

November 1, 2022

Laura Dennis
Laura.Dennis@luzernecounty.org

RE: Advisory Opinion on Autopsy Records

Dear Attorney Dennis:

The Office of Open Records (“OOR”) received your request for an advisory opinion on October 20, 2022. The OOR may issue advisory opinions pursuant to Section 1310 of the Right-to-Know Law (“RTKL”), 65 P.S. § 67.1310(a)(2). Your request for an advisory opinion is hereby **GRANTED**.

Your advisory opinion request seeks answers to the following questions:

Is the name of a minor discoverable, in an autopsy, under the [RTKL]? When a minor dies, [i]s an autopsy admissible, but the name of the minor redacted? Or does [S]ection [708(b)(30)], not apply to [S]ection [708(b)(20)]?

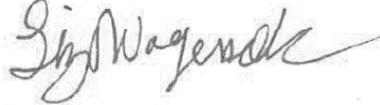
Section 708(b)(20) of the RTKL, while exempting from disclosure “[a]n autopsy record of a coroner or medical examiner...,” explains that the exemption “shall not limit the reporting of the name of the deceased individual and the cause and manner of death.” 65 P.S. § 67.708(b)(20). Meanwhile, Section 708(b)(30) of the RTKL exempts “[a] record 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). Also relevant to this discussion is the County Code, which requires that coroners of the third through eighth classes deposit their “official records and papers” with the county prothonotary, 65 P.S. § 1236-B, and provide certain coroner records upon payment of set fees, 16 P.S. § 1252-B.

It is the OOR’s belief that 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), 16 P.S. § 1252-B 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. 65 P.S. § 67.306. Therefore, the OOR believes that Section 708(b)(30) does not apply when dealing with the names of deceased minors in coroner records.

With respect to any autopsy reports, those records are required to be deposited with the county prothonotary, 65 P.S. § 1236-B, or can be obtained directly from the coroner for a \$500 fee, 65 P.S. § 1252-B. *See Penn Jersey Advance, Inc. v. Grim*, 962 A.2d 632, 637 (Pa. 2009) (explaining that autopsy reports are required to be deposited by the coroner but also may be rapidly procured directly from the coroner). Because another law makes those records available in full, Section 708(b)(30) of the RTKL cannot serve as a basis for redaction. 65 P.S. § 67.306.

This Advisory Opinion will be posted on the OOR's website at <https://www.openrecords.pa.gov/RTKL/AdvisoryOpinions.cfm>.

Respectfully,

A handwritten signature in black ink, appearing to read "Liz Wagenseller". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Liz Wagenseller
Executive Director

From: Dennis, Laura
To: [DC, OpenRecords](#)
Subject: Advisory Opinion Sought
Date: Thursday, October 20, 2022 1:08:32 PM

QUESTION OF LAW

Is the name of a minor discoverable, in an autopsy, under the right to know law?

FACTS

Very often autopsy results are sought for the death of a minor.

THIS INQUIRY RELATES TO TWO SECTIONS OF THE RTKL UNDER SECTION 708 (b)

(20) 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. This exception shall not limit the reporting of the name of the deceased individual and the cause and manner of death.

AND

(30) A record identifying the name, home address or date of birth of a child 17 years of age or younger

ISSUE: When a minor dies, Is an autopsy admissible, but the name of the minor redacted? Or does section 30, not apply to section 20?

Thank you for your review of this issue.

Laura Dennis
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Laura C. Dennis, Esq.
Open Records Officer
Luzerne County Office of Law, Assistant Solicitor

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