DISTRICT COURT, LARIMER COUNTY, COLORADO 201 LaPorte Avenue, Suite 100 Fort Collins, Colorado 80521 (970) 494-3500	DATE FILED April 27, 2026 10:16 AM CASE NUMBER: 2025CV31180
Petition in re: The Request of Troy Newman for Certain Records Pursuant to the Colorado Open Records Act, C.R.S. § 24-72-200.1 et seq.	COURT USE ONLY Case No.: 25CV31180 Courtroom: 3B

ORDER REQUIRING RELEASE OF AUTOPSY REPORT

This matter is before the court on a petition from Stephen Hanks, in his official capacity as the Larimer County Coroner (Coroner or Mr. Hanks), to ask the court to prohibit the disclosure of reproductive health information in an autopsy report under C.R.S. section 24-72-204(6)(a). The court reviewed the Coroner's petition and the response brief of Troy Newman and held a hearing on January 12, 2026. Being fully advised, the court finds and orders as follows:

I. Facts

Larimer County Coroner's Office (Office) assumed custody of the body of Alexis Arguello on February 6, 2025. On February 7, 2025, the Office performed a forensic autopsy of Ms. Arguello. The autopsy report was completed on May 14, 2025. Preparing such a report is the official duty of the Coroner and his Office.

The Coroner is the official custodian of the public records for the Office. Mr. Hanks also testified that his decision is the ultimate decision on what records are provided in response to open records requests.

Mr. Hanks testified that an autopsy is an investigative tool to demine the manner of a person's death. Mr. Hanks testified that an autopsy report created 40 to 50 years ago was a short template that listed a person's cause of death. As time passed, coroners gained access to a lot of new information about a person's medical history. Mr. Hanks testified that autopsy reports now are far more detailed and thorough than they were when the Colorado Open Records Act was enacted.

Now, the Office conducts a forensic autopsy as part of the investigative process. In addition, as part of the investigative process, the Office reviews a decedent's medical records and incorporates those records into the autopsy report even if the medical history is not strictly related to the cause of death. Mr. Hanks admitted that the information contained within the autopsy report at issue here is appropriate for an autopsy report.

On November 7, 2025, Troy Newman submitted an open records request to obtain the autopsy report for Ms. Arguello.[1] Mr. Newman is the president of Operation Rescue, a Kansas-based anti-abortion advocacy group.

[1] There was testimony about a prior record request submitted by Sarah Neely in February 2025. The Coroner provided the same redacted autopsy report to Ms. Neely as he did to Mr. Newman. However, since this petition focuses on Mr. Newman's request, that is what the court will address.

There was some back-and-forth communication between the Office and Mr. Newman and Newman's counsel about the request and the scope of the Office's redactions to the autopsy report. However, in response to the open records request, the Office sent Mr. Newman a redacted copy of the autopsy report.

Mr. Hanks testified that the redactions to the autopsy report were made in the normal course of the Office's business consistent with the Office's Media Release/Autopsy Requests policy, which provides in part:

> Redactions will include date of birth, identifying marks, medical history not associated with cause of death, mental and behavioral health history, *reproductive healthcare history* and descriptions of reproductive organs, sociological information, and or/scholastic achievement date which is protected by Colorado Open Records Act and HIPAA.

(emphasis added).

Mr. Hanks testified that the redactions from Ms. Arguello's autopsy report removed "protected reproductive health information."[2] He also testified that 84% of the report remained unredacted.

To justify the redactions, Mr. Hanks cited Colorado's strong public policy in favor of protecting reproductive healthcare. Specifically, he referred to the Federal Health Insurance Portability and Accountability Act (HIPAA); the Maternal Mortality Prevention Act, C.R.S. section 25-52-101 *et seq.*; and C.R.S. section 25-57-113, which

[2] The court notes that Ms. Arguello's date of birth is also redacted. However, since neither party made an issue of this, and Mr. Hanks testified that the redacted information is solely reproductive health information, the court will find that the redactions from the autopsy report solely remove reproductive health information.

addresses protections related to fertility treatment. In pointing to these laws, Mr. Hanks testified that he determined that Colorado has a public interest in non-interference with reproductive healthcare decisions and in keeping those records private.

Mr. Hanks also testified that the public would be harmed by the disclosure of reproductive healthcare information. He testified that the public has an interest in private healthcare information remaining private. Further, Mr. Hanks testified that allowing the release of reproductive healthcare information in an autopsy report might discourage someone from seeking reproductive healthcare during their life. He testified generally to these propositions—Mr. Hanks did not provide any specific examples or data. Nor did Mr. Hanks provide any evidence, even anecdotal, that people skipped reproductive healthcare based on the possibility that those records might be disclosed after their death.

Newman neither testified nor offered any witnesses.

II. Law

Under the Colorado Open Records Act (CORA), "all public records shall be open for inspection unless specifically excepted by law." *Denver Post Corp. v. Univ. of Colo.*, 739 P.2d 874, 877 (Colo. App. 1987) (citing C.R.S. § 24-72-201). A coroner's autopsy report is a public record open to inspection under CORA. C.R.S. § 24-72-204(3)(a)(I); *Freedom Newspapers, Inc. v. Bowerman*, 739 P.2d 881, 883 (Colo. App. 1987) (citing *Denver Publ'g Co. v. Dreyfus*, 520 P.2d 104 (Colo. 1974)). However, the official custodian of any public record may apply to the district court for an order permitting the custodian to

restrict the disclosure of an otherwise available public record if "the contents of said record would do substantial injury to the public interest." C.R.S. § 24-72-204(6)(a).

Substantial injury to the public is not defined. However, the "substantial injury to the public interest" exemption in C.R.S. section 24-72-205(6)(a) "is to be used only in those extraordinary situations which the General Assembly could not have identified in advance." *Bodelson v. Denver Pub. Co.*, 5 P.3d 373, 377 (Colo. App. 2000); *Freedom Newspapers, Inc. v. Tollefson*, 961 P.2d 1150, 1156 (Colo. App. 1998). For this reason, the custodian "has the burden to prove an extraordinary situation and that the information revealed would do substantial injury to the public." *Bodelson*, 5 P.3d at 377.

III. Discussion

Autopsy reports are public records subject to disclosure under CORA. The question before the court is whether disclosure of the reproductive health information contained in *this* autopsy report would substantially injure the public interest. Mr. Hanks advances two arguments that disclosing the full report would substantially injure the public interest: (1) disclosure is violative of Colorado's public policy and (2) disclosure would disincentive people from seeking reproductive healthcare.

A. Violation of Public Policy

Mr. Hanks contends that both Colorado and federal law reflect a public policy of nondisclosure of health information. Further, Mr. Hanks argues that Colorado's public policy favors protecting reproductive health information from disclosure.

HIPAA protects "individually identifiable health information," including the information redacted from the autopsy report, from disclosure for 50 years. 45 C.F.R. § 160.103. However, HIPAA only applies to a "covered entity" and a "business associate" of a covered entity. It is uncontested that the Office is neither a covered entity nor a business associate of a covered entity. Therefore, HIPAA's protections are not afforded to Arguello's autopsy report.

C.R.S. section 25-57-113 also reflects a policy of protecting the autonomy of a person's reproductive health decision making process and preventing interference from state or local governments in the doctor-patient relationship. The General Assembly passed H.B. 25-1259, which enacted C.R.S. section 25-57-113 effective May 30, 2025, for the following reasons:

> (a) Colorado should remain a world-class destination for all people who want to start a family, providing safe, cutting-edge medical care for individuals in need of those services;
>
> (b) It is also important to keep the transparency and rules around disclosure in order to address the concerns of donor-conceived individuals while preserving the whole ecosystem of Colorado's world-class assisted reproduction technologies, infertility medical care options, and gamete donation medical environment;
>
> …

H.B. 25-1259, Section 2(3).

Primarily, the law protects reproductive healthcare from interference from state and local governments. C.R.S. § 25-57-113(3). It is silent on recordkeeping and access to

medical records. Therefore, although this law protects reproductive healthcare, it is inapposite for the court's analysis.

Finally, the General Assembly enacted the Maternal Mortality Prevention Act, C.R.S. section 25-52-101 et seq. in 2019. H.B. 19-1122. The intent behind the Maternal Mortality Prevention Act includes the following:

> (d) To review deaths in the pregnant and postpartum population requires a holistic view of the circumstances surrounding a death. National research indicates that high blood pressure and cardiovascular disease remain two leading causes of maternal deaths nationwide, while in Colorado behavioral health conditions and self-harm now account for the largest share of maternal deaths.
>
> (e) Evidence-based prevention strategies support the review of maternal deaths through state-based maternal mortality reviews in order to identify the systematic changes needed to decrease mortality among the pregnant and postpartum population;
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> …
>
> (i) Comprehensive and multidisciplinary reviews of maternal deaths can lead to a greater understanding of the causes of and methods for preventing these deaths and improve other maternal health outcomes including morbidity;
>
> (j) The protection of the health and welfare of the pregnant and postpartum population in this state is an important goal of the citizens of this state, and the rate of death among the pregnant and postpartum population is a serious public health concern that requires legislative action;
>
> …

C.R.S. § 25-52-102(1).

To accomplish these goals, the Colorado Maternal Mortality Review Committee was created and afforded access to "medical records related to maternal deaths upon

request at any time up to seven years after the last treatment of a patient." C.R.S. § 25-52-105(1)(a). Additionally, coroner's offices are required to "provide records of the coroner and medical examiner investigations, that involve a maternal death to the committee." C.R.S. § 25-52-105(1)(c).

The Maternal Mortality Prevention Act created significant protections, including exempting committee meetings from Colorado's Open Meetings Law, C.R.S. section 25-52-105(2)(a), and providing that "[t]he committee meeting notes, statements, medical records, reports, communications, and memoranda obtained by the committee that contain information that could identify an individual involved in a maternal death are confidential and are not subject to [CORA]." C.R.S. § 25-52-105(2)(b).

Mr. Hanks contends that the medical records that form the basis of the information the Office redacted from the autopsy report would be protected from disclosure by C.R.S. section 25-52-105(2)(b) and (2)(d) had those records been provided to the Colorado Maternal Mortality Review Committee. Mr. Hanks argues that this evinces an intent to protect reproductive health information from public disclosure. Further, Mr. Hanks argues that allowing Mr. Newman to access reproductive health information through the Office under CORA is a loophole that undermines the Maternal Mortality Prevention Act. Frankly, the court is compelled by Mr. Hanks' argument but for two issues:

First, the Maternal Mortality Prevention Act specifically recognizes that documents protected under the Act can be discovered or used if the documents are

"available from another source separate and apart from the committee and that arise entirely independent of the committee's activities." C.R.S. § 25-52-105(2)(d)(I).

Second, "[w]hen the General Assembly chooses to legislate, it is presumed to be aware of its own enactments and existing case law precedent." *Anderson v. Longmont Toyota, Inc.*, 102 P.3d 323, 330 (Colo. 2004). The Maternal Mortality Prevention Act was enacted in 2019 and C.R.S. section 25-57-113 was enacted in 2025. By this time, CORA had been on the books for decades and had been amended many times. The General Assembly could have amended CORA to exempt autopsies or reproductive health information from public disclosure laws. The General Assembly chose not to. Therefore, the court must presume the legislature intentionally did not amend CORA to protect reproductive health information from disclosure when it enacted both the Maternal Mortality Prevention Act and C.R.S. section 25-57-113.

Accordingly, the court concludes that permitting the disclosure of reproductive healthcare information contained in an autopsy report based on Colorado public policy does not substantially harm the public.

B. Disincentivizes Reproductive Healthcare

Mr. Hanks testified that permitting the disclosure of private reproductive healthcare in an autopsy would disincentivize people from seeking reproductive healthcare during their lifetimes. He testified to a concern for a generalized harm that people would forgo care. He did not provide specific (or even anecdotal) examples of people skipping reproductive healthcare because they worried about the disclosure of

those procedures following their deaths. Further, Mr. Hanks testified that people have an expectation that their medical information would be kept private. The privacy expectation Mr. Hanks testified about is rooted both in the law (e.g., HIPAA) and common sense.

CORA contains no express exception for the disclosure of information that would violate an individual's privacy rights if disclosed. *Todd v. Hause*, 2015 COA 105, ¶ 35. But in certain circumstances, C.R.S. section 24-72-204(6)(a)'s substantial injury to the public exception precludes the disclosure of "information collected by the government, the disclosure of which would violate and individual's right to privacy." *Id.* This inquiry considers

> (1) whether the individual has a legitimate expectation of nondisclosure; (2) whether there is a compelling public interest in access to the information; and (3), where the public interest compels disclosure of otherwise protected information, how disclosure may occur in a manner least intrusive with respect to the individual's right of privacy.

Denver Post, 739 P.2d at 879.

Individuals have a legitimate expectation of nondisclosure of medical records. However, an autopsy is not a medical record—it is "the report of the coroner or the coroner's designee on the post-mortem examination of a deceased individual to determine the cause or manner of death, including any written analysis, diagram, photograph, or toxicological test results." C.R.S. § 30-10-606.7(1)(a). As Mr. Hanks testified, an autopsy is an investigative report that Colorado law requires a coroner to prepare. *See also* C.R.S. § 30-10-606.5.

Mr. Hanks testified that it was his Office's policy to include a thorough medical history of the deceased, which included the deceased's medical records.

Autopsy reports are public records subject to disclosure. There is a compelling public interest in the disclosure of autopsy records. *See Bowerman*, 739 P.2d at 883 (autopsies are specifically excluded from an exemption to CORA's disclosure requirements). Further, when autopsy records are sought, the focus of the injury is on the public, not private, interest. *Compare Blesch v. Denver Pub. Co.*, 62 P.3d 1060, 1065 (Colo. App. 2002) (autopsy record, which looked only to impact on public), *with Tollefson*, 961 P.2d at 1155 (public employee retirement program, which considered privacy interests of employees).

Any privacy interest an individual may have had in their medical records is extinguished when information from those medical records is ported into an autopsy report. The court finds that there is no legitimate expectation of privacy for reproductive health information included in an autopsy report. Further, the court finds that there is a compelling public interest in access to autopsy reports.

Accordingly, the court concludes that the disclosure of reproductive health information in an autopsy report does not substantially injure the public interest.

C. Substantial Injury to the Public Interest

Much of the caselaw in Colorado about when autopsy reports specifically may be withheld under C.R.S. section 24-72-204(6)(a) arose in the wake of the Columbine tragedy.

On May 26, 1999—barely one month after the Columbine massacre—the Jefferson County Coroner and District Attorney filed a petition under C.R.S. section 24-72-204(6)(a) to restrict public inspection and disclosure of the autopsy reports of the victims. *Bodelson*, 5 P.3d at 375-76. The family of one of the perpetrators joined the petition without objection. *Id.* The Denver Post and the Denver Rocky Mountain News objected to the petition. *Id.* at 376. Following a hearing on May 28, 1999, the trial court "found that release of the autopsy reports would cause substantial injury to the public interest" and then restricted "public inspection and disclosure of the autopsy reports of all persons who died as a result of the April 20, 1999, incident, unless or until there is a criminal prosecution requiring the disclosure of such autopsy reports or until further order of the trial court." *Id.*

Testimony before the trial court established that the detailed, graphic, and gruesome nature of the autopsy reports would be "very traumatic" to view. *Id.* at 377-78. Release of the reports would reopen or continue the trauma of survivors and family members of victims. *Id.* at 378. The court of appeals affirmed this restriction, finding that "the overwhelming grief caused by the nature and extent of this tragedy constituted an extraordinary situation that the General Assembly could not have identified in advance." *Id.* at 378.

Importantly, the court noted that the "victims' families could not have resisted disclosure had they attempted to do so on an individual basis." *Id.* at 379. Instead, the restriction was affirmed because "the losses of [the victims'] families have so impacted

this community that the whole community would feel the same pain the families would feel upon reading the contents of the autopsy reports," which provided a unique factor that "would do substantial harm to the public if the autopsies were released." *Id.*

Here, the court finds it informative to compare the outcome in *Bodelson* with the court of appeals decision in *Blesch*. In *Blesch*, another Columbine case decided more than two years after the tragedy, the court noted "the context for determining whether disclosure would cause substantial harm to the public interest [is] fundamentally altered" when details contained within the autopsy report are in the public eye and when time has passed between the tragedy and the request for records. 62 P.3d at 1063-64. The *Bodelson* court precluded disclosure of the autopsy reports requested a mere five weeks after the mass shooting. 5 P.3d at 378. The *Blesch* court remanded the trial court's denial of a request to access one of the perpetrator's autopsy reports "to reconsider whether, given the passage of time and the release of the crime scene report, the publication of [a perpetrator]'s complete autopsy report still would cause substantial injury to the public interest." 62 P.3d at 1065.

In reading *Bodelson* and *Blesch*, the court is mindful of the context. Disclosure of autopsy reports within weeks of a nation-shaking mass casualty event substantially injures the public. But the same information, with the passage of time and release of information that naturally happens over time, blunts the harm and the strong public interest in disclosure reasserts itself.

Here, there is no evidence that the information the Coroner redacted is gruesome, would shock the conscious, or would be traumatic to the community. Mr. Hanks presented no evidence that there would be harm to reproductive healthcare providers if the information were to be disclosed. Although the court believes that discouraging people from seeking healthcare harms the public, Mr. Hanks provided no evidence to support the proposition that people may forgo reproductive healthcare based on a fear that such information would be included in an autopsy report.

The basis of the Coroner's argument is that reproductive healthcare information is protected by public policy. While the public policy argument may be true, it is up to the General Assembly to resolve the policy discussion. The court's analysis is confined solely to whether the disclosure of reproductive healthcare information "would do substantially injury to the public interest." C.R.S. § 24-72-204(6)(a). The evidence presented at the hearing of risks associated with releasing the redacted portions of the autopsy report does not rise to the level of a substantial injury to the public interest.

IV. Conclusion and Order

For the reasons set forth in this order, the court concludes that disclosing the reproductive healthcare information in the autopsy report does not do substantial injury to the public interest. Therefore, the court denies Mr. Hanks' petition pursuant to C.R.S. section 24-72-204(6)(a).

The court further orders the Coroner to provide a copy of Ms. Arguello's May 14, 2025, autopsy report with the reproductive healthcare information unredacted to Mr. Newman within 14 days of this order.

SO ORDERED on April 27, 2026.

BY THE COURT:

Daniel M. St. John II
District Court Judge