

4. A payroll – and all records related to salaries and/or finances – for all...Office employees, both law enforcement and administrative, including but not limited to sheriff's deputies, as of August 1, 2025.

On October 3, 2025, following a thirty-day extension, 65 P.S. § 67.902(b), the Office partially denied¹ the Request, arguing that the records responsive to Item 1 of the Request are “public record[s] and can be obtained from the Allegheny County Treasurer’s [O]ffice or the Allegheny County Controller’s [O]ffice” and that “the names of individuals who perform undercover work” included on the record responsive to Item 3 were redacted under the RTKL’s personal security exemption, 65 P.S. § 67.708(b)(1)(ii).

On that same day, the Requester contacted the Office regarding its response to Item 1 of the Request, arguing that, as part of its search the Office has a duty to contact the Allegheny County Treasurer’s Office or the Allegheny County Controller’s Office. *See* 65 P.S. § 67.506(d). The Office stated that it referred the Requester to a website where the information on salaries can be obtained² and that the staff roster provided with its response also includes “a listing of salaries on the far right of the spreadsheet.” Finally, the Office states that it “will not provide the names of any current, former, or potential deputies that would be involved in undercover work pursuant to” Sections 708(b)(2) and 708(c) of the RTKL. *See* 65 P.S. §§ 67.708 (b)(2), (c).

On October 8, 2025, the Requester appealed to the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure.³ The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

¹ In response to Item 2 of the Request, the Office provided a “Collective Bargaining Agreement dated 1/1/2017 – present[.]” In response to Item 3 of the Request, the Office provided a responsive roster and response to Item 4 of the Request, the Office stated that the “information is included in the...roster.”

² *See* <https://alleghenycontroller.com/resource/opengov/> (last accessed December 1, 2025).

³ The Requester granted the OOR a thirty-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

On October 23, 2025, the Office submitted the attestation of its Solicitor, John Goodrich, Esq., (“Goodrich Attestation”). Through the Goodrich Attestation, the Office reiterates its grounds for the partial denial and argues that directing the Requester to publicly accessible information online fulfills its duties under Section 704 of the RTKL, 65 P.S. § 67.704, but that the Office also provided the responsive salary information on the roster it gave to the Requester in response to the Request. Finally, the Goodrich Attestation addresses the Requester’s follow up correspondence, which requested the number of individuals whose names were redacted from the roster and the total number of Office employees, affirming that the roster provided in response to the Request shows this information.⁴

On December 2, 2025, in response to the OOR’s request for additional information, the Office submitted the supplemental attestation of Attorney Goodrich (“Goodrich Supplemental Attestation”). The Goodrich Supplemental Attestation provides additional information about undercover assignments and the necessity of the redactions made by the Office. Additionally, through the Goodrich Supplemental Attestation, the Office addresses the applicability of Section 708(b)(6)(iii) of the RTKL, 65 P.S. § 67.708(b)(6)(iii).

LEGAL ANALYSIS

The Office is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Office is required to demonstrate, “by a preponderance of the evidence,”

⁴ The OOR has repeatedly held that a requester may not modify or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Pa. Dep’t of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that “where a requestor requests a specific type of record...the requestor may not, on appeal argue that an agency must instead disclose a different record in response to the request”). Therefore, the OOR’s review on appeal is confined to the Request as written, and any modification or explanation of the Request on appeal will not be considered.

that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder...to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

1. The appeal is moot in part

The Office argues that the appeal of Item 1 of the Request is moot because the responsive records were provided in response to the Request. More specifically, the Office argues that it provided the responsive salary information on the roster it gave to the Requester in response to the Request and that by directing the Requester to the website where the salary information is publicly accessible, the Office fulfilled its duties under Section 704 of the RTKL, 65 P.S. § 67.704.⁵ Because the Requester included the redacted roster with the appeal, the OOR reviewed the record and the annual salary for Office employees is listed on the last column of the spreadsheet.⁶ Accordingly, the appeal is dismissed as moot as to the records provided. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records, and thus, “the controversy has been mooted”); *Kutztown Univ. of Pa. v. Bollinger*, 217 A.3d 931 (Pa. Commw. Ct. 2019).

2. The Office demonstrated that it properly redacted the responsive roster

⁵ Section 704 of the RTKL provides that “an agency may make its records available through any publicly accessible electronic means,” 65 P.S. § 67.704(a), and that “an agency may respond to a request by notifying the requester that the record is available through publicly accessible electronic means or that the agency will provide access to inspect the record electronically.” 65 P.S. § 67.704(b)(1). However, “[i]f the requester is unwilling or unable to access the record electronically, the requester may, within 30 days following receipt of the agency notification, submit a written request to the agency to have the record converted to paper.” 65 P.S. § 67.704(b)(2).

⁶ The OOR’s review of the Office’s response and follow up correspondence with the Requester did not find that the Office provided the web address of the Allegheny County Controller’s Office. However, salary information is publicly available on Controller’s Office website by searching its “OpenGov Web portal.” *See [Allegheny County / Allegheny County Salaries](#)* (last accessed December 1, 2025).

The Office argues that it properly redacted “the names of individuals who perform undercover work” included on the record responsive to Item 3 under Sections 708(b)(1)(ii), 708(b)(2), 708(b)(6)(iii) and 708(c) of the RTKL.⁷ See 65 P.S. §§ 67.708 (b)(1)(ii), (2), (6)(iii), 708(c).

Section 708(b)(1) of the RTKL exempts from public disclosure “[a] record the disclosure of which . . . would be reasonably likely to result in substantial and demonstrable risk of physical harm to or the personal security of an individual.” 65 P.S. § 67.708(b)(1)(ii). The Commonwealth Court has “defined substantial and demonstrable [risk] as actual or real and apparent.” *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Commw. Ct. 2019) (quoting *Carey*, 61 A.3d at 373); see also *Ciavaglia and the Bucks Cnty. Courier Times v. Newton Borough*, OOR Dkt. Ap. 2019-0866, 2019 O.O.R.D. LEXIS 698. Additionally, the personal security exception may apply to a group of individuals “based upon evidence that establishes that the release of certain information poses a likelihood of a substantial and demonstrable risk to the personal security of that group of individuals.” *Crocco v. Pa. Dep’t of Health*, 214 A.3d 316 (Pa. 2019) (quoting *State Emps. Ret. Sys. v. Fultz*, 107 A.3d 860, 868 (Pa. Commw. Ct. 2015)).

Similarly, Section 708(b)(2) of the RTKL addresses risks of harm to public safety, exempting from disclosure “[a] record maintained by an agency in connection with . . . law enforcement or other public safety activity that if disclosed would reasonably be likely to jeopardize or threaten public safety. . . or public protections activity.” *Id.* To withhold records under Section 708(b)(2) of the RTKL, an agency must show: (1) the records at issue relate to law enforcement or public safety activity; and (2) disclosure of the records would reasonably be likely

⁷ “The exceptions set forth in subsection (b) shall not apply to financial records, except that an agency may redact that portion of a financial record protected under subsection (b)(1), (2), (3), (4), (5), (6), (16) or (17). An agency shall not disclose the identity of an individual performing an undercover or covert law enforcement activity.” See 65 P.S. § 67.708(c).

to threaten public safety or a public protections activity. *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367 (Pa. Commw. Ct. 2013).

To determine whether a risk of harm is “reasonably likely,” the OOR must “look to the likelihood that disclosure would cause the alleged harm, requiring more than speculation.” *California Borough v. Rothey*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018) (“[a]n agency must offer more than speculation or conjecture to establish the security-related exemptions”) (quoting *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 375 (Pa. Commw. Ct. 2013)). Finally, the courts have recognized that the RTKL’s security-related exemptions are of particular concern in police and prison settings. *See Suber-Aponte*, 202 A.3d at 183.

Further, Section 708(b)(6)(iii) of the RTKL states that the name of an individual performing an undercover or covert law enforcement activity may be redacted. Because neither the RTKL nor the Statutory Construction Act of 1972, 1 Pa.C.S. §§ 1501 *et seq.*, defines the term “performing,” the OOR has construed the term “according to the rules of grammar and to [its] common and approved usage...[,]”⁸ determining that an agency “may redact a law enforcement officer’s name who either is performing, was performing, or will be performing undercover or covert activities.” *See Wolfson v. Allegheny Cnty*, OOR Dkt. AP 2025-0246, 2025 PA O.O.R.D. LEXIS 437 (finding that the agency’s evidence demonstrated that undercover and covert activity assignments are not static).

In support of the Department’s position, the Goodrich Attestation states:

3. ... Upon receipt of the [R]equest, I contacted Chief Deputy Richard Manning and we both reviewed the roster of sworn and civilian employees in the...Office...for the current year (2025).
4. Upon review, the appropriate redactions were made for sworn personnel only that are involved in under cover and/or covert investigations/operations either in the past, currently, or will be in the future.

⁸ 1 Pa.C.S. § 1903(a); *see also* 1 Pa.C.S. § 1902 (“...[w]ords used in the past or present tense shall include the future.”).

5. The basis of the redactions were under exemption 708 Section (b)(1)[,] (2) and 708 Section...(c) dealing with personal security of employees. Furthermore, the redactions are consistent with the office policy and the OOR decision in Wolfson - Docket No. 2025-0246....⁹
9. ...Based on the above information requested in [the]...Request, we feel that the utmost protection and security of the sworn personnel far outweighs any public interest based on the security and protection of our personnel.

See Goodrich Attestation, ¶¶ 3-5, 9. In further support of the Office’s position, the Goodrich Supplemental Attestation confirms that “[b]oth undercover and covert activity assignments of uniformed personnel are and are not static” and that “[c]ertain employees are usually undercover/covert and other employees go in and go out of undercover/covert status.” *See* Goodrich Attestation, ¶ 4. Finally, the Goodrich Supplemental Attestation affirms that “[r]edactions to the requested information pursuant to 708(b)(6)(iii) are necessary to avoid compromising employee identities, [to] protect employees from harm to person and/or family, and to avoid compromising operations as well as Court proceedings.” *See* Goodrich Attestation, ¶ 5.

As previously stated, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry*, 20 A.3d at 520-21; *Moore*, 992 A.2d at 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the Office acted in bad faith, “the averments in [the statements] should be accepted as true.” *McGowan*, 103 A.3d at 382-83.

Here, it is undisputed that the role of the Office’s sworn personnel includes public protection and ensuring public safety. *See Suber-Aponte*, 202 A.3d at 183. The Goodrich Attestations affirm that the names redacted were “for sworn personnel only that are involved in under cover and/or covert investigations/operations either in the past, currently, or will be in the

⁹ *See Wolfson v. Allegheny Cnty.*, OOR Dkt. AP 2025-0246, 2025 PA O.O.R.D. LEXIS 437 (finding that the agency's evidence demonstrated that undercover and covert activity assignments are not static). This matter is currently on appeal with the Allegheny County Court of Common Pleas, SA-25-000170.

future[,]” that undercover assignments are and are not always static, and that the redactions are necessary to avoid compromising employee identities, protect employees from harm to person and/or family, and to avoid compromising operations as well as Court proceedings.” *See* Goodrich Attestation, ¶ 3; Goodrich Supplemental Attestation, ¶¶ 4-5. Accordingly, based on the evidence presented, the Office has demonstrated, by a preponderance of evidence,¹⁰ that it properly redacted the names of its personnel who perform undercover work. *See* 65 P.S. § 67. 708(b)(1), (2), (6)(iii); *see also Wolfson v. Allegheny Cnty*, 2025 PA O.O.R.D. LEXIS 437.¹¹

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the Office 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 Allegheny 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 65 P.S. § 67.1303, but 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.¹² All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

¹⁰ “A preponderance of the evidence standard, the lowest evidentiary standard, is tantamount to a more likely than not inquiry.” *Delaware County v. Schaefer ex rel. Phila. Inquirer*, 45 A.3d 1149, 1156 (Pa. Commw. Ct. 2012).

¹¹ An appeal is pending with the Allegheny County Court of Common Pleas at SA-25-000170.

¹² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: December 18, 2025

/s/ Erika Similo

APPEALS OFFICER
ERIKA SIMILO

Sent via OOR portal to: Justin Vellucci
John P. Goodrich, Esq.