

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF

**JOHN PLESIC,
Requester**

v.

**YORK COUNTY CORONER’S OFFICE,
Respondent**

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Docket No: AP 2026-3818

FACTUAL BACKGROUND

On August 31, 2026, John Plesic (“Requester”) submitted a request (“Request”) to the York County Coroner’s Office (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...[C]opies of the following existing records maintained by the [] Office: [c]ase files, case logs, docket entries, intake records, or case management system entries pertaining to unclaimed decedents — meaning decedents whose remains were not claimed by next of kin, or for whom next of kin could not be located — with dates of death from January 1, 2024 to the present. For each such decedent, to the extent the information is contained within the requested records, I am requesting: [f]ull name (including middle name or middle initial, if available)[;] [d]ate of birth, or age at death if date of birth is not available[;] [d]ate of death[;] [l]ast known address or municipality[; and] [p]lace of death[.] If the [O]ffice maintains this information in a spreadsheet, database export, or similar compiled format, I would prefer to receive it in that form (e.g., Excel or CSV). ...

As the Requester did not receive the Office’s response within five business days of the

Request, the Request was deemed denied on September 8, 2026. *See* 65 P.S. § 67.901.

On September 10, 2026, the Office issued an untimely response, denying the Request. The Office asserts that responsive records do not exist in the Office's possession, custody or control since the Office does not track the responsive information.

On September 10, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. Specifically, the Requester claims that the Office submits unclaimed decedent case information to the National Missing and Unidentified Persons System ("NamUs"), a federal database, and provided examples of such reporting. The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On September 14, 2026, the Requester submitted a position statement, reiterating the arguments made at the time of the appeal. Additionally, the Requester provided six printouts from the NamUs database that provide information responsive to the Request.¹

On October 3, 2026, the Office submitted a position statement, reiterating the basis for denial of the Request. Additionally, the Office indicates that the Office provides "View of Body" reports to the State of Pennsylvania upon paying for the cremation of a decedent that is unclaimed. In support of the Office's position, the Office submitted an attestation made subject to the penalties under 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities, authored by Tania N. Zech ("Zech Attestation"), the York County Coroner.

On October 6, 2026, the Requester submitted a supplemental position statement, asserting the Office's 2024 Annual Report provides that there were 49 unclaimed decedents for that year

¹ Each exhibit includes an Office case number. *See* Requester's exhibits, B1-B6.

and if the Office is able to issue such a report, there is some type of log maintained by the Office.² Additionally, the Requester asserts that the “View of Body” reports are responsive to the Request.³

On October 7, 2026, the OOR requested clarification from the Office. Specifically, the OOR asked the Office to indicate how the View of Body reports would be unresponsive to the Request. To date, the Office has not responded to the OOR’s inquiry.

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)). 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 Office asserts that records responsive to the Request do not exist within the Office’s possession, custody or control, as the Office does not track the responsive information. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency

² *See* <https://yorkcountypa.gov/Archive.aspx?AMID=53> (last accessed by the OOR on October 14, 2026); *see also* Requester supplemental position statement, Exhibit C.

³ The evidentiary record in this appeal originally closed on October 2, 2026; however, said period was extended by the OOR, per the request of the Requester. *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”).

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).

Here, the Request seeks case logs and information regarding unclaimed decedents. In support of the Office’s argument that it does not possess records responsive to the Request, the Zech Attestation indicates the responsive information is not tracked by the Office. Zech Attestation ¶ 4. Additionally, the Zech Attestation explains that the Office’s case management system does not include the information requested, and as a result, the Office is unable to generate a report. Zech Attestation ¶¶ 6, 7. Lastly, the Office reviewed the six NamUs examples provided by the Requester and notes that four of the cases were not cases of the Office and two were not unclaimed decedents. Zech Attestation ¶¶ 8-10. However, upon review of the Zech Attestation, the Office has failed to explain how the View of Body reports, which are generated by the Office when the County pays for the cremation of a decedent who is unclaimed, are unresponsive to the

Request.⁴ Further, as noted by the Requester, the Office Annual Reports, which are publicly available, include yearly totals for the number of unclaimed decedents.⁵ Lastly, the Office’s own website includes monthly statistics for “County Pay Cremations,”⁶ and the Office’s position statement indicates the Office issues the View of Body reports when the County pays for the cremation of a decedent who is unclaimed. Office position statement p. 2.

In *Pa. Dep’t of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges v. Pa. Dep’t of Health*, which held that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” *Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, A.3d 1190, 1192 (Pa. Commw. Ct. 2011)); see also *Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry). While the Office claims it does not track the information sought in the Request via its case management system in the Zech Attestation, the Office’s website, the submissions of the Requester and the Office’s own position statement indicate that the number of unclaimed decedents is tracked in some fashion—otherwise, such statistics and reports could not be generated by the Office. Further, the Office failed to respond to the OOR’s request for clarification. Thus, the Office has not submitted evidence of a search reasonably calculated to uncover all relevant documents, as the Zech Attestation does not address these inconsistencies.

⁴ The OOR finds it unlikely that the Office does not track these cremations, given the expenditure of County funds.

⁵ For example, see <https://yorkcountypa.gov/ArchiveCenter/ViewFile/Item/303> p. 21 (last accessed by the OOR on October 14, 2026), which indicates that there were 49 unclaimed decedents for 2024.

⁶ See <https://yorkcountypa.gov/DocumentCenter/View/9227/SEP26-Monthly-statistics?bidId=> (last accessed by the OOR on October 14, 2026).

Accordingly, the Office should complete a good faith search for any responsive records, to include the View of Body reports and the information used to provide the information posted on its own website. Nevertheless, the OOR is mindful that an agency cannot be required to produce records that do not exist. 65 P.S. § 67.705. To the extent that no records are identified as a result of its search, the Office shall provide an affidavit or verified statement to the Requester affirming same and include a description of the search that was undertaken.

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Office is required to conduct a good faith search for responsive records in accordance with this Final Determination and provide said records or affidavit or verified statement to the Requester 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 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; 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.⁷ 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 20, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: John Plesic; Jonelle Harter Eshbach, Esq.

⁷ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).