pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
BERNIE TWERDI,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-3756**
	:	
LUZERNE COUNTY,	:	
Respondent	:	

FACTUAL BACKGROUND

On September 30, 2026, Bernie Twerdi ("Requester") filed a request ("Request") with Luzerne County ("County") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

1. The 1993 Historical Core Files (Dr. George Hudock & Deputy Andrew Strish Era): All administrative case intakes, pronouncement logs, transportation receipts, body examination notes, and custody documentation created, signed, or authorized by then-Coroner Dr. George Hudock or then-Deputy Coroner Andrew Strish regarding Bernard Twerdi Jr. from March 30, 1993, through December 31, 1994.

2. Modern Correspondence & Communications (Matthews & Fernandes Eras): All emails, letters, text messages, internal memoranda, notes, and records sent, received, or maintained during the tenures of former Coroner Jill Matthews and current Coroner Dion Fernandes that contain the keywords "Twerdi", "Bernard Twerdi Jr.", "Hudock", "Strish", or "Larksville Police Department" in relation to this file.

3. Telephonic Communication Logs: All administrative telephone logs or switchboard routing data showing phone calls involving the Coroner's Office lines and Larksville Borough municipal or police officials specifically concerning Bernard Twerdi Jr.

On October 7, 2026, the County denied the Request, arguing that responsive records are related to a noncriminal investigation, 65 P.S. § 67.708(b)(17), and are exempt autopsy records, 65 P.S. § 67.708(b)(20).

On October 9, 2026, the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. 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 October 26, 2026, the County submitted a position statement.

LEGAL ANALYSIS

The Requester argues and the County does not dispute that the name, manner and cause of death of a deceased individual are publicly accessible under the RTKL, *see* 65 P.S. § 67.708(b)(20), and that the Coroner's Act grants access to certain records of a coroner, specifically autopsy, toxicology, inquisition, and coroner's reports. *See Hearst Television, Inc. v. Norris*, 54 A.3d 23, 33 (Pa. 2012); 16 Pa.C.S. § 13952.

However, the Request does not seek those records; rather, it seeks records that the County argues are related to the noncriminal death investigation performed by the Coroner's office. While the County has produced no evidence, the Request facially seeks case intake records, body examination notes, and other records related to the file maintained by the Coroner's office regarding its investigation into the death of an individual. *See Pa. Game Comm'n v. Fennell*, 149 A.3d 101, 105 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal filing when construing exemptions).

Section 708(b)(17) of the RTKL exempts from disclosure records of an agency "relating to a noncriminal investigation," including "[i]nvestigative materials, notes, correspondence and

reports" and "[a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation." 65 P.S. § 67.708(b)(17)(ii); 65 P.S. § 67.708(b)(17)(vi)(A).

Section 13918 of the Coroner's Act provides that a county coroner "shall investigate the facts and circumstances concerning a death that appears to have happened within the county ...." 16 Pa.C.S. § 13918. The OOR has previously found that this authority grants coroners the ability to conduct noncriminal investigations. *See Hailer v. Allegheny Cnty.*, OOR Dkt. AP 2023-2213, 2023 PA O.O.R.D. LEXIS 2392; *Walbert v. Chester Cnty.*, OOR Dkt. AP 2021-1308, 2021 PA O.O.R.D. LEXIS 1367.

Therefore, based on the face of the Request, records responsive to Item 1 are exempt from disclosure. 65 P.S. § 67.708(a).[1]

However, Item 2 seeks contemporary correspondence related to the file and Item 3 seeks phone records related to calls about the deceased. Unlike records responsive to Item 1, in the absence of any competent evidence, the OOR cannot conclude that responsive records are related to a noncriminal investigation. As such, they cannot be withheld from disclosure.[2]

CONCLUSION

For the foregoing reasons, the Requester's appeal is **granted in part** and **denied in part**, and within thirty days, the County shall conduct a good faith search for records responsive to Items

[1] The Requester argues that he is entitled to the records as the next of kin of the deceased. While the OOR expresses sympathy for the loss of the Requester's son, the OOR is obligated to construe the RTKL without regard to the identity of the requester. *See, e.g., Padgett v. Pa. State Police*, 73 A.3d 644, 647 (Pa. Commw. Ct. 2013). The Requester also argues that the County should produce redacted records. However, agencies are not required to redact exempt records. *See*, *e.g.*, *Castillo v. Pa. State Police*, 310 A.3d 831, 836 (Pa. Commw. Ct. 2024) (internal quotation and citations omitted).

[2] Notwithstanding its argument that records responsive to Items 2 and 3 are related to a noncriminal investigation, the County also argues that "many of these records may no longer be maintained pursuant to the records retention standards set forth by the state." The OOR is mindful that an agency "shall not be required to create a record which does not currently exist…." 65 P.S. § 67.705. However, agencies have the burden of proving that a record does not exist, *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011). Because the County has not presented evidence as to whether the requested records exist or if a good faith search was conducted, the County has not met its burden of proof. The County is therefore directed to conduct a good faith search for records responsive to Items 2 and 3 as set forth in 65 P.S. § 67.901 and produce all records discovered thereby.

2 and 3 and produce all responsive records discovered thereby. If no responsive records are discovered, the County shall produce an attestation or sworn affidavit so stating. 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 Luzerne 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, 65 P.S. § 67.1303, but as the quasi-judicial tribunal that adjudicated this matter, the OOR is not a proper party to any appeal and should not be named as a party.[3] 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 website at: http://openrecords.pa.gov.

FINAL DETERMINATION ISSUED AND MAILED: November 6, 2026

/s/ Blake Eilers
Blake Eilers, Esq.
Senior Appeals Officer

Delivered via OOR E-file Appeal Portal to: Bernie Twerdi; Tess Reilly

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