

REPORTERS COMMITTEE

FOR FREEDOM OF THE PRESS

PO Box 34176
Washington, DC 20043
(202) 795-9300 • www.rcfp.org

PRESIDENT

Bruce D. Brown

STEERING COMMITTEE CHAIR

STEPHEN J. ADLER

VICE CHAIR

MARGARET LOW
WBUR

SECRETARY-TREASURER

MASSIMO CALABRESI
TIME

EXECUTIVE COMMITTEE MEMBERS

DAVID BOARDMAN
Temple University
THEODORE J. BOUTROUS, JR.
Gibson, Dunn & Crutcher LLP
GAIL GOVE
NBCUniversal
LAURA HANDMAN
Davis Wright Tremaine
DIEGO IBARGÜEN
Hearst
THOMAS C. RUBIN
OpenAI

STEERING COMMITTEE MEMBERS

WOLF BLITZER
CNN
SEWELL CHAN
Columbia Journalism Review
LYNETTE CLEMETSON
University of Michigan
JASON CONTI
Dow Jones
NIKHIL DEOGUN
Brunswick Group
MANNY GARCIA
Houston Landing
EMILIO GARCIA-RUIZ
The San Francisco Chronicle
JOSH GERSTEIN
POLITICO
ALEX GIBNEY
Jigsaw Productions
JAMES GRIMALDI
National Catholic Reporter
KAREN KAISER
The Associated Press
KIMBRIELL KELLY
DAVID LAUTER
Los Angeles Times, Ret.
COLLEEN MCCAIN NELSON
The McClatchy Company
JAMES NEFF
Philadelphia Inquirer
NORMAN PEARLSTINE
New York, New York
CHARLIE SAVAGE
The New York Times
JENNIFER SONDAG
Bloomberg News
NABIHA SYED
Mozilla
ADAM SYMSON
The E.W. Scripps Company
MATT THOMPSON
The New York Times
VICKIE WALTON-JAMES
NPR

Affiliations appear only for purposes of identification.

By email

March 12, 2025

Maryland House of Delegates
Health and Government Operations Committee
House Office Building, Room 241
6 Bladen St.
Annapolis, MD 21401

Re: Opposition to HB 290

Dear Delegate:

The Reporters Committee for Freedom of the Press (the “Reporters Committee”) writes in opposition to House Bill 290, which would remove complete autopsy reports from the Maryland Public Information Act. The Reporters Committee is a nonprofit association whose attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists across the country, including in Maryland.

HB 290 would narrow the Maryland Public Information Act (“MPIA”) to only permit release of a “final autopsy diagnosis” containing “interpretations and conclusions of a medical examiner,” instead of the entire autopsy report. This change would be detrimental to Maryland journalists covering a broad range of topics such as public health and conditions in state-run facilities.

Maryland’s current statutory scheme, which allows for the release of complete autopsy reports, is consistent with autopsy records access in over half of the states in the U.S.¹ These states, like Maryland, do not provide absolute access and permit public agencies to, for example, withhold autopsy records while an investigation is ongoing or not allow for the release of certain photographs related to an autopsy. The federal Freedom of Information Act, which Maryland turns to in interpreting the MPIA, also allows for the release of autopsy reports barring any applicable exemptions. *Glass v. Anne Arundel Cnty.*, 160 A.3d 658, 661–62 (Md. 2017).

In Maryland, autopsy data has played an important role in public interest news reporting and in spurring notable policy changes. The Baltimore Banner used autopsy records in its award-winning series on the

¹ For a thorough accounting of the law on access to autopsy records in every state, see *Autopsy and Coroner’s Reports*, Reporters Committee for Freedom of the Press, <https://www.rcfp.org/open-government-sections/a-autopsy-and-coroners-reports/> (last visited March 7, 2025).

opioid crisis in Maryland.² The reporting led to the closure of a troubled treatment program and started broader conversations on how to best combat opioid addiction at the state level.³ Reporting on the autopsy of Anton Black, a teenager who was killed by police officers in 2018, helped lead to “landmark changes to the Office of State Medical Examiner.”⁴

Similar to these Maryland examples, journalists in states that allow for the release of autopsy records have been able to cover topics with greater accuracy and nuance. Reporters covering the death of George Floyd in Minnesota were able to use autopsy records to rebut misstatements that his cause of death was a drug overdose.⁵ In Georgia, autopsy records have been a key tool in reporting on how the state’s abortion bans have led to more maternal deaths.⁶

Broader access to autopsy records also enables reporters to identify trends across the country. For example, ProPublica’s “Life of the Mother” series used autopsy records to cover maternal mortality in states where women are unable to obtain abortions.⁷ NPR reported on how lethal injection drugs used in executions are resulting in pulmonary edema — and possible Eighth Amendment violations — after reviewing over 300 autopsies from Alabama, Arizona, Arkansas, Florida, Georgia, Ohio, Oklahoma, Tennessee, and Virginia.⁸ And, the Baltimore Banner has shared its autopsy data with newsrooms across the country to enable broader reporting and understanding of the opioid crisis, especially as it affects older Black men.⁹

In contrast, where states deny access to autopsy records, the public can remain in the dark regarding trends and important data about deaths in the community and deaths that occur while an individual is in government custody. In Rhode Island, for example,

² Cody Boteler, *The Banner Wins Polk Award for Coverage of Baltimore’s Overdose Crisis*, Baltimore Banner (Feb. 17, 2025), <https://www.thebaltimorebanner.com/community/local-news/baltimore-banner-polk-award-EAORIFDQSRDSPIA2QL5BITCCCQ/>.

³ *Id.*

⁴ Bryan P. Sears, *Settlement Five Years After Anton Black’s Death in Police Custody Includes Reforms to State Medical Examiner’s Office*, Maryland Matters (Nov. 8, 2023), <https://marylandmatters.org/2023/11/08/settlement-five-years-after-anton-blacks-police-custody-death-includes-reforms-to-state-medical-examiners-office/>. Anton’s Law was also passed following his death, which made police misconduct records public under the Maryland Public Information Act.

⁵ Melissa Goldin and Philip Marcelo, *George Floyd’s Autopsy Report Is Not New, Does Not Say He Died of an Overdose*, Associated Press (May 26, 2023), <https://apnews.com/article/fact-check-george-floyd-autopsy-new-892530421961>.

⁶ Kavitha Surana, *Afraid to Seek Care Amid Georgia’s Abortion Ban, She Stayed at Home and Died*, ProPublica (Sept. 18, 2024), <https://www.propublica.org/article/candi-miller-abortion-ban-death-georgia>.

⁷ *See Life of the Mother: How Abortion Bans Lead to Preventable Deaths*, ProPublica, <https://www.propublica.org/series/life-of-the-mother> (last visited Mar. 10, 2025).

⁸ Noah Caldwell, et. al., *Gasping for Air: Autopsies Reveal Troubling Effects of Lethal Injections*, NPR (Sept. 21, 2020), <https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection>.

⁹ Banner Staff, *The Baltimore Banner, The New York Times and Big Local News Collaborate With Newsrooms Across the Country to Expose Opioid Crisis*, Baltimore Banner (Dec. 21, 2024), <https://www.thebaltimorebanner.com/banner-pr/new-york-times-big-local-news-opioid-crisis-partnership-2ONBVC5UHVATDAW6GKG5V55WZE/>.

transparency advocates sought to expand access to autopsy records after four individuals died while in state custody at the Adult Correctional Institutions.¹⁰ In part because of the state's restrictive law regarding the release of autopsy records, the public was unable to independently investigate and understand the nature of those deaths.

Current Maryland law already exempts some information from autopsy reports. It prevents "photographs and other documents developed in connection with an autopsy" from being disclosed, and exempts records that are part of an ongoing investigation.¹¹ And that policy has promoted transparency and important public policy shifts in the five decades since the Attorney General explicitly confirmed that autopsies were subject to MPIA.¹²

Finally, the proposed "final autopsy diagnosis" definition lacks clarity on what exactly is to be included in the report. While the proposed bill states that a "final autopsy diagnosis" must include "interpretations and conclusions" of the examiner, it does not define exactly what information and portions of existing autopsy records must be included. Journalists rely on autopsies to learn demographic information, cause of death, and circumstances surrounding an individual's death. Given that lack of clarity, the proposed change could remove this valuable information from the public record.

The proposed change to the MPIA would harm Maryland journalists and government transparency. For these reasons, the Reporters Committee respectfully urges you to vote no on HB 209.

Please do not hesitate to contact the Reporters Committee's Vice President of Policy Gabe Rottman (grottman@rcfp.org) with any questions.

Sincerely,

The Reporters Committee
for Freedom of the Press

¹⁰ Katie Mulvaney, *Autopsies are Public in Many States – But Not Rhode Island. Here's Why*, Providence Journal (May 21, 2024), <https://www.providencejournal.com/story/news/local/2024/05/21/should-autopsy-reports-be-public-in-rhode-island-aclu-seeks-more-transparency/73688129007/>.

¹¹ See Letter from Assistant Attorney General Kathryn M. Rowe to Senator Leo E. Green (May 30, 2003); see also Maryland Public Information Act Manual at 3-21 (19th ed., Dec. 2024).

¹² 63 Opinion of the Attorney General 659 (1978).