



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

<b>IN THE MATTER OF</b>	:
	:
<b>TODD SHEPHERD AND BROAD AND LIBERTY,</b>	:
<b>Requester</b>	:
	:
<b>v.</b>	<b>: Docket No: AP 2026-0647</b>
	<b>: Consolidated appeals of OOR Dkts. Nos.</b>
	<b>: AP 2026-0647 and AP 2026-0648</b>
<b>PENNSYLVANIA OFFICE OF THE GOVERNOR,</b>	:
<b>Respondent</b>	:

### FACTUAL BACKGROUND

On January 5, 2026, Todd Shepherd, a reporter with Broad and Liberty (collectively “Requester”), submitted two requests (“Requests”) to the Pennsylvania Office of the Governor (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating:

#### **Request 1**

I request a copy of any transcripts or written question-and-answer documents reflecting interviews conducted between Governor Josh Shapiro and journalists or news organizations from January 17, 2023, to December 31, 2025.

#### **Request 2**

Part A: I request a copy of all records reflecting metadata for any audio or video recordings of interviews conducted between Governor Josh Shapiro and journalists or news organizations from January 17, 2023, to the date of this [R]equest.

For each such recording, I request the following metadata fields, including but not limited to , to the extent they exist:

- date the recording was created;
- start time and end time (or total duration);
- format or file type;
- storage location or system in which the recording was maintained.

This [R]equest seeks metadata only and does not seek the content of any recording. Records created by or involving attorneys or members of the Governor’s legal team are excluded.

Part B: I request a copy of all records reflecting metadata for voicemail messages received by the Office of the Governor from January 1, 2025, to December 31, 2025.

For each such voicemail message, I request the following metadata fields, including but not limited to, to the extent they exist:

- date and time the voicemail was received;
- duration of the voicemail;
- mailbox, line, or device on which the voicemail was received;
- format or system in which the voicemail was stored.

This [R]equest seeks metadata only and does not seek the content of any voicemail message. Records created by or involving attorneys or members of the Governor’s legal team are excluded.

On February 11, 2026, following a thirty-day extension, 65 P.S. § 67.902(b), the Office denied Request 1, asserting that the records sought are exempt as internal, predecisional deliberations, and personal notes and working papers, and protected by the constitutional right to privacy. 65 P.S. § 67.708(b)(10); 65 P.S. § 67.708(b)(12). The Office also denied Request 2, asserting that records responsive to Part A are exempt as personal notes and working papers, and Part B is insufficiently specific. *Id.*, 65 P.S. § 67.703.

On February 18, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the Office’s denials and stating grounds for disclosure. 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.<sup>1</sup> 65 P.S. § 67.1101(c).

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<sup>1</sup> On February 23, 2026, the OOR consolidated the appeals into OOR Docket No. AP 2026-0647.

On March 13, 2026, the Office submitted a position statement reiterating its grounds for denial.<sup>2</sup> In support of its position, the Office submitted the attestation of Marc Eisenstein (“Eisenstein Attestation”), Open Records Officer (“AORO”) for the Office.<sup>3</sup> The Office also provided previous attestations from Mr. Eisenstein submitted in OOR Dkt. Nos. AP 2025-2307 and AP 2026-0646 for reference, asserting that the attestations continue to apply to the records in this instance.

That same day, the Requester submitted a supplemental position statement specifically concerning Request 1, arguing that the Office failed to demonstrate that Sections 708(b)(10) and (b)(12) of the RTKL apply to records of transcripts. The Requester also argues that the Office has failed to demonstrate that the constitutional right to privacy applies to records of transcripts.

### LEGAL ANALYSIS

The Office is a Commonwealth agency subject to the RTKL. 65 P.S. § 67.301. Records in the possession of a Commonwealth 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,” 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

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<sup>2</sup> The Office’s position statement contains a footnote stating: “Given the breadth of this request, and the possibility that private information, such as individual benefit information, protected health information, or similar exempt information may be contained in the requested records, if the OOR were to determine that any responsive records are public, the Office requests that it be provided additional time to review and redact any exempt information as permitted by *Pa. State Sys. Of Higher Educ. v. Ass’n of State Coll. & Univ. Faculties*, 142 A.3d 1023 (Pa. Commw. Ct. 2016).” We note that the Office has not, either in its final response or on appeal, raised the existence of this type of information as a reason for denying the Requests, nor has it submitted evidence to support exempting such information.

<sup>3</sup> The Eisenstein Attestation is made subject to penalties under 18 Pa. C.S. § 4904, relating to unsworn falsifications to authorities.

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. Responsive written transcripts are protected under the constitutional right to privacy**

Request 1 seeks copies of “any transcripts or written question-and-answer documents reflecting interviews conducted between Governor Josh Shapiro and journalists or news organizations” in a specified timeframe. The Office asserts that the responsive records are protected by the constitutional right to privacy.

If a request for records implicates personal information that is not expressly exempt from disclosure under the RTKL, the Pennsylvania Supreme Court has held that individuals still possess a constitutional right to privacy in certain types of information. *Pa. State Educ. Ass'n v. Commonwealth*, 148 A.3d 142 (Pa. 2016). When considering information that is not expressly exempt from disclosure under the RTKL, the OOR must balance the individual’s interest in informational privacy with the public’s interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. *Id.* The Supreme Court has not expressly defined the types of “personal information” subject to the balancing test; however, it has described the “right to informational privacy” as “namely the right of an individual to control access to, and dissemination of, personal information about himself or herself.” *Reese v. Pennsylvanians for Union Reform*, 173 A.3d 1143, 1159 (Pa. 2017). Examples of personally identifying information that is subject to the balancing test include private citizens’ addresses and full dates of birth. *See Sapp Roofing Co. Inc. v. Sheet Metal Workers’ International Assoc.*, 713 A.2d 627 (Pa. 1998) (finding names, home addresses, social security numbers, and telephone numbers of private citizens to be personal information subject to the balancing test); *Hartman v. Pa. Dep't of Conserv. & Nat. Res.*, 892 A.2d 897, 906-07 (Pa. Commw. Ct. 2016) (finding the

names and home addresses of snowmobile registrants to be protected by the constitutional right to privacy).

In *Butler Area Sch. Dist. v. Pennsylvanians for Union Reform*, the Court applied the analysis set forth in *Pa. State Educ. Ass'n. v. Cmwlth. of Pa., Dep't. of Com. and Econom. Dev.*, 637 Pa. 337, 148 A.3d 142 (Pa. 2016), to determine that a tax assessment list was not sufficiently “personal” to trigger the balancing test. 172 A.3d 1173 (Pa. Commw. Ct. 2014). In doing so, the Court stated:

When the type of information is not categorically protected, privacy analysis consists of two steps. The first step is assessing whether the information at issue is sufficiently personal in nature to trigger protection as a privacy interest. The second step is weighing an individual’s privacy interest in nondisclosure against an interest in disclosing the personal information.... [B]efore reaching the balancing test, we must first discern a cognizable privacy interest in the information at issue....

[A]ppellate decisions teach us that certain factors are constant when evaluating a privacy interest in information. One is an individual’s reasonable expectation that the information is of a personal nature.... When information is public as a matter of statute, it is unreasonable for a person to expect that it is of a personal nature.... Another factor is how the agency obtained the information; when an individual voluntarily submits information, it may be disclosed...; whereas, information obtained by an agency premised on statutory confidentiality is protected.... Also, the context holds additional significance, as does whether the information is an essential component of a public record....

172 A.3d at 1182-84 (citations omitted).

Here, the Office asserts that in *Shepherd v. Pa. Office of the Governor*, a recent matter before the OOR, after balancing public and private interests, the OOR determined that *audio* recordings of interviews between the Governor and members of the press were protected by the constitutional right to privacy. OOR Dkt. AP 2025-2307, 2025 PA O.O.R.D. LEXIS 3059. In the instant matter, the Office argues that the Requester now attempts to obtain *written* transcripts of the very same audio recordings of the interviews and asserts that the form in which the material

information is stored does not change the conclusion that such records are still protected by the constitutional right to privacy.

In response, the Requester argues that the OOR in *Shepherd* had considered that the audio recordings in that matter contained the “aural likenesses” of the Governor and journalists — their “tone, tenor and timbre of communicating.” Here, the Requester argues that due to the written transcripts simply being words on a page, the privacy interest is diminished entirely because the uniquely personal characteristics of voice and manner are absent. The Requester argues that the public interest, by contrast, remains strong concerning the interest in understanding what the Governor communicates to the press in the course of official duties, versus what may appear in published articles.

While the OOR carefully considers the Requester’s arguments, we find that the right to privacy can and does apply to the subject written transcripts derived from these recordings. First, as in *Shepherd*, the OOR acknowledges that Pennsylvania’s Shield Law provides that:

No person engaged on, connected with, or employed by any newspaper of general circulation or any press association or any radio or television station, or any magazine of general circulation, for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person, in any legal proceeding, trial or investigation before any government unit.

42 Pa.C.S. § 5942. Although the Shield Law has limited applicability, despite the Requester’s arguments about the Shield Law’s intention, it still demonstrates that journalists do, in fact, have an inherent expectation of privacy with some aspects of their work product, which does not specifically distinguish the format of the records. Additionally, the OOR generally considers the implications of the “reporters’ privilege” under the United States Constitution as referenced in *Davis v. Glanton*, 705 A.2d 879, 885 (Pa. Super. 1997). This privilege is described as “designed to protect freedom of the press by insuring a free flow of information to reporters, will be overcome

only where a demonstrated, specific need for evidence presents a paramount interest to which the privilege must yield.” *Id.* The determination of whether the privilege has been overcome must be made on a case-by-case basis, balancing the rights of reporters under the First Amendment against the interests of those seeking the information the reporters possess. *Id.* In *Glanton*, absent a set of circumstances that would tip in favor of disclosure, certain notes and conversations that reporters held with their sources, even where those sources are published and known, were protected from disclosure. *Id.* at 886 (quashing subpoena to the extent that it sought reporters notes of conversations with named defendants over more than five years). The existence of this privilege further supports that an inherent expectation of privacy with some aspects of a journalist’s work product exists, and again, the format of these records are not distinguished.

Moreover, the evidence provided by the Office affirms that the recordings of these interviews are made after “securing the consent of all participants,” which additionally suggests that the respective journalists’ have an expectation of privacy. Eisenstein Attestation ¶ 6. Any written transcripts of these recordings would be produced by the electronic application on which they are recorded. Eisenstein Attestation ¶ 5. There is nothing in the record suggesting that any individuals consented to the recordings knowing that that either the recordings, or their derivatives such as written transcripts as sought here, may later be disclosed. Further, these records were not made in a public setting, but in a private interview. The OOR agrees with the Office, which argues that the OOR in *Shepherd* had considered and analyzed the circumstances of the records’ creation, as opposed to being entirely dependent on the *format* of the records at issue.

With respect to the public’s interest, the Requester asserts that “the public has a legitimate interest in understanding the complete substance of what its Governor communicates to the press in the course of official duties, and not merely the excerpts that appear in published articles.” In

turn, the Office asserts that the Requester’s “expressed interest in transparency, while notable when seeking information regarding *governmental* operations, is of little relevance in overcoming these reporters’ *private* interests and rights,” and arguing that “[n]othing about this matter is legally distinguishable from [the] Requester’s previously failed attempt to access the audio versions of these same records.”

Here, we find that the expectation of privacy outweighs any perceived public interest in disclosure of the responsive written transcripts. The Requester’s stated public interest is unavailing, as reasoned in *Shepherd*, because there are many documents that may be withheld under the RTKL prior to their final form being disclosed; for example, draft documents authored by an attorney may be privileged, while the final “form” of that document may not be, and the RTKL itself recognizes that agencies are permitted to withhold certain draft documents, 65 P.S. § 67.708(b)(9), and documents reflecting an agency’s internal, predecisional deliberations, 65 P.S. § 67.708(b)(10)(i)(A). Therefore, the OOR must conclude that the privacy interests here outweigh any public interest, and as such, the written transcripts of the audio recordings of interviews may be withheld under the constitutional right to privacy.<sup>4</sup>

**2. Metadata responsive to Part A of Request 2 is not exempt under Section 708(b)(12) of the RTKL**

Part A of Request 2 seeks copies of “all records reflecting metadata for any audio or video recordings of interviews conducted between Governor Josh Shapiro and journalists or news organizations” in a specified timeframe. Specifically, this portion of Request 2 seeks, the “date the recording was created,” “start time and end time (or total duration),” “format or file type,” and “storage location or system in which the recording was maintained.” The Office asserts that

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<sup>4</sup> Because the OOR finds that these records are protected under the constitutional right to privacy, the OOR need not reach the Office’s alternative grounds for denying access to these records. See *Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

responsive records are notes and working papers that are exempt from access pursuant to Section 708(b)(12) of the RTKL. Section 708(b)(12) exempts from disclosure “[n]otes and working papers prepared by or for a public official or agency employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.” 65 P.S. 67.708(b)(12).

This exemption protects “notes and working papers prepared by or for a public official or agency employee regarding agency-related business, but not for an official function.” *Escalera v. Adams Cnty.*, OOR Dkt. AP 2011-0184, 2011 PA O.O.R.D. LEXIS 176. The records must be for the specific employee’s own personal use and not distributed outside of their office, *Glunk v. Pa. Dep’t of State*, 102 A.3d 605 (Pa. Commw. Ct. 2014) and must be used to carry out the employee’s official duties. *Pa. Dep’t of Labor & Indus. v. Tabor*, 2016 Pa. Commw. Ct. Unpub. LEXIS 251 (Pa. Commw. Ct. 2016). This exemption covers documents “necessary for that official that are ‘personal’ to that official in carrying out his public responsibilities.” *City of Phila. v. Phila. Inquirer*, 52 A. 3d 456, 461 (Pa. Commw. Ct. 2012) (*en banc*). The Commonwealth Court has also held that:

“Personal” within this definition does not mean that it has to involve a public official’s personal affairs—a message slip that his wife called—because those types of documents are not covered by the RTKL; it covers those documents necessary for that official that are “personal” to that official in carrying out his public responsibilities.

*Smith ex rel. Smith Butz, LLC v. Pa. Dep’t of Env’t Prot.*, 161 A.3d 1049, 1066-67 (Pa. Commw. Ct. 2017). In support of the Office’s position, the Eisenstein Attestation states, in part:

3. In response to the [R]equests, I reviewed the operations and programs of the Office and consulted with individuals who would have had custody or control over any responsive record, should it exist within the possession of the Office.
4. Specifically, I consulted with individuals within the Governor’s Press Office who, by virtue of their positions, support the Office’s interaction with

journalists and media interests, and would have access to any responsive records that exist within the Office's possession, custody or control. I have further been informed by such individuals as to the existence, purpose and use of the records that the [R]equester seeks.

5. As a result of such review and consultation, I am fully informed of the use and purpose of recordings of interviews in which the Governor participated and their derivatives (such as any transcripts produced by the electronic application on which they are recorded).
6. As is routine in the journalism community, members of the Governor's press office often record interviews in which the Governor participates, after securing the consent of all participants.
7. These recordings and their derivatives are taken or created by a "voice recording" application on electronic devices issued directly to the individual users.
8. These recordings and their derivatives are not disseminated or shared by upload to any database or repository; instead each user personally maintains the recordings for future personal reference.
9. The sole purpose of the recordings and their derivatives is to assist the individual staff members in conveniently recalling elements of the interview.
10. The recordings and their derivatives are not shared or distributed to the Office, and, as the recordings and their derivatives exist only on staff members' individual devices unless affirmatively shared by the individual who created the record.
11. The recordings and their derivatives are not disseminated outside of the [O]ffice.
12. The recordings and their derivatives thus function as the modern-day equivalent of notes taken by individual employees during any meeting, phone call or discussion.
13. The recordings and their derivatives do not serve an official purpose, and, like the aforementioned employee notes, exist merely for the convenience of the individual staff members who create them.
14. Any metadata created by the aforementioned recording applications similarly serves no official purpose.

15. Such metadata, such as file information regarding date, time or length of recording, file system or format of the recording or derivatives thereof, is not maintained in any Office database or repository.
16. The Office does not reference or consult such metadata for any official purpose, and such data exists merely as a byproduct of the use of the originating voice recording application.
17. At most, the individual users who created such recordings and their derivatives may reference such metadata to locate a particular recording for their own individual purposes.
18. Such metadata then are the notes and working papers that permit those individual users to locate recordings and their derivatives for their personal reference, and such material is not available to others in the Office unless affirmatively shared by the individual who created the record.
19. Such metadata is not disseminated outside of the Office.

Under the RTKL, an affidavit or statement made under penalty of perjury may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the Office has acted in bad faith, “the averments in the [attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

Here, the Office argues that the evidence provided establishes that “metadata” serves no official purpose and instead are ancillary byproduct of recordings that are themselves exempt from access. The Office further explains that metadata are “data ancillary to the employees personal working processes.” Additionally, the Office argues that neither the metadata nor the recordings of those interactions serve any official purpose, nor were those recordings shared with others, nor did they generate any final product that might otherwise have an official purpose.

It should be noted that Part A of Request 2 specifically clarifies that it does not seek the recordings themselves, but only metadata, which is a distinct type of record. *See, e.g., Thomas v. Delaware Co.*, OOR Dkt. AP 2025-0528, 2025 PA O.O.R. D. LEXIS 1007 (explaining that “[m]etadata, or ‘data that provides information about other data’ is information in the possession, custody, or control of an agency, and therefore may qualify as a ‘record’ under the meaning of the RTKL”) (citing 65 P.S. § 67.102). Thus, any responsive metadata are completely separate records from the aforementioned recordings.

The Commonwealth Court has interpreted the “notes and working papers” exception as limited. Section 708(b)(12) is to be construed narrowly which is consistent with the RTKL’s remedial nature and goal of promoting government transparency. *See Pa. PUC v. Nase*, 302 A.3d 264 (Pa. Commw. Ct. 2023); *see also Glunk*, 102 A.3d 605; *Phila. Inquirer*, 52 A. 3d at 46. The OOR must consider the notion of personal “notes” or “working papers.” Both terms are undefined in the statute, and therefore, we must look to their common usage. Merriam-Webster defines a “note” as “a condensed or informal record,” “a brief comment or explanation,” or “a printed comment or reference set apart from the text,” among other things. <https://www.merriam-webster.com/dictionary/note> (last accessed April 11, 2026). In other words, a note is typically something condensed, informal or brief – like, for example, a calendar entry noting where a public official plans to be at a specific time. “Working paper,” on the other hand, is not as commonly used as “note.” Merriam-Webster defines a “working paper” as “a: a paper on which tentative figures, memoranda, data, or analyses of accounts are set down during the conduct of a survey (as an audit) or a business; b: a tentative statement prepared to serve as a basis for discussion or negotiation.” <https://www.merriamwebster.com/dictionary/working%20paper> (last accessed April 11, 2026).

The Office attempts to liken the withholding of metadata to *Lowry v. Lower Merion Sch. Dist.*, where the OOR found that video recordings taken by a cross-country coach for her own personal use, on her personal cellphone, were exempt personal notes. OOR Dkt. AP 2024-2268, 2024 PA O.O.R.D. LEXIS 2273. Additionally, the Office asks the OOR to consider *White and WITF v. Pa. Office of the Governor*, where the OOR found records of ChatGPT histories to be exempt notes and working papers. OOR Dkt. AP 2025-3285, 2026 PA. O.O.R.D. LEXIS 9. However, unlike the fleeting recorded notations in *Lowry* and the ChatGPT histories that recorded employees' personal unformalized thoughts and approaches in *White*, a case where the OOR expressly considered specific case-by-case unique facts and evidentiary record due to the "rapidly evolving nature of AI," the metadata here is not inherently a "personal note" or "working paper" in the scope of Section 708(b)(12) of the RTKL. Accordingly, the OOR must conclude that conclude that the Office has not demonstrated that withheld metadata is exempt from disclosure under Section 708(b)(12) of the RTKL. Absent any further evidence or argument, the records must be provided.

The OOR is mindful that an agency cannot produce records that do not exist within its possession, custody or control and, accordingly, is not ordering the creation of any new records. *See* 65 P.S. § 67.705. In the event that metadata records responsive to Part A of Request 2 do not exist, the Office is required to provide the Requester with a detailed affidavit or attestation made under the penalty of perjury describing the search for these responsive records and affirming their non-existence.

### **3. Part B of Request 2 is insufficiently specific**

The Office asserts that Part B of Request 2 is overly broad, and, therefore, insufficiently specific under Section 703 of the RTKL, which states that "[a] written request should identify or

describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type ... or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested.... The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 \*6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials”).

Part B of Request 2 seeks “all records reflecting metadata for voicemail messages received by the Office of the Governor from January 1, 2025, to December 31, 2025,” with particular details

of what metadata information should be provided. Here, the timeframe is clear, over the course of one calendar year. While this portion of Request 2 includes all-encompassing language such as “all,” the scope of Part B of Request 2 is fairly limited in terms of records sought, as it only seeks records of metadata, a discrete type of record. Notably, there is no subject matter provided.

In support of its position, the Office makes reference to and uploaded evidence (hereinafter “Eisenstein Attestation 2026-0646”) to apply with equal force here as submitted in *Shepherd v. Pa. Office of the Governor*, where the request similarly sought transcripts of “audio recordings of non-interview telephone calls or voicemail messages received or made by the Office of the Governor” between January 1, 2025 and December 31, 2025. OOR Dkt. AP 2026-0646, 2026 PA. O.O.R.D. LEXIS \_\_\_. Eisenstein Attestation 2026-0646 provides that “[t]he Office’s personnel complement includes over ninety individuals ... [and] [e]ach of the Office’s employees is assigned at least one telephone number at which voicemail messages may be received and transcribed.” Eisenstein Attestation 2026-0646 ¶¶ 4-5. Additionally, Mr. Eisenstein attests that many employees are also assigned a cellphone and some employees are responsible for general Office telephone numbers, which means that there are “far in excess of 100 different accounts and devices that might possess records.” *Id.* at ¶¶ 6-9.

Part B of Request 2 identifies a finite period of time and the type of records sought, as it seeks metadata records for a period of one calendar year. However, this portion of Request 2 does not provide a subject matter as it describes the records sought only as metadata “for voicemail messages received by the Office of the Governor” in that specified timeframe. The Request also contains a broad scope in that it does not limit the records sought to a particular employee, group of employees, department within the Office, or specific telephone numbers.

Given that there is no subject matter and the Office has over 100 different accounts that where metadata may exist, Part B of Request 2, as written, does little to limit the universe of potentially responsive records. *See Pa. Dep't of Educ.*, 199 A.3d at 1124-1126 (“A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients”); *see also Carey*, 61 A.3d at 72 (concluding that the scope of the request must identify “a discrete group of documents, either by type ... or by recipient”). Therefore, without a subject matter, and with a broad scope and a one-year timeframe that does little to narrow this portion of Request 2 to help guide the Office in its search for records, Part B of Request 2 is insufficiently specific. 65 P.S. § 67.703. However, nothing prevents the Requester from filing a more specific request for the same information, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

### CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Office is required to all records responsive to Part A of Request 2 in accordance with this Final Determination within thirty days. 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 Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, 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.<sup>5</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: April 17, 2026**

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

*/s/ Tope L. Quadri*

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TOPE L. QUADRI  
APPEALS OFFICER

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