:30-3 p.m.

Where is it?

The Manheim Pennsylvania auto auction, at 1190

Lancaster Road (Route 72), is where the convoy starts a 25-mile route around the Mount Joy area. The route goes westward to Route 722, continues west on Route 283 before heading south on Cloverleaf Road to pick up Route 230 eastbound.

How will the convoy be impacted by the Route 30 closure in Manheim Township?

The convoy route won't be impacted, but the closure

could delay arrivals to the event. Portions of Route 30 in Manheim Township will be closed with detours in place starting Friday night, potentially displacing over 97,000 vehicles a day.

How many people attend?

At least 15,000 people line the route to watch the over 200 trucks at the convoy each year. There are no road closures for the event, and free parking is available at the auto auction.

Who receives the funds?

Make-A-Wish. The event raises over 75% of the funds each year for the Philadelphia, Delaware, & Susquehanna Valley chapter.

How can one participate?

Each driver must raise at least \$100. Registration is open until the convoy begins register or donate to the cause at [lancompo.org/convoys2024](http://lancompo.org/convoys2024). More information can also be found at [wishconvoy.org](http://wishconvoy.org).

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## **EAST DONEGAL TOWNSHIP**

# Sunday's fiery fatal tanker truck crash ruled accidental

A fiery tanker truck crash that resulted in the death of an East Donegal Township man Sunday was an accident, according to the Lancaster County Coroner's Office.

Josue Vasquez, 31, of the 300 block of Rivermoor Drive, died of smoke inhalation and thermal burns Sunday, the coroner said, after his tanker truck carrying asphalt drove off the road on Furnace Hills Pike in Elizabeth Township and caught fire.

Emergency crews responded to the 1900 block of Furnace Hills Pike just after 6:30 a.m. for a report of a vehicle on fire. Vasquez was found in the cab of the truck and pronounced dead on scene shortly after 8 a.m.

Police said Vasquez's truck was traveling north of Furnace Hills Pike when it drove off the roadway and hit a utility pole, a fence, an embankment and a tree. The truck then caught fire.

State police continue to investigate the crash.



## In brief

**ELIZABETH TWP.**

### Driver who died in crash Friday named

The Lancaster County coroner on Sunday identified the man who died in Elizabeth Township on Friday afternoon after hitting a tree along Route 332.

Dr. Stephen Diamantoni identified the driver as Michael Halupa, 68, of Lebanon County. Halupa died of multiple traumatic injuries, and his death was ruled an accident.

Emergency crews responded to a report of a vehicle crash just after 1 p.m. on a stretch of the highway between Pumping Station Road, just north of the Wolf Sanctuary of PA and the Horseshoe Pike exit in Lebanon County.

Police said a 2001 Toyota Tundra was traveling eastbound when the driver lost control and hit a tree. The Lancaster County Coroner's Office pronounced the driver dead at the scene.

The cause of the crash is under investigation, according to police.



LNP | LANCASTER, PA

LOCAL

THURSDAY, FEBRUARY 22, 2024 A3

HIGHER EDUCATION

# PARTNERING UP



The Thaddeus Stevens College of Technology campus is shown on East King Street in Lancaster city on July 18, 2023. The school is partnering with Penn State Harrisburg to offer students a way to transition from a two-year program to complete a directly aligned four-year bachelor's degree program.

## Thaddeus Stevens, PSU Harrisburg create 4-year co-op program

STAFF

A new partnership between Thaddeus Stevens College of Technology and Penn State Harrisburg paves the way for students to transition from a two-year program at Thaddeus Stevens to complete a directly aligned four-year bachelor program at Penn State.

The two institutions recently signed an articulation agreement that allows students who have successfully completed an associate degree in electrical engineering technology or mechanical engineering technology at Thaddeus Stevens to enroll for an additional two years in a corresponding baccalaureate degree program at Penn State Harrisburg's School of Science, Engineering and Technology.

"Our mission is to open doors to

Our mission is to open doors to higher education for students who might not otherwise have that available to them.

— Pedro Rivera,  
Thaddeus Stevens College of Technology president

higher education for students who might not otherwise have that available to them," said Pedro Rivera, president of Thaddeus Stevens. "One of the ways we fulfill that mission is by partnering with other institutions throughout Pennsylvania, providing a direct pathway to continued education and a career in a high-demand field with family-

thriving wages."

Students must earn a final cumulative grade point average of at least 2.0 while at Thaddeus Stevens to satisfy the Penn State Harrisburg admission requirements. While students still must complete an undergraduate admissions application and submission of official transcripts, the application fee is waived.

Thaddeus Stevens, which was founded in 1906 with 15 students, hit a record-high enrollment of more than 1,400 students in the 2023-24 school year. Penn State Harrisburg, located in Dauphin County, enrolls more than 4,600 students.

Course equivalencies, admission criteria and academic advising services to support students in the transition were also defined in the articulation agreement.

FATALITY

# Single-vehicle crash claims county man

Coroner: Matthew Caraballo was ejected from his vehicle and died on Route 283

JACK PANYARD  
JPANYARD@LNPNEWS.COM

A 29-year-old East Petersburg man died Wednesday after crashing on Route 283 in Manheim Township during the early-morning hours.

The Lancaster County Coroner's Office identified the man as Matthew Caraballo. The coroner's office determined Caraballo died of multiple traumatic injuries and ruled his death an accident.

The single-vehicle crash

happened at 1:24 a.m. in the westbound lanes, closing the road near the intersection to Route 30 for more than five hours, according to police.

Police said the driver crashed a 1996 Ford Explorer, which left the roadway, returned to its lane, rolled and slid across the highway. The force of the crash ejected the driver from the vehicle.

Caraballo was pronounced

CRASH, page A5

COUNTY GOVERNMENT

# Officials approve ARPA funding

Commissioners' decision enables 14 area projects to receive \$3.8 million in support

TOM LISI  
TLISI@LNPNEWS.COM

Lancaster County commissioners Wednesday approved \$3.8 million in federal recovery dollars for 14 community projects — among them a youth mentoring program, water infrastructure improvements and stream restoration efforts.

The money comes from the county's \$106 million allocation from the 2021 American Rescue Plan Act. Commissioners have made

a portion of that total available for projects proposed by community organizations and municipal governments, with the goal of funding projects that will have a broad impact on the county for years to come.

In an initial call for community projects in 2022, commissioners reviewed 99 proposals and ultimately approved about \$22.6 million for 41 projects that included conservation measures,

ARPA, page A4

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FATALITY

# Single-vehicle crash claims county man

*Coroner: Matthew Caraballo was ejected from his vehicle and died on Route 283*

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JPANYARD@LNPNEWS.COM

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Caraballo was pronounced

**CRASH**, page A5

# Crash

Continued from A3  
dead at Penn Medicine Lan-  
caster General Hospital, the

coroner's office said. He was  
the only occupant of the ve-  
hicle.  
Manheim Township police  
and the Lancaster County  
Crash Team investigated the

scene and reopened Route  
283 just before 7 a.m. The  
cause of the crash is still un-  
der investigation.  
*Staff writer Olivia Miller  
contributed to this story.*



TUESDAY, JANUARY 23, 2024 \$2.00 LANCASTERONLINE.COM



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## Aiming for the top

Linville Hill takes down No. 1-ranked Veritas in a CCAC crossover game

● Sports, Page A13



### WORLD

Benito the giraffe's journey in Mexico to a better-suited home and climate inspires fans.

● Page A2



### LOCAL

Removal of construction crane will close part of West Chestnut Street Thursday to Sunday.

● Page A3



### STATE

David McCormick, running to represent Pa. in the U.S. Senate, travels to the Israel-Gaza border.

● Page A9



### AIR TRAVEL

## Power loss led to plane landing

Lancaster-bound craft forced to land on highway last week

CHRIS REBER  
CREBER@LNPNEWS.COM

A Lancaster County-bound flight that landed on a public road in Virginia near Dulles International Airport on Friday reportedly lost power during takeoff, according to video from the scene of the emergency landing.

The video posted by Fox 5 Washington D.C. on Monday shows a Southern Airways Express crew member, identified by Fox 5 as the plane's co-pilot, saying the loss of power left the aircraft unable to make it back to the airport and forced the crew to land on a nearby road. The video was taken along Loudoun County Parkway, the road where the plane landed, about 1.5 miles from the Washington, D.C.-area airport.

"I don't know, we started losing power and we went to turn back to the runway and there was no making it. We lost power," the co-pilot said in the video.

Southern Airways Express Flight 246 made an emergency landing on the south-bound lanes of Loudoun County Parkway around 12:50 p.m. Friday, shortly after take-off.

LANDING, page A4



An airbag is inflated to raise the wing of Southern Airways Express flight 246, which made an emergency landing on the Loudoun County Parkway on Friday in Dulles, Va., near Washington Dulles International Airport. There were seven people on board the single-engine Cessna 208 Caravan, according to Federal Aviation Administration, and no injuries were reported.



Police tape surrounds a brick rancher at 6294 High St. in East Petersburg Borough on Monday. The house was gutted by fire, and a man died Sunday following what police say was a domestic incident involving handguns.

## 'IT'S UNBELIEVABLE'

Father shell-shocked after police say son set blaze that killed him

ANN REJRAJ  
AREJRAJ@LNPNEWS.COM

Craig Rice ducked under the police tape and walked through the ruins of his son's home Monday morning.

About 12 hours before, a fire ripped through the brick rancher at 6294 High St. in East Petersburg Borough, leaving only a shell of the structure.

### INSIDE

A woman tried to save family from a burning Lebanon County home before it killed her and two others.

Page A4

Police say Rice's son, Mark Hackman, 53, set the fire that killed him. Debbie Hackman, the couple had been married 13 years.

The house sits on the corner of High Street and Jefferson Drive, and a tree on the corner of the lot holds birdhouses and feeders. Under the tree in the snow-filled yard, someone had placed a cardboard "50TH" sign. Sunday was the 50th birthday of Mark's wife, Debbie Hackman. The couple had been married 13 years.

Regional Police responded at 8:30 p.m. Sunday to the home for a domestic incident. Officers learned through dispatch that a man in the home, identified as Mark Hackman, had been drinking, was armed with a gun and threatened to burn down the house. Debbie Hackman was able to escape with the family dog.

FIRE, page A4

## Smoke, burns killed Bainbridge victim

Police investigating cause of blaze that destroyed RV in Conoy Twp. on Sunday morning

### STAFF

The 74-year-old Conoy Township man killed Sunday in a fire at a mobile home park died of burns and smoke inhalation, officials said Monday.

George Schablenik died accidentally, according to the Lancaster County Coroner's Office, which performed an autopsy Monday.

Emergency crews responded to 2379 River Road in the King's River Haven mobile home park, north of Bainbridge, just after 11:30 a.m. Sunday. A dispatcher with Lancaster County-Wide Communications said units remained on scene until around 2:30 p.m.

Schablenik was pronounced dead at the scene, the coroner's office said, after he was found in the charred remains of a recreational vehicle. Schablenik lived in the vehicle and was its only inhabitant.

Susquehanna Regional Police said Monday a Pennsylvania State Police fire marshal is investigating the cause of the fire is undetermined.

### COMPETITIVE COOKING

## Conestoga baker discusses Pa. Farm Show wins

Couple earns 1st big prize since mom, a longtime co-competitor, passed

MIKE ANDRELCZYK  
MANDRELCZYK@LNPNEWS.COM

Debra Martin Berkoski first participated in the Pennsylvania Farm Show when she was showing sheep at 10 years old. This year, on the same day she won the blue ribbon for her pumpkin whoopie pie, she turned 57.

"I was born Farm Show week," said Martin Berkoski, "which seems appropriate."

Martin Berkoski's whoopie pie win was all the sweeter because it was the first big prize the Conestoga baker won since the death of her mother, Dorothy Martin, who was her baking partner for more than three decades. (Dorothy Martin died in 2022 on Thanks-

### INSIDE

More on the Berkoskis' Farm Show offerings.

Page A4

giving Day, just days before turning 95.)

This year, during the 108th Farm Show, Martin Berkoski and her husband, Steven Berkoski, entered 100 competitions for their baked goods, homegrown vegetables and more.

The couple won a combined 89 ribbons.

"It's crazy," said Martin Berkoski, who works for the City of Lancaster as the maintenance supervisor of Long's Park. "Generally, the rule for Farm Show has always

been that you won about 50% up there. So we did very, very well."

Martin Berkoski said she and her husband don't compete against each other, but with each other.

The couple lives on an 8-acre farm in Conestoga, which has been in the Martin family for 200 years and can be traced back to William Penn's sons.

Here are five questions with Martin Berkoski about her experience competing in the 2024 Farm Show.

What does it mean to you to participate in the PA Farm Show every year?

I'm a Christian and I appreciate

BAKER, page A4



Debra Martin Berkoski, right, won the whoopie pie baking contest at this year's Pennsylvania Farm Show with her pumpkin whoopie pies with cream cheese filling. Berkoski is shown with Pennsylvania Fair Queen Chloe Bongardner.

PHOTOGRAPH BY JACQUELINE

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# Smoke, burns killed Bainbridge victim

*Police investigating cause of blaze that destroyed RV in Conoy Twp. on Sunday morning*

## STAFF

The 74-year-old Conoy Township man killed Sunday in a fire at a mobile home park died of burns and smoke inhalation, officials said Monday.

George Schabelnik died accidentally, according to the Lancaster County Coroner's Office, which performed an autopsy Monday.

Emergency crews responded to 2379 River Road in the King's River Haven mobile home park, north of Bainbridge, just after 11:30 a.m. Sunday. A dispatcher with Lancaster County-Wide Communications said units remained on scene until around 2:30 p.m.

Schabelnik was pronounced dead at the

scene, the coroner's office said, after he was found in the charred remains of a recreational vehicle. Schabelnik lived in the vehicle and was its only inhabitant.

Susquehanna Regional Police said Monday a Pennsylvania State Police fire marshal is investigating; the cause of the fire is undetermined.





MONDAY, JANUARY 8, 2024 **A3**

**FATALITY**

# Coroner IDs teen killed in city Saturday

**STAFF**

The Lancaster County Coroner's Office identified the teenager who was killed Saturday evening in Lancaster city.

Lancaster County Coroner Dr. Stephen Diamantoni identified the victim as Elliot Corbin, 19, of Lancaster. Diamantoni said Corbin's autopsy is scheduled for this morning.

Lancaster police found Corbin with a gunshot wound in the 400 block of South Prince Street around 5:30 p.m. Saturday. He died after being transported to a medical facility.

Lancaster city police are investigating and ask anyone with information to call 717-735-3300 or submit an anonymous tip through Crimewatch.



LNP | LANCASTER, PA

LOCAL

WEDNESDAY, DECEMBER 13, 2023 A5

## Shots: Police justified

Continued from A1  
toward the two officers as one of them exited a patrol car, Adams' office said. He then walked around the side of the house toward the officers and shouldered the rifle.

O'Neill then pointed the rifle toward a third officer who had arrived. That officer told O'Neill to "drop the gun or you're going to get shot," the office said.

As O'Neill again began to raise his rifle to a shooting position, the three officers shot him, Adams' office said. The third officer shot because he was in fear for his own life, and the other two officers shot to protect him, the office said.

O'Neill was hit three or four times. The officers then gave him first aid until he was taken to a hospital, where he remained in critical condition Tuesday. On

line court records do not list an attorney for him.

Adams' office said O'Neill used a Ruger AR-556. Investigators recovered two shells and a live round, and Adams said a live round was jammed on its way to the rifle's chamber. The magazine also held 26 rounds; the rifle model typically comes with a 30-round magazine. The rifle belonged to the person who called 911.

### Incident recorded

The incident was recorded on the patrol vehicle's camera and the officers' body cameras.

"Body cameras have been extremely beneficial when investigating these types of incidents," Lancaster police Chief Richard Mendez said. "Many times you are able to see what the officers are seeing when they are being

confronted by armed individuals."

LNP LancasterOnline asked to see the recordings, but Adams declined, saying they are evidence in the criminal case against O'Neill.

The officers are doing well and either have completed or will complete a mental health evaluation for post-traumatic stress disorder, which is required by law and bureau policies, Mendez said.

"The officers regularly are involved in dangerous situations, and the bureau is extremely proud of how well and professionally they routinely perform," Mendez said.

Mendez said officers will be cleared to return to work after the department completes its own investigation to determine whether department policies were followed. That should be done next week.

O'Neill is charged with

numerous felonies, including attempted homicide, aggravated assault, aggravated assault of police and a firearm violation, which stems from a 2008 rape conviction in Philadelphia.

This is the second time this year city police officers shot someone.

In the first case, Adams determined the two officers were justified in fatally shooting Daron Shaw, 17, of Lancaster, after he pointed a semiautomatic handgun at them and refused commands to drop the gun.

The shooting happened when police responded to a burglary report shortly after midnight, Aug. 6, in the first block of West New Street, between North Prince and North Queen streets, about a block away from Clipper Magazine Stadium.

### FATALITY

## Man found dead in car in Cocalico Creek

Officials: Victim, 77, was Ephrata resident

JACK PANYARD  
JPANYARD@LNPNEWS.COM

Emergency responders found a 77-year-old Ephrata Borough man dead in a sedan after police say he drove the car into Cocalico Creek on Tuesday morning.

Lancaster County Coroner Dr. Stephen Diamantoni identified the victim as Martin Pannasch.

Emergency crews were called to the creek area at Old Mill Road in Ephrata Borough, a block south of Ephrata Senior High School, at 4:41 a.m. for a water rescue. The Ephrata Pioneer and Lincoln fire companies' water rescue teams removed the driver from a Toyota Corolla in the creek.

A witness told police the driver was headed west on Sycamore Road and crossed South State Street without stopping, according to Ephrata police Chief Chris McKim. The car then crossed into the left roadway, hit a crosswalk pole, broke through a split rail fence on a corner property and went into the creek.

Diamantoni said Pannasch's cause and manner of death haven't been determined. His autopsy is scheduled for today.

The car was not fully submerged in the creek, McKim said. He said his department is still investigating and suspects natural causes played a role in the death.

## Home rule: Committee to decide whether to move forward with charter

Continued from A1  
proposed the commission begin to address a projected budget deficit in 2025.

"It is unjust to continue to raise property taxes when people's incomes don't continue to go up," Sorace said during a November budget presentation. "That's the whole point of home rule — to have people be able to pay taxes. When they make more money, they pay more money."

At least 83 home rule municipalities exist across the state, including Coatesville, Scranton and Allentown. Time is running out to make a decision on whether to move Lancaster one step closer to being a part of that list. Right now, commissioners have mixed feelings about where to go from here.

### Weighing choices

Gerry Cross, senior research fellow for the Pennsylvania Economy League, said the commission is about 80% of the way to its charter decision. Cross, who has been helping to guide the commission since June, said the next step is deliberation. "They have some technical questions now, which means they're starting to get some nuances. But by and large, they're understanding the operation of the city and what it needs to provide services," he said. The commission has learned from research as well as commentary from local elected officials and city employees. There's a consensus among them that the city needs new streams of revenue. Right now, the city's only revenue-generat-

ing tool is property taxes. Commissioner Carl Feldman said their feedback has made it clear to him the commission should write a home rule charter. The city has faced fiscal challenges for years, he said, and a charter could focus on alleviating some of those burdens.

"Nothing we have seen has indicated the contrary to what has been said over multiple years over multiple leaders in the city that the structural deficit is due to a structural function in the way the state of Pennsylvania has structured cities," Feldman said. "I think it would be awful silly if that was not the trajectory of the commission."

The decision whether to go through with writing a charter will be the group's first major decision, slated for Jan. 24.

If they choose to proceed, the nine commissioners would spend the next nine months drafting a new governing document for the city. Residents could vote on whether to approve the charter as early as November. Otherwise, the commission will submit a report about why the city does not need a home rule charter.

Commissioner Darlene Byrd is looking at a charter's abilities differently. She said there isn't much she has seen that confirms a charter would be the answer to the city's financial concerns. Lifting a state-mandated cap on earned income tax has often been tossed around as a solution for the city, though Byrd said she worries about what that means for low-income residents. Many residents already

### HOME RULE STUDY SLATE

The Lancaster Home Rule Study Commission is nearing the end of its study phase. Next month, it will make a decision whether to continue its work.

● **December 2023:** The commission plans to hold a special meeting to talk to former Lancaster mayors, James Stork, Arthur Morris and Rick Gray.

● **Jan. 4:** The commission's next regular meeting and the final neighborhood meeting at 7 p.m. at West Art, 816 Buchanan Ave.

● **Jan. 24:** A special meeting to decide whether to draft a charter.

● **Feb. 1:** The last regular meeting of the study phase.

● **Feb. 29:** If the commission votes down a charter, the group must submit a report to the state by the end of the month.

● **August/September:** The commission must complete a charter if it agrees to move forward with one.

● **Nov. 5:** The earliest election when residents can vote on a home rule charter.

struggle to pay for annually increasing utility fees, she said, and adding more taxes will only increase the burden. Byrd said she could change her mind if other home rule cities share success stories tied to higher income tax limits.

"I'll take all that into consideration, but my outcome is going to be based on if it really going to be better for the people and how?" she said.

Commissioner John McGrann shares Byrd's concerns for residents, worrying people could ultimately be taxed out of Lancaster to help the city's finances. Nonetheless, he said he's not sure how to vote on a charter yet. There's still a month to go before the decision, and he wants to use it to think.

Commission Vice Presi-

dent Any Ruffo agreed. She said she doesn't want to form a concrete opinion until after the group's Jan. 4 meeting, just ahead of a final charter vote.

While revenue has pulled most people's focus, Ruffo said she expects the commission will look further into district-based City Council seats if a draft charter is approved. Making such a change would result in a reapportionment and redistricting process every 10 years, she said.

### 'Once in a generation' decision

Cross said commissioners are in good shape to answer the question before them. "The commission has really had to absorb a lot of information," he said.

"They've got their assignment down. They're putting all of their questions into perspective now as to what it means for their vote."

Feldman and McGrann agreed the commission is a stronger group than when it started, which will make it easier to come to a consensus when it's time.

In June, most commissioners didn't know each other, which created some friction. Some were unfamiliar with bureaucratic processes and had to learn the ropes.

"Learning about local government and the processes and policy that guide that work is not something most residents spend a lot of time thinking about — including me," Ruffo said via email.

With a month left to go, each commissioner has a few things they still want to cover. Byrd has expressed concern that the group hasn't met with the seven identified comparable cities, some of which are home rule, to learn directly from them.

So far commissioners have a meeting set up with mayors from two cities but have yet to hear back from representatives from Allentown, Harrisburg, Hazleton, Reading, Williamsport, Allentown and Easton. Cross is confident the

commission will get all of the information it needs from Lancaster rule cities to cast a fair vote.

Feldman said he looks forward to meeting with former mayors, a meeting that is expected to be scheduled sometime this month. McGrann noted his interest in learning the financial impact of an earned income tax boost on everyday people's budgets. Ruffo wants to understand better the difference between the city's general funds and enterprise funds.

Whatever the decision, commissioners say they understand the weight of the task at hand. Ruffo said they're facing high "responsibility and pressure to get this right." Either direction will have major consequences for the city's future for decades to come.

"I take this super seriously. That's part of why I was interested in the first place," McGrann said. "It feels like a once-in-a-generation — or even more rare than that — opportunity to define the future of Lancaster."

● **Notice problems?** Email the Lancaster Watchdog at [watchdog@lancasteronline.com](mailto:watchdog@lancasteronline.com), or go to [lancasteronline.com/watchdog](https://lancasteronline.com/watchdog) and tell us about it.

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WEDNESDAY, DECEMBER 13, 2023 **A5**

**FATALITY**

# Man found dead in car in Cocalico Creek

*Officials: Victim, 77, was Ephrata resident*

**JACK PANYARD**

JPANYARD@LNPNEWS.COM

Emergency responders found a 77-year-old Ephrata Borough man dead in a sedan after police say he drove the car into Cocalico Creek on Tuesday morning.

Lancaster County Coroner Dr. Stephen Diamantoni identified the victim as Marlin Fausnacht.

Emergency crews were called to the creek area at Old Mill Road in Ephrata Borough, a block south of Ephrata Senior High School, at 4:41 a.m. for a water rescue. The Ephrata Pioneer and Lincoln fire companies' water rescue teams removed the driver from a Toyota Corolla in the creek.

A witness told police the driver was headed west on Sycamore Road and crossed South State Street without stopping, according to Ephrata police Chief Chris McKim. The car then crossed into the left roadway, hit a crosswalk pole, broke through a split rail fence on a corner property and went into the creek.

Diamantoni said Fausnacht's cause and manner of death haven't been determined. His autopsy is scheduled for today.

The car was not fully submerged in the creek, McKim said. He said his department is still investigating and suspects natural causes played a role in the death.



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## Favorite freshmen

Orioles' Henderson and Diamondbacks' Carroll named MLB's best rookies  
• Sports, Page A13

### BUSINESS

Oil giant ExxonMobil sets sights on extracting lithium in Arkansas for electric vehicles.  
• Page A6



### LOCAL

A truck driver has been charged after the excavator he was hauling hit and damaged a bridge.  
• Page A3



### NATION

Democratic opposition to the speaker's plan to avert a shutdown appeared to be waning.  
• Page A8



## FUNDRAISING



Instructor Katie Beth Wubbel, center, claps along with the drum during the Imani Edu-Tainers African dance class at The Ware Center on Nov. 18, 2022. Below, two attendees stand for a picture during the ExtraGive celebration at the Lancaster County Convention Center on Nov. 18, 2022.

# EXTRAGIVE AIMS HIGH

Organizers hopeful 2022's dip not a trend after strain over new rule

ENELLY BETANCOURT  
EBETANCOURT@LNPNEWS.COM

With Friday's 12th annual ExtraGive fundraiser just four days away, organizers are optimistic that last year's 36% decline in money raised compared to 2021 doesn't signal a trend towards fewer donors and participating organizations and, consequently, less money.

Nearly 25,000 donors gave a total of \$10.1 million during Lancaster County Community Foundation's signature fundraiser last year, \$5.7 million less than was raised in 2021. It was the first time since ExtraGive's first campaign in 2012 that it raised less money than in the previous year.

"Even with less participating organizations last year, and less total raised, ExtraGive continues to be Lancaster County's largest day of giving," foundation President and CEO Sam Bressi wrote in an email.

To date, the annual fundraiser has raised nearly \$92 million.

EXTRAGIVE, page A24



### ELECTIONS

## Pricey judge races could be norm

Record-high spending set to be 'new normal' as state top courts arbitrate hot-button issues



Republican Carolyn Carluccio, left, ran against Democrat Dan McCaffery, right, for a seat on the state Supreme Court this year in a courts election unlike any other. There was record-breaking spending, national media coverage and the highest turnout for an odd-year election in at least a quarter-century. Ultimately, McCaffery was victorious.



MARC LEVY  
ASSOCIATED PRESS

HARRISBURG — The race for an open seat on Pennsylvania's highest court initially resembled the sleepy contests that had played out for decades: low turnout, little media coverage and just enough spending to afford some biographical TV ads on cable.

Then attack fliers began hitting mailboxes. "Once that happened, it opened the flood gates up, because people were prepared to respond," said Democrat Dan McCaffery, who ultimately beat Republican Carolyn Carluccio on Tuesday. "I think people came out of the woodwork ready to fight back."

What happened next was a state Supreme Court election in Pennsylvania unlike any other. There was record-breaking spending, national media coverage and the highest turnout for an odd-year election in at least a quarter-century.

ELECTIONS, page A4

### WEST HEMPFIELD TWP.

## 2 found dead are ID'd

Coroner: Deaths last week were result of murder-suicide

### STAFF

The Lancaster County coroner said Monday the deaths of a man and woman last week at a West Hempfield Township apartment complex were the result of a murder-suicide.

Angelica Morales Damarts, 34, and Ramon Eusebio-Diaz, 47, were found dead with gunshot wounds at Rivercrest Apartments on Oak Hollow Drive on Thursday. Dr. Stephen Diamantoni said.

After performing autopsies Monday, Diamantoni said Morales Damarts was shot multiple times and Eusebio-Diaz died of a gunshot wound to the head.

The eight-unit apartment complex is just south of Route 462 near Columbia.

West Hempfield Township police continue to investigate the deaths. Police did not respond to a request for comment Monday.

### QUARRYVILLE AREA

## Visitors crowd meeting

Board answers questions after township cut library's funding

OLIVIA MILLER  
OMILLER@LNPNEWS.COM

Dozens of residents served by the Quarryville Library Center attended the library's board meeting Monday night to ask questions and make their voices heard.

"This is the biggest crowd we've ever had for a board meeting," said Chris Waite, president of the library's board of trustees.

Pulton Township supervisors announced at their Nov. 2 meeting the township won't give its customary \$10,000 donation to Quarryville Library Center in 2024. Township board President Scott Osborne said the decision came about when supervisors discovered the library provides access to LGBTQ+ materials that they say don't reflect residents' values.

A child borrowed a book from the library that included material about transgender people, Osborne said. The incident was reported to the township, and residents brought it up at a township board meeting in October. Osborne said the township's board of supervisors don't have a personal issue with the library but with the material in question.

### 'Collecting' viewpoints

Among residents' questions was how the library regulates its materials.

Ed Miller, a district consultant with the Library System of Lancaster County, attended Monday's meeting at the request of the library's board to help answer the public's questions.

"The issue of book bans and censorship in general is one that libraries and librarians deal with regularly, unfortunately," Miller said after the meeting.

Public libraries are mandated to serve the

QUARRYVILLE, page A4

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West Hempfield Township police continue to investigate the deaths. Police did not respond to a request for comment Monday.



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LOCAL

FRIDAY, APRIL 9, 2021 A3

RETAIL

# GROCERY GROWING



Crews install a Stauffers of Kissel Hill sign at the former Darrenkamp's on Route 230 in Mount Joy during a rain shower shortly after noon Wednesday.

## Stauffers to open full-service supermarket in Mount Joy in May

**STAFF**  
A sign was installed this week at the former Darrenkamp's in Mount Joy, which is slated to open sometime in May as a new Stauffers of Kissel Hill grocery store.

The former Darrenkamp's at 945 E. Main St. was one of four for the family-owned grocery store chain

that closed all of its locations in November 2018. Stauffers, which has stores in Lititz and Rohrenstown, announced plans last October to renovate and update the 45,000-square-foot space for its newest full-service grocery store.

Stauffers said at that time that it expects to operate its new store in

the leased space with around 120 employees. The full-service grocery store is expected to include produce, deli, seafood and bakery departments, as well as a selection of organic and bulk foods. It is also expected to offer online grocery ordering for pickup and delivery, as well as seasonal food events under a tent.

## Police log

### LITITZ POLICE

**HIT-AND-RUN**  
● LITITZ: A maroon Chevrolet Silverado veered off the roadway and struck a parked vehicle in the 400 block of North Water Street, pushing it into another parked vehicle about 9:50 p.m. April 1, police said.

No one was injured in the crash, though one of the parked vehicles required towing, police said. The driver of the Silverado fled the scene on foot, police said.

### MANHEIM TWP. POLICE

**TERRORISTIC THREATS**  
● MANHEIM TWP.: Raymond D. Tavarez-Santos, 28, of Lancaster, was charged with terroristic threats after ordering a

woman to enter a vehicle at gunpoint in the 4500 block of Crossings Boulevard at 2:06 p.m. April 1, police said. Tavarez-Santos, who was armed with a rifle, fled the area, police said.

### NEW HOLLAND POLICE

**DUI**  
● NEW HOLLAND: Justine Owseller, 28, **POLICE LOG**, page A10

## LANCASTER CITY

# Death of man found on street ruled homicide

Coroner says Hipolito Gonzalez, 61, died of 'traumatic brain injury'; police seek info

## STAFF

The death of a Lancaster man found on a city sidewalk last month with fatal injuries has been ruled a homicide, Lancaster County Coroner Dr. Stephen Diamantoni said Thursday.

According to the Lancaster Bureau of Police, Hipolito Gonzalez, 61, died of severe head injuries at a hospital after a neighbor found him unconscious shortly before 7 p.m. March 18 on the sidewalk at 33 Dorward St.

Diamantoni said Thursday the cause of Gonzalez's

death was a "traumatic brain injury." He declined to provide any other information, citing the active investigation.

Anyone with information related to the homicide is encouraged to call Lancaster police at 717-735-3300 or Lancaster City-County Crime Stoppers at 800-322-3913.

Tips also can be anonymously submitted at lancasterpolice.com or by texting LANCAS and a message to Crime Stoppers at 847411.

## PA. DEPARTMENT OF CORRECTIONS

# Inmates, workers to be offered shots

39,000 prisoners, 16,000 staff can receive Johnson & Johnson single-shot vaccine

## JOSEPH DARIUS JAAFAARI

SPOTLIGHT PA

**HARRISBURG** — All people who live and work inside Pennsylvania's prisons will soon be offered the single-dose Johnson & Johnson vaccine, ending a long wait exacerbated by a lack of transparency about coronavirus infections.

At least 11 of the state's 23 prisons have started to receive the vaccine, with thousands of inmates and corrections staff expected to be offered a shot in coming

weeks, according to corrections officials and incarcerated people.

That's a significant expansion of availability. In February, only three prisons designated as medical facilities — SCIs Laurel Highlands, Muncy and Waymart — were offered the Moderna vaccine.

Now, all 39,000 prisoners and 16,000 workers will be offered the Johnson & Johnson vaccine, said Maria Bivens, spokesperson for the Department of Corrections. **PRISON VACCINES**, page A10

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FRIDAY, APRIL 9, 2021 **A3**

**LANCASTER CITY**

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