



June 6, 2024

The Honorable Dave Yost
Ohio Attorney General c/o Opinions Section
State Office Tower
30 E. Broad Street 15th Floor
Columbus, Ohio 43215-3420

Re: Opinion Request Regarding Marsy's Law

Dear Attorney General Yost,

As the Prosecuting Attorney of Cuyahoga County, I am periodically called upon to advise County officers, agencies, and departments.¹ I am requesting your legal opinion regarding a question that has arisen as to the interpretation of R.C. 2930.07(C) (a specific provision of a more general law that is sometimes referred to as "Marsy's Law"). That question requires a determination as to the proper meaning of the confidentiality requirements of Marsy's Law, which seek to protect the privacy of crime victims by mandating that certain information such as a victim of a crime's name, address, or other identifying information is to be protected from public disclosure.

However, the law's confidentiality provisions contain an exception that permits certain public offices and officials to obtain access what would otherwise be confidential information that identifies the victim of a crime. Under R.C. 2930.07(C), law enforcement agencies who possess records with victim information may disclose such otherwise confidential information by "allowing another public office or public official to access or obtain copies of its unredacted records" as provided for in the statute. Given this language, I have been asked to advise on the question of whether local legislators may request to see criminal investigatory reports generated by a law enforcement agency which, in unredacted form, contain the name and other identifying information of crime victims. I am asking for your guidance and opinion as to whether a legislative body or an individual legislator, qualifies as a "public office or public official that is charged with the responsibility of knowing the name, address, or other identifying information of a victim," so as to be entitled to receive such unredacted information.

The Confidentiality Provisions of Marsy's Law

R.C. 2930.07, which is a part of Marsy's Law, became effective in 2023 and requires, among other things, that identifying information regarding victims of crime be redacted from public records to protect victim confidentiality. R.C. 2930.07(C) provides that:

¹ In 2009, Cuyahoga County adopted a charter form of government effective January 1, 2010.

(C) Any public office or public official that is charged with the responsibility of knowing the name, address, or other identifying information of a victim or victim's representative as part of the office's or official's duties shall have full and complete access to the name, address, or other identifying information of the victim or victim's representative. That public office or public official shall take measures to prevent the public disclosure of the name, address, or other identifying information of the victim or victim's representative through the use of redaction as set forth in division (D) of this section. Nothing in this section prevents a public agency from maintaining unredacted records of a victim's or victim's representative's name, contact information, and identifying information for its own records and use or a public office or public official from allowing another public office or public official to access or obtain copies of its unredacted records. The release of unredacted records to a public office or official does not constitute a waiver of any exemption or exception pursuant to section 149.43 of the Revised Code. This section prohibits the public release of unredacted case documents pursuant to division (A)(1)(v) of section 149.43 of the Revised Code and division (D) of this section.

R.C. 2930.07(C). R.C. 2930.07 defines "public office and "public official" as having the same meanings as in section 149.011 of the Revised Code. See R.C. 2930.07(A)(4). However, the statute does not define or explain what it means to be "charged with the responsibility of knowing the name, address, or other identifying information of a victim or victim's representative as part of the office's or official's duties." R.C. 2930.07(C). Further, while this section states that such offices are required to keep victim identifying information confidential, it does appear to give discretion to these offices to provide unredacted records to another public office.

Law enforcement agencies within the County, such as the County Sheriff or the Prosecutor's Office, seem to fall squarely within the meaning of being charged with the responsibility of knowing victim information within their official duties. I am proceeding on the assumption that such law enforcement agencies meet that definition. However, I am seeking your guidance on whether a legislative body of the County can also meet the requirements of being "charged with the responsibility" of knowing victim information under the statute? Further, if knowing such information is within its duties, can a legislative body demand that a law enforcement agency provide it with unredacted records pursuant to the statute? For example, can a legislative body seeking information regarding crime within its jurisdiction *require* a law enforcement agency to provide it with unredacted records regarding such crimes including identifying information of victims when the legislative body believes that knowing such victim information is a part of its official duties?

The statute appears to provide that even when a public office or public official possesses records with victim information that it is required to protect from disclosure, that nonetheless such public office or public official is not thereby *prevented* from choosing to provide unredacted records *to another public office or public official*. That is, it seems to permit but not require such a sharing of unredacted records with the other public office or official. However, the statute is silent as to whether one public office can *require* another public office to provide unredacted records to it if it believes it necessary or helpful to the performance of its duties. Rather release (by a law enforcement agency) of such victim information (to legislators) appears to be within the discretion of the public office or public official that possesses the records containing victim information, that is, the county sheriff.

Accordingly pursuant RC 109.14 I am asking your opinion on the following questions:

1. What public offices or public officials are “charged with the responsibility of knowing the name, address, or other identifying information of a victim or victim’s representative”? Specifically, do investigative, law enforcement agencies meet that definition? Do legislative bodies and their members meet such a definition?
2. For offices or public officials that are “charged with the responsibility of knowing the name, address, or other identifying information of a victim or victim’s representative,” can they require another public office or public official to provide them with unredacted records within the other public office’s or public official’s possession. Or, can the other public office or public official decline to provide unredacted records.
3. Is a public official charged with the responsibility of knowing the name, address, or other identifying information of a victim or victim’s representative (a law enforcement agency) required to share unredacted records to another public office or public official upon request of the latter, or is such sharing merely permitted at the discretion of the law enforcement agency?
4. If unredacted records are provided to another public office, what is the obligation of the public office that receives unredacted records to keep the victim information within the records from public disclosure?

I trust that the information I have provided you is sufficient for you to render an opinion. Please contact me if you need any further information or if I can be of any assistance to you. Thank you for your attention to this matter.

Sincerely,



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