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**IN THE COURT OF COMMON PLEAS OF
LANCASTER COUNTY, PENNSYLVANIA**

IN RE: JONATHAN LUNA

LNP Media Group, Inc.,

Intervenor

DOCKET NO. 2020-01310

President Judge David L. Ashworth

**RENEWED MOTION OF LNP MEDIA GROUP, INC.
TO UNSEAL CORONER RECORDS**

AND NOW, comes Intervenor¹ LNP Media Group, Inc. (“LNP”), by its undersigned counsel and files this Renewed Motion to Unseal Coroner Records and accompanying Brief In Support, and avers the following:

1. LNP is a print and digital news organization and publisher with a principal office at 101 N. Queen Street, Lancaster. The company produces the daily printed LNP | LancasterOnline, a newspaper of general circulation throughout central Pennsylvania, and operates

¹ LNP was granted intervenor status in the instant docket by court order dated March 2, 2020.

the digital news site LancasterOnline.com, serving an audience within and beyond Central and Southeastern Pennsylvania.

2. LNP is a subsidiary of the news organization Pennon, which also owns WITF. WITF, in turn, comprises public broadcasting stations WITF TV, WITF 89.5, 93.3 and 99.9, witf.org, WITF Educational Services, and Media Solutions.

3. LNP and WITF deliver vital news to a robust audience in Pennsylvania and beyond, with LancasterOnline.com receiving roughly 1 million visitors and 3.5 million pageviews a month, and WITF broadcasts reaching a potential a market of nearly 3.5 million across a 19-county area in Central and Southeastern Pennsylvania, with additional viewers and listeners picking up the signal in portions of Western Maryland.

4. LNP and other reporters in central Pennsylvania rely on public records to provide news coverage to Lancaster County and beyond. LNP reporters regularly seek to obtain records held by all levels of government, including elected officials such as the Lancaster County Coroner's office.

5. At times LNP and other news organizations have had to rely on legal action to access records to which they are entitled and that are essential to providing their audience with timely and important information about their communities.

A. Prior litigation involving coroner's records

6. One such example of the need for court intervention involved two separate news organizations' attempts to review coroner records in the Lancaster County Prothonotary's office.

7. In January 2019, the publisher of The Patriot-News/PennLive joined with LNP in filing a mandamus action against the Lancaster County Coroner's office seeking to access records.

See Pet. for Rev./Appl. of Final Determination of Pa. Off. of Open Recs., *County of Lancaster v. Miller*, No. CI-2018-18-02915 (Ct. Comm. Pls. Lancaster Cnty., Pa. filed Apr. 25, 2018).²

8. At that time, the Coroner’s Act, 16 P.S. § 1236-B, required the elected coroner to deposit “all official records and papers” for the preceding year in the office of the Prothonotary.

9. The two news organizations alleged that despite the mandatory duty set forth in the Coroner’s Act to “deposit all official records and papers from the proceeding year” for public review at the Prothonotary’s office, the Lancaster County Coroner was not fulfilling his statutory duties. 16 P.S. § 1236-B.

10. After protracted discussions and litigation regarding access to coroner records under 16 P.S. § 1236-B, on August 23, 2019, the Honorable Leonard G. Brown, III, ordered the Lancaster County Coroner to deposit all official records with the Lancaster County Prothonotary, as required by the then-applicable provisions of the Coroner’s Act, at the conclusion of each respective year, and instructing the Coroner to deposit with the prothonotary all outstanding records not already in compliance with the Coroner’s Act. *County of Lancaster v. Walker*, No. CI-18-09547, at 4–5 (Ct. Comm. Pls. Lancaster Cnty, Pa. Aug. 23, 2019) (consolidated cases).

B. District Attorney moves to seal numerous coroner records.

11. In the wake of Judge Brown’s August 23, 2019 opinion and order, LNP, through its attorney, provided the Lancaster County solicitor with a list of the names of deceased individuals known to be “cold cases” for which it wished to review coroner records. Among the cold cases was the deceased victim Johnathan Luna, a federal prosecutor in Baltimore, Maryland

² Lancaster County’s (“the County”) attempts to appeal PennLive reporter Barbara Miller’s victory before the Office of Open Records (a determination that the Coroner was required to deposit his records annually with the Prothonotary), was consolidated with a similar appeal taken by the County against LNP Media Group reporter Carter Walker, such that the cases would then proceed under Walker’s case caption and case number. See Order, *County of Lancaster v. Miller*, No. CI-2018-02915 & CI-2018-09547 (Ct. Comm. Pls. Lancaster Cnty., Pa. Nov. 29, 2018).

who was found dead near his car in Brecknock Township, Lancaster County in the early morning hours of December 4, 2003.

12. On October 21, 2019, the Lancaster County Solicitor informed LNP's counsel that the requested records from Mr. Luna's death were not in possession of the Coroner and could not be located at the time.

13. However, a separate Right to Know Law request, *see* 65 P.S. § 67.702, from a York County man—William Buckingham—triggered the county to perform a new search for Mr. Luna's autopsy record. *See* Anne Shannon, *York County Private Detective Aims to Solve Mystery Surrounding 2003 Death of Jonathan Luna*, WGAL News 8 (updated Feb. 10, 2020), <https://www.wgal.com/article/york-county-private-detective-aims-to-solve-mystery-surrounding-2003-death-of-jonathan-luna/30860802>.

14. Despite its previous representation that the requested records were not in the possession of the Coroner, the request by Mr. Buckingham apparently unearthed the missing records.

15. On February 4, 2020, Heather L. Adams, District Attorney of Lancaster County, Pennsylvania, filed a motion to seal coroner records related to Mr. Luna's death.

16. Upon learning of the efforts to seal these records, the following day LNP filed a motion to intervene. Unbeknownst to LNP, this Court had entered an order granting the motion to seal roughly an hour prior to LNP's filing.

17. On March 2, 2020, this Court issued an order granting in part and denying in part LNP's motion to intervene; while it granted intervention, it denied unsealing, but did so without prejudice.

18. On March 18, 2020, LNP filed its motion to unseal.

C. Unsealing proceedings

19. After LNP filed its motion to unseal on March 18, 2020, this Court ordered the Commonwealth to produce Mr. Luna's coroner records for *in camera* inspection. The Court further ordered the parties to appear at an October 14, 2020 hearing to address whether the investigation into Mr. Luna's death should be considered "active and ongoing" such that it would warrant sealing.

20. At the hearing, Pennsylvania State Police Trooper First Class Chadwick Roberts, the law enforcement official assigned to Mr. Luna's cold case, testified as to the purported "ongoing" status of the then-sixteen-year investigation. Thereafter, the Court ordered the parties to provide additional briefing on the issue.

21. On January 1, 2021, the Court ruled that investigation was indeed ongoing, and issued an order sealing Mr. Luna's coroner records in their entirety and indefinitely.

D. Changed circumstances since January 1, 2021 Order

22. In the nearly four years since the Court issued its sealing order, there has been no public indication of progress in the Commonwealth's investigation into Mr. Luna's death. Meanwhile, Mr. Luna's death continues to capture the public's interest, as details of Mr. Luna's life and death continue to generate considerable media coverage and widespread speculation. *See* Dan Nephin, *Mystery of Jonathan Luna Persists After 20 Years*, LNP | LancasterOnline (Dec. 3, 2003) https://lancasteronline.com/news/local/mystery-of-jonathan-luna-persists-after-20-years/article_314f7902-907e-11ee-9c95-d35954e19916.html.

23. A documentary film on Mr. Luna's death was recently released and was shown in theatres throughout the East Coast, including in Lancaster County.³

³ *See 'Midnight Ride of Jonathan Luna' Showtimes*, Harbor East Cinema (last visited Nov. 14, 2024), <https://perma.cc/YHK3-QK5L>; *Documentary Film Premiere 'The Midnight Ride of*

24. LNP among other news outlets covered the distribution of the new film. See Dan Nephin, *Prosecutor Jonathan Luna's Death Explored in Red Rose Film Festival Movie*, LNP | LancasterOnline (Nov. 6, 2024), https://lancasteronline.com/news/local/prosecutor-jonathan-lunas-death-explored-in-red-rose-film-festival-movie/article_eb870518-9ca0-11ef-b1bc-cb2f9857d838.html.

25. The film is just the latest in a series of publications seeking to resolve the mysterious circumstances surrounding Mr. Luna's death. In addition to the film, there is a book by the same name,⁴ a podcast,⁵ and voluminous news coverage.⁶

26. The news media is just one of the interested parties seeking to resolve questions surrounding Mr. Luna's death. Other individuals have included private investigators William Buckingham and Edwin Martino as well as Lancaster County attorney James Clymer.

27. Mr. Buckingham was the individual whose Right to Know Law request triggered the discovery of the Mr. Luna autopsy file.

Jonathan Luna' and an Early History of BCFD, Facebook (last visited Nov. 14, 2024), https://www.facebook.com/events/1052184116377962/?_rdr; *The Midnight Ride of Jonathan Luna' Showtime*, Miracle Theatre (last visited Nov. 14, 2024), <https://themiracletheatre.com/events/the-midnight-ride-of-jonathan-luna-2/>.

⁴ William Keisling, *The Midnight Ride of Jonathan Luna* (Yardbird Books, 1st ed. 2008).

⁵ Dan Nephin, *Podcasts, Social Media Posts Ponder Possibilities Regarding Luna Case*, LNP | LancasterOnline (Dec. 3, 2023), https://lancasteronline.com/news/local/podcasts-social-media-posts-ponder-possibilities-regarding-luna-case/article_ab104bd0-9084-11ee-9360-4b8b1c9587f3.html.

⁶ See, e.g., Cheryl W. Thompson, *A Decade Later, Prosecutor Luna's Death Still a Mystery*, Wash. Post (Dec. 12, 2013), https://www.washingtonpost.com/lifestyle/magazine/a-decade-later-prosecutor-lunas-death-still-a-mystery/2013/12/10/211e2ab8-f563-11e2-aa2e-4088616498b4_story.html; Gail Gibson, *Prosecutor of Drug Case Found Killed*, Balt. Sun. (originally published Dec. 5, 2003, updated June 29, 2019), <https://www.baltimoresun.com/2003/12/05/prosecutor-of-drug-case-found-killed/>; James Dao & Eric Lichtblau, *Torture Is Possible in Prosecutor's Death*, N.Y. Times (Dec. 6, 2003), <https://www.nytimes.com/2003/12/06/us/torture-is-possible-in-prosecutor-s-death.html?pagewanted=all>; Helen Colwell Adams, *Coroner Refuses to File Autopsy Records*, LNP | LancasterOnline (published Oct. 14, 2007, last updated Aug. 5, 2014), https://lancasteronline.com/news/coroner-refuses-to-file-autopsy-records/article_0fb16533-2086-58a6-afdd-a4d78d76c1ff.html.

28. In February 2007, Mr. Martino and Mr. Clymer filed a mandamus action seeking to compel the Lancaster County Coroner to perform an inquest in Mr. Luna's case. *Martino v. G. Gary Kirchner*, M.D., No. 07-01350.

29. An exhibit to the *Kirchner* mandamus complaint is a June 22, 2006 letter from then-Coroner G. Gary Kirchner. The exhibit from the *Kirchner* complaint is attached hereto as Exhibit A (in the original Kirchner complaint it was "Exhibit B").

30. While the Kirchner letter describes some information about the nature of Mr. Luna's death, it is simply an overview of what was actually contained within the records themselves. *See* Ex. A.

31. Records of coroners—rather than descriptions of what is contained within those records—provide vital information to the public. *See, e.g., People v. Dungo*, 286 P.3d 442, 450 (Cal. 2012), *as modified on denial of reh'g* (Dec. 12, 2012); *Campus Commc'ns, Inc. v. Earnhardt*, 821 So. 2d 388, 401(Fla. Dist. Ct. App. 2002); *see also Sheppard v. Maxwell*, 384 U.S. 333, 350 (1966).

32. Recognizing the importance of public scrutiny of coroner's records, the legislature through the Coroners Act permits public access to autopsy reports upon a payment of a \$500 fee to the respective coroner's office. 16 Pa.C.S. § 13952.

33. But for the Jan. 13, 2021 sealing order affirmed by the Court's order of January 1, 2021, LNP would otherwise be able, pursuant to 16 Pa.C.S. § 13952, to pay \$500 to obtain the coroner's report and/or an additional \$100 to obtain the toxicology report. *See* 16 Pa.C.S. § 13952.

34. In its January 1, 2021 Order, the Court determined that the investigation should be considered ongoing, that the records at issue are not "judicial records," that "the public interest in disclosure of the records was outweighed here by the Court's responsibility to protect the integrity

of the Commonwealth’s ongoing investigation into the murder of Jonathan Luna.” Order at 13, 26, 28, 32.

35. However, based upon the continuing significant public interest in Mr. Luna’s death, and the apparent lack of new evidence, leads, or advancements in the case in the four years since this matter was last before the court, it is within this court’s authority to once again consider the merits of the seal. *See, e.g.,* Dan Nephin, *Mystery of Jonathan Luna Persists After 20 years*, LNP | LancasterOnline (Dec. 3, 2003) https://lancasteronline.com/news/local/mystery-of-jonathan-luna-persists-after-20-years/article_314f7902-907e-11ee-9c95-d35954e19916.html; Shannon, *supra*.

36. Trial courts have the inherent power to exercise judicial discretion regarding access to autopsy reports based on privacy and privilege concerns where sufficiently warranted. *Penn Jersey Advance, Inc. v. Grim*, 962 A.2d 632, 637–38 (Pa. 2009).

37. The Commonwealth bears the burden of “demonstrat[ing] that the release of an autopsy report would *substantially impede, obstruct, or interfere* with an ongoing investigation.” *In re Buchanan*, 823 A.2d 147, 153 (Pa. Super. Ct. 2003), *aff’d*, 880 A.2d 568 (Pa. 2005) (emphasis added). “[I]t is not enough for the Commonwealth merely to assert that an investigation is ongoing. The Commonwealth must make a specific showing that the release of the report would have a substantial negative impact on its investigation.” *Id.*

38. More than twenty years have passed since Mr. Luna’s death, with no suspect emerging and no notable advancement in the investigation made public by law enforcement. Meanwhile, the details of Mr. Luna’s death and the events leading up to and proceeding his tragic demise have been widely reported by journalists within the Commonwealth and the national news media.

39. Despite this Court’s January 1, 2021 ruling that the autopsy must remain sealed to protect the “ongoing investigation”—here, the Commonwealth’s yearly review of Mr. Luna’s cold case file—without the matter advancing upon any new leads or evidence, does not satisfy the County’s burden to maintain sealing of the record at issue.

40. LNP is entitled to pay the requisite fee under the Coroners Act, submit to the Lancaster County Coroner’s Office a request for the autopsy report, and have that office produce the records at issue.

WHEREFORE, LNP respectfully requests that this rescind the sealing order and order the Commonwealth to produce the records at issue.

Respectfully submitted,

/s/ Paula Knudsen Burke

Paula Knudsen Burke

Reporters Committee for Freedom of
the Press

4000 Crums Mill Rd., Ste. 101

Harrisburg, PA 17112

Attorney for LNP Media Group, Inc.

Dated: November 27, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing document upon the parties and in the manner listed below.

VIA E-FILING and ELECTRONIC MAIL

Heather Adams, District Attorney
HAdams@lancastercountypa.gov
Travis Anderson, First Assistant District Attorney
TrAnderson@lancastercountypa.gov
Office of the District Attorney
50 North Duke Street, 6th Floor
Lancaster, PA 17608

Dated: November 27, 2024

Respectfully submitted,

/s/ Paula Knudsen Burke
Paula Knudsen Burke

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Date: November 27, 2024

Submitted by: /s/Paula Knudsen Burke

EXHIBIT A



Office of the Coroner

Lancaster County, Pennsylvania

G. Gary Kirchner, MD, FACS - Coroner

June 22, 2006

Samuel Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

Dear Mister Stretton,

Excuse my delay in responding to your requests for the information in the Jonathan Luna matter.

The whole issue was prior to my taking office. The Coroner, Doctor Barry Walp, and the Forensic Pathologist, Doctor Wayne Ross, ruled the manner of death to be homicide and the cause of death multiple traumatic wounds and fresh water drowning. I reviewed all the records available to me and discussed the case with Doctor Ross. I presume the FBI still holds some records and perhaps photographs. After this review I fully support the Walp/Ross conclusions.

The FBI office in Baltimore disputes the manner of death believing it to be suicide. I disagree and have in writing invited them to request that I convene a Coroner's Inquest and they present testimony to support their request for a change in the manner of death. They have not made any requests and have remained silent.

Mister Luna had multiple traumatic wounds including abrasions and contusions and knife wounds.

I hope this information is helpful to you. I do not plan to provide any further information and would do only if there is a Coroner's Inquest requested by Baltimore FBI.

Exhibit "B"

131 East Frederick Street Lancaster, PA 17602

(717) 735-2123 Fax (717)735-2138

You should also understand that records under the previous Coroner were turned over, on a yearly basis, to the Prothonotary. I do not know whether the Luna records or part thereof fell in this category.



G. Gary Kirchner, M.D.
Lancaster County Coroner

cc: Neil Albert, Esquire
Don Totaro, District Attorney
Wayne Ross, M.D., Forensic Pathologist
Robert Good, M.D., Chief Deputy Coroner
Charles McWilliams, Senior Deputy Coroner
James Beittel, M.D., Deputy Coroner

GGK/sf