

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

UNIONTOWN NEWSPAPERS, INC., d/b/a)
THE HERALD STANDARD; and)
CHRISTINE HAINES,)

Petitioners,)

v.)

PENNSYLVANIA DEPARTMENT OF)
CORRECTIONS,)

Respondent.)

No.: 66 M.D. 2015

**BRIEF IN SUPPORT OF MOTION FOR
JUDGMENT ON THE PLEADINGS**

Filed on Behalf of the Petitioners,
Uniontown Newspapers, Inc., d/b/a The
Herald Standard; and Christine Haines

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CORRECTIONS,)
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Respondent.)

**PETITIONERS' BRIEF IN SUPPORT OF
MOTION FOR JUDGMENT ON THE PLEADINGS**

AND NOW, come the Petitioners, Uniontown Newspapers, Inc., d/b/a The Herald Standard and Christine Haines (collectively, "Petitioners"), by and through their undersigned counsel, Saul Ewing LLP, and hereby submit their Brief in Support of Motion for Judgment on the Pleadings:

I. FACTUAL BACKGROUND

Petitioners seek the intervention from this Commonwealth Court to enforce a Final Determination of the Pennsylvania Office of Open Records ("OOR") pursuant to the Pennsylvania Right to Know Law (see Exhibit "1", Petitioners' Petition for Review, the "PFR", at Exhibit A, the "OOR Final Determination"). The OOR Final Determination became final and enforceable on December 31, 2014, the last date on which the Respondent, the Pennsylvania Department of Corrections ("Respondent" or the "DOC"), could appeal to this Court from the OOR Final Determination. (Exhibit 1, at ¶¶2, 25; and **Exhibit "2"**, DOC's Answer/New Matter, at ¶¶2, 25).

The OOR Final Determination mandated that the DOC produce all documents responsive to the Petitioners' sufficiently tailored open records request, which requested information regarding cancerous and other serious health conditions from a specific timeframe from a single DOC facility.

(See Exhibit 1, at ¶ 1-2, 21-25, and Exhibit A thereto). Petitioners' original records request read as follows:

I am seeking documentation of illnesses contracted by inmates and/or staff members at SCI-Fayette. I am not seeking identifying information, only the types of reported contracted illnesses and the number of inmates or staff members with those illnesses. I am particularly interested in various types of cancer reported at SCI-Fayette since its opening, as well as respiratory ailments reported. If there is also information comparing the health at SCI-Fayette with the health at other state correctional facilities, that would also be helpful.

(see Exhibit 1, at Exhibit C thereto). The DOC, however, never appealed the OOR Final Determination, but instead improperly refused to comply fully with the direction of the same and, in turn, the clear requirements of the Pennsylvania Right to Know Law ("RTKL").

Despite the OOR Final Determination, which required the DOC to comply fully with Petitioners' RTKL request, the DOC has willfully failed to produce all documents it admits exist, are in its possession or control, and are responsive to the OOR Final Determination. (See Exhibit 1, at ¶¶25-53). The documents that Petitioners requested, and have an immediate right to review, are subject to production as a matter of law and relate to an ongoing debate of public importance about environmentally-related illnesses at the Pennsylvania State Correctional Institution at Fayette ("SCI-Fayette"). (See Exhibit 1, at ¶¶4-5). Simply, the DOC has no valid defenses to production of the requested documents, and the DOC must comply immediately with the OOR Final Determination.

II. PROCEDURAL BACKGROUND

On February 6, 2015, Petitioners filed their Petition for Review and Enforcement of Final Determination of Office of Open Records with this Court. Throughout their PFR, Petitioners describe their initial RTKL request (Exhibit 1, at ¶¶16-17); the DOC's evasive and boilerplate responses to the same (*id.* at ¶¶18-20); Petitioners' appeal to the OOR, which determined that the DOC failed to meet its burden of establishing any defense to disclosure, and ordered the DOC to

produce all records responsive to Petitioners' RTKL request (*id.* at ¶¶21-24); the DOC's bad faith conduct following the OOR Final Determination, along with its willful and wanton refusal to comply with the OOR Final Determination or the RTKL (*id.* at ¶¶25-44); and Petitioners' clear entitlement to various relief under the RTKL (*id.* at ¶¶45-53).

On March 9, 2015 the DOC filed its Preliminary Objection to the PFR. On May 28, 2015, after briefing and oral argument, this Court overruled the DOC's Preliminary Objection. Thereafter, the DOC filed its Answer and New Matter on June 17, 2015, and Petitioners closed the pleadings with the filing of their Reply to New Matter on July 13, 2015.

III. ISSUES PRESENTED

The pleadings to date in this matter have resolved all necessary factual disputes, and this Court is entitled to resolve the remaining legal issues between the parties: (1) whether the DOC is required to review its repository of medical records for information responsive to Petitioner's RTKL request, redact personal identification information of inmates, and produce remaining information relating to Petitioners' requests and the public controversy such documents directly impact; and (2) whether Petitioners are entitled to the remaining relief requested in their PFR.

IV. STANDARD OF REVIEW

"[W]hen ruling on a motion for judgment on the pleadings in [the Commonwealth Court's] original jurisdiction, this court must view all of the opposing party's allegations as true, and only those facts that the opposing party has specifically admitted may be considered against the opposing party." *Tullio v. Beard*, 858 A.2d 156, 158 (Pa. Commw. Ct. 2004) (citing *Parish v. Horn*, 768 A.2d 1214 (Pa. Commw. Ct. 2001)). Additionally, "[t]his Court may only consider the pleadings themselves and any documents properly attached thereto. [The Court] may grant a motion for judgment on the pleadings only when there is no genuine issue of fact and the moving party is entitled to judgment as a matter of law." *Id.* For original jurisdiction petitions for

review, the pleadings include, *inter alia*, the petition, an answer, a reply to new matter, preliminary objections (if any), and an answer thereto. PA. R. APP. P. 1516(b).

V. LEGAL ARGUMENT

This Court has consistently reiterated that “the objective of the RTKL ‘is to empower citizens by affording them access to information concerning the activities of their government.’” Barnett v. Pa. Dep’t of Pub. Welfare, 71 A.3d 399, 403 (Pa. Commw. Ct. 2013) (quoting Levy v. Senate of Pa., 65 A.3d 361, 381 (Pa. 2013)). Therefore, “courts should liberally construe the RTKL to effectuate its purpose of promoting ‘access to official government information in order to prohibit secrets, scrutinize actions of public officials, and make public officials accountable for their actions.’” Id. In fact, this Court possesses “the broadest scope of review” following the OOR Final Determination. Coulter v. Pa. Bd. of Prob. & Parole, 48 A.3d 516, 518 (Pa. Commw. Ct. 2012) (quoting Bowling v. OOR, 990 A.2d 813 (Pa. Commw. Ct. 2010)).

The RTKL provides a multi-step process for a party requesting documents: (1) the initial request for documents and information, 65 P.S. § 67.702; (2) the agency’s response to the request, 65 P.S. § 67.907 – 67.905; (3) appeals to the Office of Open Records, 65 P.S. § 67.1101 – 67.1102; and (4) judicial review of determinations of the Office of Open Records. 65 P.S. § 67.1301 – 67.1310. Following a determination of the Office of Open Records, the RTKL vests courts with broad remedial powers: to reverse Office of Open Records decisions, 65 P.S. § 67.1304(a); to impose sanctions, including attorneys’ fees and litigation costs, 65 P.S. § 67.1304(a)-(b); and to impose civil penalties. 65 P.S. § 67.1305.

This Court is, therefore, vested with the broadest powers to enforce the Final Determination, and award Petitioners appropriate financial redress, as requested below.

A. Due to the DOC's Express Admissions, All Relevant Factual Disputes have been Resolved for Purposes of this Motion.

Throughout its pleadings in this matter, the DOC has made a number of admissions which support this Motion. In its Preliminary Objection, for example:

1. The DOC admits that it has not satisfied Petitioners' RTKL request: "Admittedly, all records Ms. Haines requested were not provided." (see Exhibit "3", Respondent's Preliminary Objection, at ¶12);
2. If records responsive to Petitioners' RTKL request exist, the DOC agrees that "Petitioner[s] would have a clear right to those records based on the Final Determination from the OOR" (*id.* at ¶30) (emphasis added); and
3. The DOC also admits that the information requested by Petitioners is obtainable: "[T]he Department [of Corrections] explains that the records can only be gleaned from reviewing medical records" (*id.* at ¶34).

The DOC made a similar set of record admissions in its Answer and New Matter to the PFR:

1. "[I]t is ADMITTED that the Department has information regarding inmate deaths" (Exhibit 2, at ¶27);
2. "It is ADMITTED that the Department has inmate medical records." (*id.* at ¶50);
3. The DOC admits that additional information responsive to Petitioners' request exists: "The only way for the Department to glean this information would be by reviewing each paper inmate medical file or files" (*id.* at ¶114);
4. "Each inmate has a paper medical record." (*id.* at ¶104); and
5. "The Department retains inmate records for ten years." (*id.* at ¶118).

Moreover, in a public press release, the DOC even stated that it "maintains an extensive database of all current cancer patients in state prison facilities . . ." (Exhibit 1, at ¶37, and Exhibit I thereto).

Therefore, the DOC admits at least the following:

- a. that the information responsive to Petitioners' RTKL request/the OOR Final Determination is available (at least following a review of inmate medical records);
- b. that Petitioners have a clear right to the responsive documents; and
- c. the DOC has failed to fully comply with Petitioners' RTKL request by producing the responsive documents it maintains and knows it has a duty to produce immediately.

The DOC's primary argument to the contrary rests on its perceived burden of producing the documents that are subject to public review. The DOC has also alleged that the documents in its possession are exempt from disclosure because they would require creation of a new record, or because medical records are generally exempt from the RTKL. (See Exhibit 2, at ¶50) ("It is ADMITTED that the Department has inmate medical records. It is specifically DENIED that the Department has a database or a way to compile the requested information . . . without creating a new record or redacting a medical record"). All of these assertions, however, are erroneous, and the DOC has no colorable legal defense to compliance with the OOR Final Determination.

B. The DOC's Apparent "Undue Burden" Defense is Improper under RTKL.

Throughout the OOR proceedings and the pleadings in this action, the DOC has suggested that a review of its medical records repository to produce information responsive to Petitioners' RTKL request would simply be too burdensome (but see Exhibit 2, at ¶41 ("Department has not alleged 'burdensomeness' as a defense")). Burden, however, is not an exemption to the RTKL.

The RTKL, 65 P.S. § 67.708(b), sets forth the various exemptions from disclosure. Notably, an undue burden defense (often asserted in civil discovery exchanges) is absent from the list. Instead, this Court has clearly stated that "[t]here is simply nothing in the RTKL that authorizes an agency to refuse to search for and produce documents based on the contention it would be too burdensome to do so." Legere, 50 A.3d at 266. See also Carey v. Pennsylvania Dep't of Corr., 61 A.3d 367, 372-73 (Pa. Commw. Ct. 2013) ("a burden on an agency attendant to gathering responsive records does not pertain to sufficiency of a request or render it non-specific."). The mere fact that the DOC might be required to review medical records in order to fully respond to the RTKL request, and comply with the OOR Final Determination, is simply not a cognizable defense to production under the RTKL, especially when compared to Petitioners' and the public's right of

access to the vital information at issue in this case. This is especially true where, as here, much of the burden likely stems from the DOC's own, internal lack of organization. Legere, 50 A.3d at 265 (“an agency's failure to maintain the files in a way necessary to meet its obligations under the RTKL should not be held against the requestor. To so hold would permit an agency to avoid its obligations under the RTKL simply by failing to orderly maintain its records.”).

Therefore, any alleged burden of complying with Petitioners RTKL request does not provide any defense to the DOC's willful failure to comply with the OOR Final Determination.

C. The DOC's Compliance with the OOR Final Determination Would Not Require it to Create a "New Record".

Generally, in response to a RTKL request, a governmental entity is not required to create an entirely new record that does not otherwise exist:

When responding to a request for access, an agency shall not be 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 compile, maintain, format or organize the record.

65 P.S. § 67.705. “That provision precludes a requester from being able to ‘shanghai’ government employees to create a record when one does not exist and take them away from carrying out their normal responsibilities. However, this section does not permit an agency to avoid disclosing existing public records by claiming, in the absence of a detailed search, that it does not know where the documents are.” Pa. State Police v. McGill, 83 A.3d 476, 481 (Pa. Commw. Ct. 2014). Petitioners in this case are not attempting to “shanghai” government employees or distract them from their usual duties. Instead, Petitioners are attempting to obtain information that the DOC admits exists in records in its possession subject to redaction, and regarding an important issue of public debate. For each of the following reasons, the DOC must produce relevant records that it

admits are in its possession, in accordance with the OOR Final Determination, and the “new record” exemption of the RTKL simply does not provide a defense to disclosure.

First, the DOC has consistently reiterated that the information requested by Petitioners exists, but would require a more detailed search that the DOC refuses to perform: “the only way to provide the requested information would be by reviewing medical records” (see Sect. V(A), supra). Therefore, the “new record” exception is not even implicated in this case because the very information sought (*i.e.*, within medical records with disclosure of specific illnesses contracted by SCI-Fayette inmates) already exists and/or can be gleaned from a review of a larger repository of medical records admittedly in the DOC’s custody and control.

Second, drawing information from a larger medical records repository does not constitute creation of a new record. See, *e.g.*, McGill, 83 A.3d at 481 (“drawing information from a database does not constitute creating a record”); Com., Dep’t of Envtl. Prot. v. Cole, 52 A.3d 541, 548 (Pa. Commw. Ct. 2012) (“In short, to the extent requested information exists in a database, it must be provided; an agency cannot claim otherwise under Section 705 [the new record exception] of the Right-to-Know Law.”). The DOC possesses, controls, and/or has access to some sort of database or document repository with “thousands of medical files,” which it now refuses to search in response to Petitioners’ RTKL request (see Sect. V(A), supra) (see also Exhibit 2, at ¶50 (“It is ADMITTED that the Department has inmate medical records”; ¶104 (“Each inmate has a paper medical record”); and ¶118 (“The Department retains inmate records for ten years”). In fact, in a public press release, the DOC even stated that it “maintains an extensive database of all current cancer patients in state prison facilities” (Exhibit 1, at ¶37, and Exhibit I thereto). Drawing specific information from this larger universe of documents or producing the documents themselves, as requested by Petitioners, simply does not invoke the “new record” exemption of Section 67.705.

Third, to the extent that the DOC's manner of recordkeeping is hindering it from complying with the OOR Final Determination, it cannot rely on Section 67.705 as a defense: "A requestor cannot control how an agency catalogues or organizes such files. As such, an agency's failure to maintain the files in a way necessary to meet its obligations under the RTKL should not be held against the requestor. To so hold would permit an agency to avoid its obligations under the RTKL simply by failing to orderly maintain its records." Com., Dep't of Envtl. Prot. v. Legere, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012). That is precisely the result that the DOC is seeking from this Court: to avoid its RTKL obligation because its files are not organized in an orderly fashion to permit it to pull documents responsive to Petitioners' request in a matter that it deems sufficiently efficient. Petitioners should not be victims of the DOC's own, internal failure to organize vital medical information of its charges in an appropriate manner.

Therefore, the DOC cannot rely on Section 67.705's "new record" defense under the RTKL, and the DOC should fully comply with the OOR Final Determination.

D. The Medical Records Exception to the RTKL Also Does Not Exempt the DOC's Compliance with the OOR Final Determination.

The DOC admits that it could provide information relevant to Petitioners' RTKL request through a review of its medical records database (see Sect. V(A), supra). The DOC has argued, however, that medical records are exempt from disclosure under the RTKL, and that the RTKL does not require the DOC to redact records (see id.). Both statements are false as a matter of law.

The RTKL contains a series of exemptions. See 65 P.S. § 67.708(b). All records in the possession of a Commonwealth agency, such as the DOC, are presumed public and subject to disclosure from the outset. McGill, 83 A.3d at 479. "The burden of proving that a record of a Commonwealth agency . . . is exempt from public access shall be on the Commonwealth agency . . . receiving a request by a preponderance of the evidence." 65 P.S. § 67.708(a).

The RTKL does provide a limited medical records exemption, which the DOC is apparently relying upon as a defense to disclosure:

A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.

65 P.S. § 67.708(b)(5) (emphasis added). The DOC claimed the medical records exception in response to Petitioners' original RTKL request, but the OOR held that the DOC "has not asserted what records are being withheld pursuant to this exemption, and has not provided any evidence on appeal to explain why these records fall under this [medical records] exemption." (Exhibit 1, at Exhibit A thereto, at pg. 2, 7-8).

Moreover, not only has the DOC failed to support or establish the exemption, but the exemption does not apply. Exemptions to the RTKL "must be narrowly construed due to the remedial nature of the RTKL, which 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." McGill, 83 A.3d at 479. Section 67.708(b)(5) does not impose a blanket exception for all medical records, but instead exempts records that could reveal individual health information. Petitioners never requested any record identifying any specific "individual" or "information that would disclose individually identifiable health information". In fact, Petitioners expressly stated their contrary intention: "I am not seeking identifying information, only the types of reported contracted illnesses and the number of inmates or staff members with those illnesses." (Exhibit 1, at Exhibit C thereto).

Additionally, if an agency determines that a record contains both information that is subject to disclosure and information that is not, “the agency shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted.” 65 P.S. § 67.706 (emphasis added). See also Advancement Project v. Pennsylvania Dep’t of Transp., 60 A.3d 891, 894 (Pa. Commw. Ct. 2013) (“an agency cannot deny access to a record that contains non-disclosable information if that information can be redacted”).

Here, the DOC’s repository of medical records likely contains personal identifying health information of inmates, which is not subject to disclosure, along with unprotected information relevant to Petitioners’ request, including general diagnoses without identifying information. Petitioners would gladly accept medical records redacted of all “information that would disclose individually identifiable health information.” Petitioners’ RTKL request was clear: it merely sought certain diagnosis information of inmates and staff, not any identification of the individual patient (see Exhibit 1, at Exhibit C thereto).

Therefore, to the extent that the DOC is ordered to produce portions of medical records to comply with Petitioners’ RTKL request, the DOC cannot rely upon the medical records exemption to block Petitioners’ access *in toto*. Instead, the DOC is under an express duty to redact personal identifying information from the records, and grant Petitioners access to the rest.

E. In Addition to the Production of Responsive Documents, Petitioners are Entitled to the Remaining Relief Requested in Their Petition for Review.

In addition to the primary relief requested in Petitioners’ PFR, *i.e.*, disclosure of the information sought under the RTKL, Petitioners also requested additional remedies. Petitioners

requested, for example, reimbursement of attorneys' fees and litigation costs, along with civil penalties levied against the DOC pursuant to the RTKL (see Exhibit 1, at ¶¶45-53).

The RTKL expressly authorizes monetary sanctions. For example, attorneys' fees and litigation costs may be awarded for the DOC's improper refusal to grant access to records:

(a) Reversal of agency determination. -- If a court reverses the final determination of the appeals officer or grants access to a record after a request for access was deemed denied, the court may award reasonable attorney fees and costs of litigation or an appropriate portion thereof to a requester if the court finds either of the following:

(1) the agency receiving the original request willfully or with wanton disregard deprived the requester of access to a public record subject to access or otherwise acted in bad faith under the provisions of this act; or

(2) the exemptions, exclusions or defenses asserted by the agency in its final determination were not based on a reasonable interpretation of law.

65 P.S. § 67.1304(a). Moreover, civil penalties are also available for the DOC's bad faith:

(a) Denial of access. -- A court may impose a civil penalty of not more than \$1,500 if an agency denied access to a public record in bad faith.

(b) Failure to comply with court order. -- An agency or public official who does not promptly comply with a court order under this act is subject to a civil penalty of not more than \$500 per day until the public records are provided.

65 P.S. § 67.1305. The DOC's bad faith, unreasonable interpretations of the RTKL, and willful and wanton disregard to the public's right to access (including ignorance of the OOR Final Determination) is apparent as a matter of law. See Newspaper Holdings, Inc. v. New Castle Area Sch. Dist., 911 A.2d 644, 650 (Pa. Commw. Ct. 2006) (imposing monetary sanctions for school district's willful disregard of right to access).

First, in response to Petitioners' RTKL request, the DOC responded in its initial denial with a laundry list of defenses, including essentially every defense permitted under the RTKL (see Exhibit 1, at ¶¶19-20 and Exhibit D thereto). The OOR, however, determined that the DOC failed to establish that the requested records were exempt as noncriminal investigation records or protected medical records, and that the DOC did not even attempt to submit evidentiary support or explanation for any other exemption (see id. at ¶¶21-24 and Exhibit A thereto). Accordingly, although the DOC indiscriminately asserted every defense under the RTKL, it failed to actually establish a single one and, furthermore, did not even attempt to establish the majority of the same before the OOR. The DOC's procedure of asserting each and every RTKL defense, failing to establish even a *prima facie* case for its leading two defenses before the OOR, then abandoning the remaining inapplicable defenses, is bad faith. The DOC asserted an overbroad and unreasonable initial denial in an attempt to dissuade Petitioners and the public from pursuing the information, which is directly counter to the purpose of the RTKL. (Compare also DOC press release admitting it "maintains an extensive database of all current cancer patients in state prison facilities", Exhibit 1, at ¶37, and Exhibit I thereto, with Exhibit 2, at ¶50, stating that it is "DENIED that the Department has a database or a way to compile the requested information").

Second, the DOC continually withheld responsive documents from Petitioners, instead merely producing, if at all, in a piecemeal manner. For example, it was not until *after* the filing of the PFR that the DOC provided additional, relevant documents (see Exhibit 2, at ¶ 32). The DOC failed to provide any explanation for its withholding of pertinent documents. Instead, the DOC's partial compliance with the RTKL after litigation ensues is another element of bad faith, and a further disincentive for public requests for information.

Third, the DOC continually changed positions with respect to the existence of the documents, which resulted in the wasting of significant resources (including attorneys' fees) by

Petitioners attempting to gain compliance with their original RTKL request (and to obtain information vital to an ongoing public debate). In its initial denial, the DOC asserted defenses, but never stated that the documents were unavailable (see Exhibit 1, at ¶¶19-20 and Exhibit D thereto). In fact, the DOC's first declaration of DOC Director Oppman (see Exhibit 1, at ¶¶ 38-39 and Exhibit J thereto), was, at the very least, "poorly worded" by the DOC's own admission (see Exhibit 3, at ¶20). Even the DOC agrees that Director Oppman's first declaration could be construed as admitting that the DOC possessed all documents responsive to Petitioners' RTKL request (id. at ¶20). The DOC reiterated that its declarations give at least the impression that responsive information exists: "Admittedly, Director Oppman's first declaration gives the impression that the Department [of Corrections] possesses every record requested by [Petitioners]" (id. at ¶35). Later, the DOC reversed course and claimed that the responsive documents do not exist, despite previous admissions to the contrary (see Exhibit 1, at ¶43, and Exhibit K thereto). Through this litigation, the DOC again relies on defenses to disclosure, as opposed to the nonexistence of the requested documents. The DOC continued to give Petitioners the runaround under the RKTL; another example of bad faith and an institutional operating procedure to block the public's access to information and peremptorily dissuade attempts to obtain public information.

Fourth, despite the OOR Final Determination, which became final and enforceable on December 31, 2014 (compare Exhibit 1, at ¶¶2, 25; and Exhibit 2, at ¶¶2, 25), the DOC willfully failed to comply with the same. Instead, the DOC never appealed, then attempted to rely on the very same defenses to disclosure that the OOR summarily overruled. The DOC has openly refused to comply with the RTKL, and the clear directions of the OOR.

Fifth, although the DOC continually refused to disclose information required by the OOR Final Determination, it selectively disclosed relevant information to wage its public relations battle against the Abolitionist Law Center (the "ALC"). The ALC published an exposé on the toxic

environmental surroundings of SCI-Fayette, and potential impacts on inmates at the facility (see Exhibit 1, at ¶5, and Exhibit B thereto). Then, in response, the DOC published a press release regarding cancer illnesses at SCI-Fayette (see Exhibit 1, at ¶¶37, 52, and Exhibit I thereto), which is reflective of the very information requested by Petitioners. The DOC is willing to research and publish information from its medical records repository as a sword for its own benefit, but has improperly hidden behind misrepresentations and inapplicable RTKL defenses to shield itself from any unfavorable disclosures.

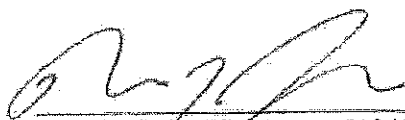
Overall, the DOC has proceeded without *any* reasonable basis in law or fact. Therefore, the DOC's bad faith, willful and wanton disregard of its duties under the RTKL, and other improper conduct is established in the pleadings in this matter, and Petitioners are entitled to the monetary relief permitted by the RTKL, including reimbursement of litigation costs.

VI. CONCLUSION

For the reasons set forth above, together with those stated in Petitioners' Petition for Review and the remaining pleadings in this matter, the DOC should be immediately ordered to produce the documents and information that Petitioners are clearly entitled to, among other relief.

WHEREFORE, the Petitioners, The Herald Standard and Christine Haines, respectfully request that this Honorable Court grant their Motion for Judgment on the Pleadings; grant the relief requested in Petitioners' Petition for Review; and provide any further such relief that this Court deems appropriate under the circumstances.

Respectfully submitted,



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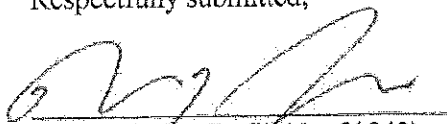
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Brief in Support of Motion for Judgment on the Pleadings filed on behalf of the Petitioners, The Herald Standard and Christine Haines, was served upon the following parties via United States Mail on this 6th day of October, 2015:

Commonwealth of Pennsylvania, Office of Open Records
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