



Republic of the Philippines  
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE  
ADVISORY OPINION NO. 2022-027<sup>1</sup>**

15 December 2022

[REDACTED]

**Re: OBTAINING A COPY OF A CHILD'S BIRTH CERTIFICATE BY  
A PUTATIVE PARENT**

Dear [REDACTED]

We respond to your request for an Advisory Opinion concerning the denial by the Philippine Statistics Authority (PSA) of your client's request for a copy of the Birth Certificate of his alleged minor child due to data privacy concerns.

You inform that your client, Mr. AAA, married Ms. BBB in 2014. Their union though did not bear them any children. Due to their marital problems, they decided to live separately but without having their marriage dissolved. Thereafter, Mr. AAA discovered that Ms. BBB gave birth in 2019 to a son, CCC. In other words, CCC was born during the subsistence of the marriage of Mr. AAA and Ms. BBB.

Mr. AAA, through your office, requested the PSA for the Birth Certificate of CCC. You attached to your request the Marriage Certificate of Mr. AAA and Ms. BBB to establish the fact that Mr. AAA is presumed by law to be the father of CCC, citing Article 164 of the Family Code of the Philippines.<sup>2</sup> You also stated that the Birth Certificate is being requested for purposes of succession planning and to preclude preterition or omission of compulsory heirs. However, the PSA denied your request citing Republic Act No. 10173<sup>3</sup> or the Data Privacy Act of 2012 (DPA), and PSA Memorandum Circular (MC) No. 2019-15.

Thus, you request for an Advisory Opinion on the following:

<sup>1</sup> Tags: Philippine Statistics Authority, PSA, disclosure, civil registry documents, birth certificate, sensitive personal information, putative parent, paternity, filiation, establishment of legal claims.

<sup>2</sup> The Family Code of the Philippines, Executive Order No. 209, s. 1987, Art. 164. Children conceived or born during the marriage of the parents are legitimate.

<sup>3</sup> An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

1. Whether or not the birth records of a child who was born out of a valid marriage may be requested by the presumed father in the absence of the latter's name in the birth records of the child;
2. Whether or not the presumed father of the child may access the birth records of his lawful wife's minor children without the need of the latter's consent; and
3. Whether or not there is a need for a court-issued subpoena in order for the presumed father to access the birth records of his lawful wife's minor children for purposes of establishing and exercising his legal claims.

We note that your first two (2) questions relate to the right of a putative or presumed father to access the birth records of his lawful wife's minor children. This matter pertains to the interpretation of the Family Code and, thus, more appropriate for judicial determination. Hence, we shall limit our discussion to the data privacy issues.

*PSA Memorandum Circular No. 2019-15; compliance with the DPA should consider all the applicable requirements; establishment of legal claims*

At the outset, a Birth Certificate contains sensitive personal information as the term is defined under Section 3 (l) of the DPA.<sup>4</sup> As such, its processing is generally prohibited except in certain cases enumerated under Section 13 of the law.

We note that the issuance of the PSA MC No. 2019-15 was intended primarily for compliance with the DPA. The PSA emphasized such fact when it denied your request for the Birth Certificate of your alleged son arguing that item No. III (6) of PSA MC No. 2019-15 requires there must be a pending case and a duly issued subpoena before the release of the civil registry document.

Nevertheless, while PSA MC No. 2019-15 may have been issued with good intentions, we must emphasize that adherence to the DPA also requires that all the applicable requirements provided by the law should be observed.

As provided in Section 13(f) of the DPA, processing of personal information is permitted if it is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or the establishment, exercise or defense of legal claims, or when provided to government or public authority. Thus, the requirement for a pending case and a subpoena under item III (6) of PSA MC No. 2019-15<sup>5</sup> appears to unduly restrict the application of Section 13(f) of the DPA as a lawful basis for processing under the DPA.

Simply stated, a pending case in court and a subpoena are not necessary since your purpose is precisely to establish and exercise a legal claim (*i.e.*, succession planning).

In relation to this, we discussed in [Advisory Opinion No. 2022-020](#) that:

“PSA’s requirement is an erroneous interpretation of Section 13(f) of the DPA which was discussed in the case of *BGM vs. IPP*, citing NPC 17-018 dated 15 July 2019. The NPC ruled therein that “processing as necessary for the establishment of legal claims does not require

---

<sup>4</sup> E.g., name, sex, date of birth, place of birth, type of birth, birth order, weight at birth, parents’ details (name, citizenship, religion, and occupation).

<sup>5</sup> PSA Memorandum Circular No. 2019-15 (11 June 2019), Item III (6) - Who maybe allowed to Request for the Copy Issuance of Civil Registry Documents/Certifications from the PSA other than the Document Owner: xxx 6. The court or proper public official whenever absolutely necessary in administrative, judicial or other official proceedings to determine the identity of the person. Provided that there must be a duly issued subpoena *duces tecum* and *ad testificandum* for the production of the civil registry document. xxx

an existing court proceeding.” Further, the very idea of “establishment ... of legal claims” presupposes that there is still no pending case since a case will only be filed once the required legal claims have already been established. The NPC further ruled that:

‘The DPA should not be seen as curtailing the practice of law in litigation. Considering that it is almost impossible for Congress to determine beforehand what specific data is “necessary” or may or may not be collected by lawyers for purposes of building a case, applying the qualifier “necessary” to the second instance in Section 13(f) therefore, serves to limit the potentially broad concept of “establishment of legal claims” consistent with the general principles of legitimate purpose and proportionality’.<sup>6</sup>

Therefore, PSA’s interpretation that lawful processing under Section 13 (f) requires the existence of an actual case should be reviewed and revised to properly conform to the DPA considering that it is intended to carry out the policy “to protect the fundamental right of every individual to privacy.”

Considering the foregoing, your client is not precluded from obtaining a copy of the birth certificate of AAA despite the absence of his name in the said birth certificate indicating him as the father. His request falls under said Section 13 (f) of the DPA, since the processing or disclosure of the birth certificate is needed by your client for the establishment of his legal claims in relation succession planning.

Please be advised that this Advisory Opinion was rendered based solely on the information you have provided. Any extraneous fact that may be subsequently furnished us may affect our present position. Please note further that our Advisory Opinion is not intended to adjudicate the rights and obligations of the parties involved.

Please be guided accordingly.

Very truly yours,

(Sgd.)  
**FRANKLIN ANTHONY M. TABAQUIN IV**  
Director IV, Privacy Policy Office

---

<sup>6</sup> National Privacy Commission, EA and TA v. EJ, EE and HC, NPC Case No. 17-018, available at <https://www.privacy.gov.ph/wp-content/uploads/2022/04/NPC-17-018-EA-and-TA-v-EJ-Decision-2019.07.15-.pdf>.