



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it is required should an appeal be necessary. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: County of Luzerne- Prothonotary (Attn: AORO)

Date of Request: 5/14/2020 Submitted via Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Name: Bishop Jack Wisor

Mailing Address: 5375 Route 219

City: Brockport State: PA Zip: 15823 Email jwisor@windstream.net
Telephone: 814-590-3898 Fax: 814-265-0014

How do you prefer to be contacted if the agency has questions? Telephone Email U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. Use additional sheets if necessary. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law.*

Specific records requested: Any and all records that contain information about:

Persons who have been found dead in Luzerne County in the last five years:

- In abandoned or vacant buildings
- Under or near bridges, overpasses, culverts
- In tents
- Other places outdoors not suitable for human habitation on both public and private land

DO YOU WANT COPIES? Yes, electronic copies preferred if available
 Yes, printed copies preferred
 No, in-person inspection of records preferred (*may request copies later*)

Do you want certified copies? Yes (*may be subject to additional costs*) No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than \$100 (or) \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? Yes No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: Granted Partially Granted & Denied Denied Cost to Requester: \$ _____

Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: *In most cases, a completed RTKL request form is a public record. More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Nov. 27, 2018





Right-To-Know Response Form

May 27, 2020

Bishop Jack Wisor
Via email only to jwisor@windstream.net

RTK REQUEST #2020-089

Dear Mr. Wisor:

Thank you for writing to Luzerne County with your request for information pursuant to the Pennsylvania Right- To-Know law ("RTKL").

Recently, the Luzerne County Office of Law received a request for documents from you described in the attached Right To Know request. Your request is denied because Luzerne County does not maintain these documents. §705 of the RTKL states that "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".

Luzerne County does not keep a record of the statistics you requested.

You have a right to appeal this denial of information in writing to Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

If you choose to file an appeal, you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please contact Laura C. Dennis. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Laura C. Dennis, Esq.
Luzerne County
Open Records Officer
200 North River Street
Wilkes-Barre, PA 18711



OFFICE OF THE CORONER

85 Young Street • Hanover Township, PA 18706

ATTESTATION

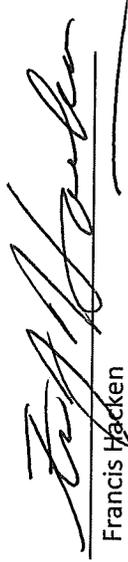
I, Francis Hacken, am the Coroner for Luzerne County, Pennsylvania. I received a Right to Know request from the Office of Law during the month of May 2020, from Bishop Jack Wisor that requested any and all records that contain information about persons who have been found dead in Luzerne County in the last five years:

- In abandoned or vacant buildings
- Under or near bridges, overpasses, culverts
- In tents
- Other places outdoors not suitable for human habitation on both public and private land.

I would be the appropriate party to address this request and I am the party that would be responsible for processing this request. I am unable to fulfill this request because Luzerne County does not compile, maintain, format or organize documents, or any list of these documents in this manner, according to these statistics or criteria.

The purpose of this Attestation, and by my signature below, is to verify under penalty of perjury under the laws of the Commonwealth of Pennsylvania, that the foregoing is true and correct according to my knowledge as the Prothonotary for Luzerne County, Pennsylvania.

DATE: 7/20/2020



Francis Hacken
Office of the Coroner
Luzerne County, Pennsylvania



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**JACK WISOR,
Requester**

v.

**LUZERNE COUNTY,
Respondent**

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Docket No.: AP 2020-0963

On May 25, 2020,¹ Jack Wisor (“Requester”) submitted a request (“Request”) to Luzerne County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records showing the number of individuals who had died in abandoned buildings, in tents, under bridges or in other places unsuitable for human habitation in the past five years. On May 27, 2020, the County denied the Request, stating that it does not separately track of the number of deaths occurring in such locations.

On June 14, 2020, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial. The OOR invited both parties to supplement the record. On July 21, 2020, the County submitted a position statement explaining that the County does not track the homeless status of deceased persons and the verification of Frances Hacken, the Luzerne County Coroner,

¹ The Request is dated as having been submitted on May 14, 2020; however, on appeal, the County’s Agency Open Records Officer confirmed that she did not receive the Request until May 25, 2020.

who attests that she would be the party most likely to possess such a record, but that she does not compile or maintain the information sought in the Request.

Under the RTKL, a verification may serve as competent evidence to sustain an agency's burden of proof. *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). In the absence of any evidence that the County has acted in bad faith or that the requested records exist, "the averments in [the affidavit] 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 met its burden of proving that the information sought does not exist in the County's possession. *See Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the Requester's appeal is **denied**, and the County is not required to take any further action. 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 according to court rules 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.² This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: August 11, 2020

/s/ Jordan Davis

JORDAN C. DAVIS, ESQ.
APPEALS OFFICER

Sent to: Jack Wisor (via email only);
Laura Dennis (via email only)