



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

**NELSON LAUVER,  
Requester**

**v.**

**NORTHAMPTON COUNTY,  
Respondent**

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**Docket No: AP 2026-1633**

### **FACTUAL BACKGROUND**

On March 13, 2026, Nelson Lauver (“Requester”) submitted a request (“Request”) to Northampton County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following records relevant to the County Coroner:

**1. Job Description**

Any and all existing records that describe the official job description, duties, responsibilities, or position description for the Northampton County Coroner, including any documents maintained by the County Human Resources Department.

**2. Position Classification**

Any and all existing records reflecting the Human Resources classification of the position of Northampton County Coroner, including classification descriptions, pay grade documentation, or related personnel classification records.

**3. Oath of Office**

Any and all existing records reflecting the Oath of Office taken by the current Northampton County Coroner.

**4. Training or Qualification Requirements**

Any and all existing records describing training requirements, qualifications, certifications, or continuing education requirements required by Northampton County for the position of Coroner.

#### 5. Policies, Procedures, or Manuals

Any and all existing policy manuals, procedural manuals, written policies, or operational guidelines maintained by Northampton County that govern or guide the operations of the Northampton County Coroner's Office.

On March 16, 2026, the County invoked a thirty-day extension to respond; however, as the County did not respond within the extension period, the Request was deemed denied on April 20, 2026. *See* 65 P.S. § 67.902(b)(2).

On April 22, 2026, the Requester appealed to the Office of Open Records ("OOR"), stating grounds for disclosure.<sup>1</sup> The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On May 5, 2026, the City submitted the attestation and legal argument authored by Tyree Blair, Sr., Esq, the County's Assistant Solicitor and Open Records Officer that was made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities ("Blair Attestation").<sup>2</sup> The County acknowledges that the Request had been deemed denied, but states that on April 27, 2026, a partial denial was issued to the Requester in which the County granted Items 1 and 2, and denied Items 3-5, arguing that certain records do not exist, that the County is not required to conduct legal research to respond to the Request, and that the disclosure of records responsive to Item 5 would like endanger public safety, 65 P.S. § 67.708(b)(2).

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<sup>1</sup> The Requester granted the OOR a 30-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>2</sup> Under the RTKL, a 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. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010).

## 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)).

### **1. The District provided additional records on appeal**

The County provided records with the April 27, 2026 untimely response. In response to Item 1 and a portion of Item 4, the County provided a copy of the Coroner Job description, which sets for the required duties and qualifications of a coroner and outlines “acceptable training and experience required for the role, including compliance with the PA State Education Act and completion of 8 hours of continuing education credits annually.” The County further provided the Coroner Position Classification Records which outlines pay grades and schedules, as well as full-time and part-time roles within the Coroner’s Office. *See* Blair Attestation, ¶¶ 7-8. The Requester has not disputed receiving these records and, therefore, the appeal is moot as to the records provided with the District’s April 22, 2026 appeal submission that are responsive to Items 1 and 2, as well as to the extent that the records describe training and continuing education satisfies any portion of Item 4. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106,

1114 (Pa. 2021) (finding that a matter was settled by provision of records and, thus, “the controversy has been mooted”).

## **2. The County has proven that no records responsive to Item 3 exist**

Item 3 seeks the County Coroner’s oath of office. The County claims that no responsive record exists. Regarding the existence of an oath of office, Attorney Blair attests:

11. ...Under the County’s government structure, the Home Rule Charter converted all “Row” offices from elected officials to employees of the County Executive. Nowhere in the Home Rule Charter or the Administrative Code is there an oath requirement for any county officer or employee. Because the Coroner is an appointed employee rather than a legally mandated elected official under the Charter, the County does not maintain an oath of office for this position.

The Requester has not submitted evidence to refute the County’s argument or evidence. In the absence of any evidence that the County has acted in bad faith or that the requested records exist, “the averments in [the attestation] 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)). Therefore, the County has proven that no records responsive to Item 3 of the Request exist within its possession, custody or control.

## **3. The County is not required to do legal research to respond to Item 4**

Item 4 seeks “[a]ny and all existing records describing training requirements, qualifications, certifications, or continuing education requirements required by Northampton County for the position of Coroner.” The County partially denied this Request Item, asserting that the qualifications and education requirement of a Coroner are established by statute, specifically the Coroner’s Act, 16 Pa.C.S. §§ 13901 - 13952. The County cited to 16 P.S. § 1232 – Duties with respect to county morgues - as an example of a statutory provision governing coroners. However, it is not clear how this section would be applicable to the training and education records sought in

Item 4.<sup>3</sup> Nevertheless, the Blair Attestation states that, while some records produces may satisfy Item 4, the “qualifications and continuing education requirements ... are established purely by state statute.” *See*, ¶ 9. While none of the provisions of the Coroner’s Act address training, qualifications or education, 37 Pa. Code §§ 199.1 *et seq.* “Coroners’ Education Board” does and the Board functions under the auspices of the Pennsylvania Attorney Generals’ Office.<sup>4</sup> As such, a reasonable inference may be made that the records sought in Item 4 would not be in the possession, custody or control of the County and legal research would have had to have been conducted to respond to Item 4 of the Request and provide the records sought. Therefore, the County properly denied Item 4 of the Request.

**4. The County did not prove that records responsive to Item 5 are exempt under Section 708(b)(2) of the RTKL**

In Item 5, the Requester seeks various operational policies and guidance that are followed by the Coroner’s Office. The County denied this Item of the Request claiming that the disclosure of such records would jeopardize public safety, 65 P.S. § 67.708(b)(2). Section 708(b)(2) of the RTKL exempts from disclosure “[a] record maintained by an agency in connection with ... law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety ... or public protection activity.” 65 P.S. § 67.708(b)(2). In order to withhold records under Section 708(b)(2) of the RTKL, the Department must show: (1) the record at issue relates to law enforcement or public safety activity; and (2) disclosure of the record would be reasonably likely to threaten public safety or a public protection activity. *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 374-75 (Pa. Commw. Ct. 2013). The term, “substantial and demonstrable risk” is not defined in the RTKL; however, “reasonably likely” has been interpreted

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<sup>3</sup> Further, the Coroner’s Act was codified and consolidated into the County Code through Act 2024-14, effective July 8, 2024.

<sup>4</sup> *See* <https://www.attorneygeneral.gov/pennsylvania-state-coroners-education-board/> (last accessed June 16, 2026).

as “requiring more than speculation.” *Id.* at 375. *California Borough v. Rothey*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018). The Commonwealth Court has “defined substantial and demonstrable [risk] as actual or *real and apparent*.” *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Commw. Ct. 2019) (emphasis in original) (quoting *Carey*, 61 A.3d at 373).

In support of the County’s position, the Blair Attestation provides, in relevant part:

The operational manuals and procedures maintained by the Coroner’s Office contain highly sensitive protocols regarding morgue security, the handling of biohazards and hazardous materials, the exact directives of how the Co[r]on[e]r’s Office investigates homicides, and mass fatality disaster response. Disclosure of these operational guidelines would be reasonably likely to jeopardize or threaten public safety or public preparedness.

While the records sought in Item 5 arguably may be related to a law enforcement or public safety activity, the County’s evidence only sets forth generalized possible hazard and safety scenarios, not demonstrable, real or apparent risk to public safety. This is especially so as the affiant is the County’s Open Records Officer and the evidence does not demonstrate Attorney Blair’s personal knowledge of the responsive records that would support the factual claims of the public safety risks that would result from the release of the requested records. Additionally, the specific responsive records have not been identified or connected to the alleged safety risks. Conclusory statements are not sufficient to establish that records are exempt under the RTKL. *See Pa. Dep’t of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2016) (“Affidavits that are conclusory or merely parrot the exemption do not suffice”); *W. Chester Univ. of Pa. v. Schackner et al.*, 124 A.3d 382, 393 (Pa. Commw. Ct. 2015) (“The evidence must be specific enough to permit this Court to ascertain how disclosure of the entries would reflect that the records sought fall within the proffered exemptions”) (citing *Carey*, 61 A.3d at 375-79). Accordingly, the County has not proven that the disclosure of the records sought in Item 5 would likely result in a harm to public safety. 65 P.S. § 67.708(b)(2); 65 P.S. § 67.708(a).

## CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part, dismissed as moot in part**, and the County is required to provide all records responsive to Item 5, 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 Northampton 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 65 P.S. § 67.1303, but 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 OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: June 17, 2026**

*/s/ Kelly C. Isenberg*

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KELLY C. ISENBERG, ESQ.  
DEPUTY CHIEF COUNSEL

Sent via OOR E-File Portal: Nelson Lauver; Tyree Blair, Sr., Esq.

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