



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

<b>IN THE MATTER OF</b>	:	
	:	
<b>MEG KELLER AND SAY THEIR NAMES</b>	:	
<b>JUSTICE INITIATIVE,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No: AP 2026-1080</b>
	:	
<b>PENNSYLVANIA DEPARTMENT OF</b>	:	
<b>CORRECTIONS,</b>	:	
<b>Respondent</b>	:	

### FACTUAL BACKGROUND

On February 9, 2026, Meg Keller, on behalf of the Say Their Names Justice Initiative (collectively, “Requester”), submitted a request (“Request”) to the Pennsylvania Department of Corrections (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*,<sup>1</sup> stating, in part, as follows:

... I respectfully request access to any existing, non-exempt institutional or investigative records relating to the death of Earl H. Randolph, which reportedly occurred on February 4, 2025, while he was confined at SCI Laurel Highlands.

To reduce administrative burden, this [R]equest is limited to records maintained in the ordinary course of agency business that are currently retrievable without the creation of new records. Requested materials include:

[Item 1.] Incident or mortality reports, investigative summaries, or institutional determinations regarding the death.

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<sup>1</sup> Although the Request was emailed on Sunday, February 8, 2026, it was not received by the Department until the next business day, or Monday, February 9, 2026.

[Item 2.] Commitment, housing, or custody status records from approximately February 2022 through February 2025.

[Item 3.] Publicly releasable institutional health status summaries (excluding exempt protected clinical details).

[Item 4.] Death log entries, register listings, or administrative notifications of death.

[Item 5.] Correspondence or memoranda generated by the institution regarding the death that are not otherwise exempt.

[Item 6.] Any coroner, postmortem, or outside investigative conclusions retained within institutional administrative files.

....

Requester Appeal, p. 8.

On March 10, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department partially granted the Request, providing one email communication in response to Item 5 (“Disclosed Email”), while also partially denying the Request, asserting that the death log tracking entry (“Death Log”), which is responsive to Item 4, was redacted under the constitutional right to privacy. *See* PA. CONST. ART. I, § 1. The Department further stated that records responsive to Items 1 and 2 are exempt from public disclosure under 65 P.S. §§ 67.708(b)(1)(ii), (b)(2), (b)(5) and/or (b)(17). In addition, the Department indicated that records responsive to Items 3 and 6 of the Request do not exist and that it is not required to create new records under 65 P.S. § 67.705.

On March 19, 2026, the Requester appealed to the Office of Open Records (“OOR”), arguing that the Department’s search was inadequate and that additional responsive records must exist, such as underlying medical documentation, institutional records, communications with external entities or the coroner, mortality reviews and incident reports. She further asserted that the Department improperly conflated the absence of “publicly releasable” records with the nonexistence of records and/or that it failed to apply specific exemptions for withholding documents. Additionally, the Requester stated that the redaction of a deceased inmate’s demographic information from the Death Log was overbroad, “where public interest in

transparency is significant.”<sup>2,3</sup> The OOR invited both parties to supplement the record and directed the Department to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On March 31, 2026, the Department submitted a position statement, reiterating its grounds for denial with respect to Items 1, 3 and 6 of the Request. It further asserted that this matter is moot, in part, because the Department disclosed an unredacted copy of the Death Log and a spreadsheet, evidencing Mr. Randolph’s commitment, housing and custody status (“Housing Spreadsheet”), which is responsive to Item 2, to the Requester on appeal. Additionally, the Department argued that Item 5 of the Request is insufficiently specific under 65 P.S. § 67.703. In support of its position, the Department submitted the attestations of Kimberly Grant (“Grant Attestation”), Deputy Agency Open Records Officer (“Deputy AORO”), and James C. Barnacle (“Barnacle Attestation”), Director of the Department’s Bureau of Investigations and Intelligence (“BII”), which are both made subject to penalties under 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

## LEGAL ANALYSIS

The Department 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. §

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<sup>2</sup> The Requester also argued that the Department failed to provide a sworn affidavit with the Final Response; however, an agency is not required to produce evidence in support of a denial or a good faith search, or to specify how the asserted exemptions apply to specific records, at the response stage of the RTKL process. *See generally*, 65 P.S. §§ 67.901, 903; *see also Levin v. Pa. Dep’t of Educ.*, OOR Dkt. AP 2023-2588, 2025 PA O.O.R.D. LEXIS 1017, \*19 (explaining that “[t]he language in Section 903 does not include a requirement that the agency link a basis for denial with a specific record”).

<sup>3</sup> The Requester did not specifically challenge the Department’s withholding of records responsive to Items 1 and 2 of the Request under 65 P.S. §§ 67.708(b)(1)(ii), (b)(2), (b)(5) and/or (b)(17). Therefore, those issues have been waived by the Requester on appeal, and they will not be further addressed in this Final Determination. *See Pa. Dep’t of Corr. v. Off. of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011).

67.305. As an agency subject to the RTKL, the Department 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 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)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (citing 65 P.S. § 67.708).

**1. The appeal is dismissed as moot in part**

As previously stated, on or about March 31, 2026, the Department provided unredacted copies of the Death Log and the Housing Spreadsheet to the Requester. The Requester has not raised any issues for the OOR to adjudicate with respect to those documents. Accordingly, as it pertains to the records provided during the pendency of this matter, the instant appeal is dismissed as moot. *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”).

**2. Item 5 of the Request is insufficiently specific in part**

On appeal, the Department argues that Item 5 of the Request is insufficiently specific under 65 P.S. § 67.703 because it is extremely burdensome, lacks a scope and has a lengthy, implied timeframe. Section 703 of the RTKL, provides 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 nonexclusive, multifactor test employed by the Commonwealth Court in *Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015). See *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928 (Pa. Commw. Ct. 2024). First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought[,]” and “should provide a context to narrow the search.” *Pittsburgh Post-Gazette*, 119 A.3d at 1125 (quoting 65 P.S. § 67.102; *Montgomery Cnty. v. Iverson*, 50 A.3d 281, 284 (Pa. Commw. Ct. 2012)). 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*, 61 A.3d at 372). “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. May 13, 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022) (citations omitted). Furthermore, 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. Off. 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 ...”).

In support of the Department’s position, Ms. Grant attests, in part, that:

5. In response to ... [the] Request, I contacted Departmental officials both at the subject institution, SCI-Laurel Highlands, as well as those within the ... BII ..., and separately contacted the Department's Corrections Health Care Administrator located [] at the Department's Central Office location in Mechanicsburg, PA, all of whom collectively would have knowledge of and access to any records responsive to this [] Request seeking records relative to a specified inmate death occurrence.

...

10. Regarding ... [I]tem #5, the indication on the Department's Final Response letter to [the Requester] that her requested access was granted was actually in error. During my good faith search internally for responsive records, Captain [James S.] Beechan[,] Corrections Officer IV at SCI-Laurel Highlands[,] provided me with an internal email communication containing a brief synopsis of the specified inmate's death occurrence. In an abundance of caution and in the interest of transparency, I felt it appropriate to provide that email communication to the Requester. However, to be clear, the Department's position in response to this [R]equest [I]tem is to deny [the Requester] [] access because the language of the [R]equest [I]tem is insufficiently specific, thereby preventing this office from conducting a thorough, good faith search for responsive records as the law requires. ....

Grant Attestation, ¶¶ 5, 10. Under the RTKL, a sworn affidavit or statement made under the 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 Department has acted in bad faith, "... the averments in the [attestations] 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)).

In this instance, when the Request is read as a whole, Item 5 expressly seeks "any existing, non-exempt institutional or investigative" correspondence or memoranda generated by SCI Laurel Highlands regarding the death of Mr. Randolph. *See Greim v. Pa. State Police*, 329 A.3d 873 (Pa. Commw. Ct. 2025) (finding that it was error for the OOR to consider one item of a request as having nothing to do with the remainder of the request). As such, Item 5 has a defined subject matter – Mr. Randolph's death and the investigation thereof. While Item 5 does not identify a

finite time period for which the records are sought, it has an implied, more than one-year timeframe, spanning from Mr. Randolph's death on February 4, 2025, to February 9, 2026, the date of the Request. *See Pa. State Sys. of Higher Educ. v. Ass'n of State College & Univ. Faculties*, 142 A.3d 1023, 1030 (Pa. Commw. Ct. 2016) (“While the OOR cannot refashion a request, if from the context of the request the agency can reasonably discern that a request is for a specific time-period, the OOR can find the request sufficiently specific”).

Further, to the extent that Item 5 of the Request identifies a specific record by type – memoranda – it has a clearly defined scope. In its position statement, the Department argues that “each of its correctional institutions houses hundreds of inmates,” that it “consequently employees hundreds of employees” and that “[t]he Department could not possibly conduct an email pull of all SCI-Laurel Highlands’ employees over a year+ timeframe, as it is physically impossible within the parameters of its current software that requires specified names (and email addresses) of officials whose emails would be ensnared in such an email pool.” In addition, the Department asserts that “[b]eyond physical impossibility, it would also be an extreme burden not supported by the RTKL to require Departmental officials to manually pull and review the surely millions of potentially responsive emails from all SCI-Laurel Highlands’ officials over that year+ timeframe.

While burden may be a factor in determining that a request is insufficiently specific, the fact that a request is burdensome does not, in and of itself, deem it overbroad. *See, e.g., Pa. Dep’t of Envtl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012); *Ruggiero v. Lackawanna Cnty.*, OOR Dkt. AP 2014-0043, 2014 PA O.O.R.D. LEXIS 157 (“[A] request involving the detailed review of voluminous documents does not relieve the agency of its requirements to presume the records are open and available and respond in accordance with the RTKL”). Furthermore, the Requester cannot be penalized for the way in which the Department chooses to

store its records,<sup>4</sup> and the Department would have knowledge of whether any SCI-Laurel Highlands employees or officials generated any *memoranda* concerning Mr. Randolph's death or the investigation thereof. Additionally, the Department's attestations reflect that based on their respective positions at SCI-Laurel Highlands and the BII, Captain Beechan and Mr. Barnacle would likely be custodians of responsive memoranda, or they could help identify which employees, beyond themselves, may possess such records.

Moreover, the RTKL does not require the Department to design a search that includes everything that Item 5 of the Request might conceivably encompass. Rather, the Department must instead conduct a search reasonably calculated to uncover all relevant documents. Accordingly, based on the *Pittsburgh Post-Gazette* multifactor test, the portion of Item 5, seeking "memoranda," is sufficiently specific under 65 P.S. § 67.703.

However, the remaining portion of Item 5, seeking "correspondence" is too broad in terms of scope because it does not identify a specific type of document or any authors, senders or recipients of the requested records. *See Iverson, supra*, 50 A.3d at 284 (concluding that a request which "does not identify specific individuals, email addresses, or even departments, but requests any applicable emails sent from the [agency's] domain to four other domains" was insufficiently specific); *see Pittsburgh Post-Gazette*, 119 A.3d at 1125-26 ("A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients"). Further, based on the text of the Request as a whole, the recipients of such "correspondence" would not necessarily be limited to employees or officials of SCI-Laurel

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<sup>4</sup> *See, e.g., Pa. Dep't of Env'tl. Prot. v. Cole*, 52 A.3d 541, 548 (Pa. Commw. Ct. 2012) (citing *Gingrich v. Pa. Game Comm'n*, No. 1254 C.D. 2011, 2011 Pa. Commw. Unpub. LEXIS 38 (Pa. Commw. Ct., Jan. 12, 2012)); *see also Pa. Dep't of Env'tl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012).

Highlands because other Items of the Request seek records involving the Department, in general, and/or outside third-parties, such as the coroner.

While the Department's actual ability to search for and locate the Disclosed Email, which is authored by Captain Beechan and contains a brief synopsis about Mr. Randolph's death and his incarceration at SCI-Laurel Highlands,<sup>5</sup> must be considered by the OOR, it is not determinative here because, as currently written, Item 5's broad demand for "correspondence," coupled with the somewhat lengthy one-year timeframe, is overly burdensome and does not allow the Department to ascertain what records are actually being requested. Therefore, the remaining portion of Item 5, seeking "correspondence," is insufficiently specific under 65 P.S. § 67.703. However, nothing in this Final Determination prevents the Requester from filing a more specific RTKL request for the same information sought in that part of Item 5 with the Department, and if necessary, filing a new appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

### **3. Certain records sought in Item 5 of the Request relate to a noncriminal investigation**

As previously stated, part of Item 5 of the Request seeks "any existing, non-exempt institutional or investigative" memoranda generated by SCI Laurel Highlands, regarding the death of Mr. Randolph. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency relating to a noncriminal investigation, including", among other things, "[i]nvestigative materials, notes, correspondence and reports[;]" ... [and] [a] record that, if disclosed, would ... [r]eveal the institution, progress or result of an agency investigation ...." 65 P.S. §§ 67.708(b)(17)(ii), (vi)(A). For this exemption to apply, an agency must demonstrate that "a systematic or searching inquiry, a detailed examination, or an official probe ..." was conducted regarding a noncriminal matter. *Pa. Dep't of Health v. Off. of Open Records*, 4 A.3d 803, 811 (Pa. Commw. Ct. 2010). Further,

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<sup>5</sup> See Grant Attestation, ¶ 10; see also Requester Appeal at pp. 9-10.

the inquiry, examination or probe must be conducted as “... part of the agency’s official duties.” *Pa. Dep’t of Health*, 4 A.3d at 814. “An official probe only applies to ‘noncriminal investigations conducted by an agency acting within its legislatively granted fact-finding and investigative powers.’” *Pa. Dep’t of Public Welfare v. Chawaga*, 91 A.3d 257, 259 (Pa. Commw. Ct. 2014) (quoting *Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920, 925 (Pa. Commw. Ct. 2012)). To hold otherwise “... would craft a gaping exemption under which any governmental information-gathering could be shielded from disclosure.” *Id.*

The OOR has previously found that the Department has the authority to conduct noncriminal investigations to maintain the safety of inmates and the general public, including investigations concerning inmate deaths. *See, e.g., Walker v. Pa. Dep’t of Corr.*, OOR Dkt. AP 2025-2172, 2025 PA O.O.R.D. LEXIS 2097, \*8; *Mack v. Pa. Dep’t of Corr.*, OOR Dkt. 2025-0287, 2025 PA O.O.R.D. LEXIS 691, \*13. Pursuant to Section 91.2 of the Pennsylvania Administrative Code (“Code”), it “is the goal of the Department to operate its institutions and programs to provide protection to the community, a safe and humane environment and opportunities for rehabilitation for the inmates.” 37 Pa. Code § 91.2 In addition, Section 93.13 of the Code provides that “[i]nmate deaths, except those which occur under medical supervision and as a result of natural causes, shall be promptly investigated by the [Pennsylvania] State Police” (“PSP”). 37 Pa. Code § 93.13. The Department has also promulgated policies, which set forth the procedures that must be followed in the event of an “inmate extraordinary unexpected death (i.e., suicide/homicide, or any accidental death as defined by the Regional Deputy Secretary [ ])[,]” including investigations by the Department, the PSP and/or the coroner. *See* Department Policy

01.01.05 (Notification of Extraordinary Unexpected Deaths), § 1; *see also* Department Policy 13.01.01 (Management and Administration of Health Care), § 9.<sup>6</sup>

On appeal, the Department only raised the noncriminal investigative records exemption with respect to Item 1 of the Request; however, Item 5 facially seeks memoranda regarding SCI-Laurel Highland’s and/or the Department’s investigation into Mr. Randolph’s death. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (explaining that the OOR must consider uncontradicted statements contained in the appeal as evidence); *see also Off. of the Governor v. Davis*, 122 A.3d 1185, 1194 (Pa. Commw. Ct. 2015) (*en banc*) (holding that an evidentiary affidavit may be unnecessary when an exemption is clear from the face of the record).

The Barnacle Attestation provides, in part, as follows:

2. In my capacity as Director of BII, I am responsible for the supervision of criminal and noncriminal investigations pertaining to allegations of staff and inmate misconduct within the Department.
- ...
5. I am aware of a recent ... Request that was initiated by [the Requester], seeking access to, among other things, incident or mortality reports, investigative summaries, or institutional determinations regarding a specified inmate death. ....
6. To be clear, records responsive to this or any Request seeking access to investigative records related to this or any alleged extraordinary occurrence within a Departmental correctional institution such as is described above, if in existence, would be collectively encapsulated within and referred to as an Extraordinary Occurrence Report (“EOR”).
7. In my professional opinion, no EOR[,] evidencing an internal Departmental investigation into any extraordinary occurrence, which includes a summary or the findings thereof, should be publicly disseminated under the RTKL.
8. To be equally clear, it is not the policy of BII (or, therefore, of the Department) to even confirm or deny whether it or any other agency, including but not

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<sup>6</sup> The Department’s policies are publicly accessible via its website at <https://www.pa.gov/agencies/cor/about-us/doc-policies#accordion-9ced498d8f-item-6ff2856c99> (last visited Apr. 10, 2026).

limited to the ... PSP ..., has conducted or is conducting any particular investigation(s) based upon any alleged complaints or otherwise.<sup>[7]</sup>

...

11. As a matter of course, each and every inmate death is thoroughly investigated internally by the Department as a function of the Department's official statutorily-imposed law enforcement functions related to the care, custody and control of the multitude of incarcerated inmates within its various correctional institutions, and to maintain a safe and secure environment within those institutions for the benefit of those working and residing within, as well as the surrounding communities.
12. Most often in response to an inmate death, the correctional institution itself will begin the internal noncriminal investigation by obtaining, gathering and reviewing:
  - photographs of the deceased inmate and any injuries, etc.;
  - photographs of the inmate's cell or other living quarters;
  - photographs of the area where the suicide occurred if not in their cell or living quarters;
  - relevant surveillance video;
  - shift rosters and related records indicating staff interaction with the deceased inmate prior to the suicide event, such as cell checks;
  - interviews, written statements and/or reports from inmates and staff regarding their observations, knowledge or involvement of the inmate suicide in question.
13. Thereafter, BII's overarching investigation into the inmate death will overtake and encapsulate the initial investigative efforts conducted by the particular facility's personnel, including all of the aforementioned records and information.

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<sup>7</sup> The Department asserts a form of the so-called "Glomar response" by neither confirming nor denying that investigations actually occurred. In the vast majority of cases, the RTKL's requirement that an agency demonstrate that a record is exempt from disclosure before withholding it means that the agency must provide: (1) an acknowledgement that the records exist; (2) a description of the records; and (3) an analysis of why the records are exempt. Only in extremely rare circumstances can an agency meet its burden without providing all three of those elements to the OOR. See *Yackamovich v. Pa. Dep't of Corr.*, OOR Dkt. AP 2016-1959, 2016 PA O.O.R.D. LEXIS 1763; see also *Walker*, 2025 PA O.O.R.D. LEXIS 2097 at \*5-6, n.5. In this case, however, the Department does describe what records would contain investigatory information regarding Mr. Randolph's death; explains the basis for exemption of the records responsive to Item 1 of the Request under 65 P.S. § 67.708(b)(17), which the Requester did not challenge on appeal; and the Department demonstrated that the language of the Request necessarily implicates responsive EOR records. See *Fennell*, *supra*.

14. Upon its review of those initial investigative efforts by the facility, and depending upon the particular circumstances involved in a given death incident, BII could simply adopt the initial investigation as complete or pick up where that initial investigation left off, thereby continuing with further investigative efforts, interviews, gathering and review of relevant evidence, etc.
15. Depending upon the factual circumstances and findings of such an internal noncriminal investigation, the matter may [] then be referred to the ... PSP ... for further criminal investigation.
16. Accordingly, disclosure of the requested EOR records would reveal the institution's progress and/or the results of the [Department]/PSP investigation.

....

Grant Attestation, ¶¶ 2, 5-8, 11-16 (internal footnote added).

As previously stated, generally, under the RTKL, statements made under the penalty of perjury may serve as sufficient evidentiary support. *See Sherry, supra; Moore, supra.* Here, the disclosed records reflect that Mr. Randolph died suddenly of natural causes. *See* Requester Appeal, pp. 9-10. The Department's evidence affirms that it conducted a noncriminal investigation into Mr. Randolph's death because as "a matter of course, each and every inmate death is thoroughly investigated internally by the Department as a function of the Department's official statutorily-imposed law enforcement functions related to the care, custody and control of the multitude of incarcerated inmates within its various correctional institutions, and to maintain a safe and secure environment within those institutions[.]" Barnacle Attestation, ¶¶ 11-16; *see also* 37 Pa. Code § 91.2; Department Policy 01.01.05, § 1; Department Policy 13.01.01, § 9. Additionally, based on the plain language and context of the Request, Item 5 expressly seeks memoranda that relate to the Department's noncriminal investigation into Mr. Randolph's death. Accordingly, any such responsive memoranda are exempt under 65 P.S. § 67.708(b)(17), and therefore, do not constitute "public records" that are subject to the redaction provisions in 65 P.S. § 67.706.

#### 4. Item 3 of the Request facially seeks exempt medical records

Section 708(b)(5) of the RTKL exempts from disclosure “[a] record of an individual’s medical, psychiatric or psychological history ... including an evaluation, consultation, prescription, diagnosis or treatment....” 65 P.S. § 67.708(b)(5). Item 3 of the Request expressly seeks “[p]ublicly releasable institutional health status summaries (excluding exempt protected clinical details)[,]” relating to Mr. Randolph’s death. The Grant Attestation affirms that Ms. Grant “confirmed with SCI-Laurel Highlands personnel that, while medical records associated with the specified inmate do obviously exist within the Department’s possession, there are no records of that sort (no “institutional health status summaries” or otherwise) that are publicly releasable under the RTKL.” Grant Attestation, ¶ 8. Additionally, the Grant Attestation demonstrates that as a result, and based on the plain language of the Request, Ms. Grant “characterized the basis of the Department’s denial of ... [Item 3] as there being no responsive records (publicly releasable health records) in the Department’s possession, without providing the foregoing context and explanation.” *Id.*

The OOR has previously found that an inmate’s medical and mental health records are not subject to disclosure under the RTKL. *See e.g. Jarowecki v. Pa. Dep’t of Corr.*, OOR Dkt. AP 2023-0992, 2023 PA O.O.R.D. LEXIS 1185; *Ortiz v. Pa. Dep’t of Corr.*, OOR Dkt. AP 2017-2193, 2017 PA O.O.R.D. LEXIS 1819. Here, despite, the Request stating that it only seeks “[p]ublicly releasable institutional health status summaries (excluding exempt protected clinical details)[,]” relating to Mr. Randolph’s death.[,]” it is clear from the face of the Request that it seeks inmate medical records. *See Fennell, supra; Davis, supra.* As such, any records responsive to Item 3 of the Request are exempt in their entirety under 65 P.S. § 67.708(b)(5).

## 5. The Department demonstrated that no additional responsive records exist

In response to a request for records, "... an agency shall make a good faith effort to determine ... whether the agency has possession, custody or control of the identified record[.]" 65 P.S. § 67.901. While the RTKL does not define the term "good faith effort," in *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession... When records are not in an agency's physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff'd*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency's records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep't of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Moreover, in *Pa. Dep't of Health v. Mahon*, the Commonwealth Court discussed the evidence required to establish the absence of records, quoting its previous decision in *Hodges v. Pa. Dep't of Health*, which held that an agency "may satisfy its burden of proof ... with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record." 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges*, 29 A.3d at 1192). The Court reasoned that "[i]t is questionable to what degree additional detail and explanation are necessary to establish the nonexistence of a record rather than its exemption from disclosure," and that "[i]n the absence of any competent evidence that an agency acted in bad faith or that the

agency records exist, the averments in such affidavits [of non-existence] should be accepted as true.” *Mahon*, 283 A.3d at 936 (citing *Smith Butz, LLC v. Pa. Dep’t of Env’t Prot.*, 142 A.3d 941, 945 (Pa. Commw. Ct. 2016)).

In this instance, the Department’s evidence affirms that Ms. Grant is familiar with its records and conducted the search, which included inquiring with Departmental officials at SCI-Laurel Highlands and the BII, as well as the Department’s Corrections Health Care Administrator, who are the most likely custodians of responsive records. *See* Grant Attestation, ¶ 5. As noted above, the evidence demonstrates that Mr. Randolph’s inmate medical records, the Disclosed Email and the noncriminal investigative EOR records and memoranda are the only records responsive to Items 1, 3 and 5 of the Request that exist. *See id.* at ¶¶ 6, 8, 12; *see also* Barnacle Attestation, ¶¶ 6, 10-13, 16. The evidence further shows that as part of the Department’s search, “institutional personnel at SCI-Laurel Highlands identified one responsive single-page excel spreadsheet record[,] evidencing the specified inmate’s commitment, housing and custody status over the specified timeframe[,] i.e, the disclosed Housing Spreadsheet. Grant Attestation, ¶ 7. The evidence also reflects with respect to Item 4 of the Request, that “the Department’s Corrections Health Care Administrator provided [Ms. Grant] with a copy of the” Death Log, which is “the only responsive record constituting an internal entry/listing describing the specified inmate’s death[,]” and that an unredacted copy of that log was provided to the Requester on appeal. *Id.* at ¶ 9.

The Department’s evidence further affirms with respect to Item 6, that “the Department’s Health Care Administrator confirmed for [Ms. Grant] that no such external coroner’s report, postmortem[] or the like[,] relative to [Mr. Randolph’s] death exist[] within the Department’s

possession.”<sup>8,9</sup> Grant Attestation, ¶ 11. Additionally, the evidence demonstrates that “after conducting a thorough, good faith search for records responsive to ... [the] Request,” Ms. Grant determined that the Disclosed Email, the Death Log, the Housing Spreadsheet, the Requester’s medical records and the noncriminal investigative records discussed in the prior sections of this Final Determination, are the only responsive records that exist. *Id.* at ¶¶ 6-12. Moreover, the Requester has not presented any competent evidence to contradict the Department’s attestations or to demonstrate that additional responsive records actually, do in fact, currently exist.<sup>10</sup>

Accordingly, based on the facts present in this matter and the standard set forth in *Mahon*, the Department has established, by a preponderance of the evidence, that a good faith search was conducted and that no additional responsive records exist within the possession, custody or control of the Department. *See e.g., Mahon supra; Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry). Further, pursuant to Section 705 of the RTKL, the Department is not required to create records that do not currently exist. *See* 65 P.S. § 67.705.

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<sup>8</sup> Based on the context and plain language of Item 6 of the Request, which seeks “[a]ny coroner, postmortem, or outside investigative conclusions retained within institutional administrative files[,]” the Department’s interpretation that Item 6 sought an “external coroner’s report, postmortem[] or the like[,] relative to [Mr. Randolph’s] death” was reasonable. *See, e.g., Mezzacappa v. Northampton Cnty. Dist. Atty’s Off.*, OOR Dkt. AP 2022-2584, 2023 PA O.O.R.D. LEXIS 80; *Dunbar v. Pa. Off. of Att’y Gen.*, No. 670 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 494, \*6 (Pa. Commw. Ct. 2024) (“When a request is subject to multiple interpretations, the agency’s interpretation must be reasonably based on the text of the request and, if necessary, the context of the request”) (citing *In re Melamed*, 287 A.3d 491, 499 n.15 (Pa. Commw. Ct. 2022)).

<sup>9</sup> While the Coroner’s Act, 16 Pa.C.S. §§ 13901 *et seq.*, makes certain coroner’s records, such as autopsy, toxicology and coroner’s reports, publicly accessible from a county coroner for a fee or from a prothonotary, if deposited, the Coroner’s Act and the RTKL do not impose a requirement on the Department to obtain such records from the county coroner or prothonotary to fulfill the Request. *See* 16 Pa.C.S. § 13952; *see also Mutchler v. Pa. Off. of Admin.*, 334 A.3d 57, 2025 Pa. Commw. LEXIS 50 (Pa. Commw. Ct., Mar. 18, 2025) (in the context of the applicability of 65 P.S. § 67.506(d)(1), the Commonwealth Court explained that the RTKL does not “require one agency to obtain from another agency information that the requester could get from that other agency directly”), *petition for allowance of appeal granted in limited part*, No. 196 MAL 2025, 2025 Pa. LEXIS 1472 (Sept. 23, 2025).

<sup>10</sup> Despite the Requester’s argument that additional responsive records must exist, the OOR makes no determination as to whether any additional responsive records *should* exist, as our inquiry is limited to whether the records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909.

## CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the Department 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 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 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.<sup>11</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 20, 2026**

*/s/ Megan Burns*

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MEGAN BURNS  
APPEALS OFFICER

Sent via OOR Portal to: Meg Keller; Andrew Filkosky, AORO; and Joseph Gavazzi, Esq.

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<sup>11</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).