



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**ALEXA GINSBURG,
Requester**

v.

**WYOMING COUNTY,
Respondent**

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Docket No: AP 2026-0902

FACTUAL BACKGROUND

On March 2, 2026, Alexa Ginsburg (“Requester”) submitted a request (“Request”) to Wyoming County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*,¹ seeking the following records related to a specific November 21, 2025 EMS response in Tunkhannock, Pennsylvania, where a baby was delivered inside an ambulance:

[Item 1.] The complete 911 call audio recording(s) associated with [the] incident,

[Item 2.] All dispatch audio, including radio traffic between dispatch and responding EMS units.

[Item 3.] The Computer-Aided Dispatch (CAD) report/log, including timestamps, unit assignments, and call disposition.

[Item 4.] Any incident summary or communications report generated by the communications center related to this event.

¹ Although the Request was emailed on Sunday, March 1, 2026, it was not actually received by the County until the next business day, or Monday, March 2, 2026.

On March 5, 2026, the County partially granted the Request (“Final Response”), providing the audio file of radio traffic for the entire call and a CAD Log in response to Items 2 through 4, while also denying Item 1 under 65 P.S. § 67.708(b)(18)(i).

On March 10, 2026, the Requester appealed to the Office of Open Records (“OOR”),² limiting the appeal to the denial of the 911 call recording sought in Item 1 and arguing that the County failed to prove that 65 P.S. § 67.708(b)(18)(i) applies. She further stated, in part, that the disclosed records demonstrate that the November 21, 2025 incident is not confidential in nature and that the responsive recording should be redacted and disclosed, instead of being withheld in its entirety. *See* 65 P.S. § 67.706.³

On March 11, 2026, the OOR issued a Notice of Filing Deficiency, directing the Requester to file a copy of the Final Response by March 25, 2026. That same day, the Requester cured the appeal deficiency, filing multiple submissions, which contained the Final Response and the disclosed records. On March 13, 2026, the OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On March 19, 2026, the County submitted a position statement, reiterating its grounds for denial and further asserting, in part, that the withheld 911 audio recording is not subject to

² 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)”).

³ On appeal, the Requester did not raise any challenges to the County’s response to Items 2-4 of the Request or the redactions made to the CAD Log. Therefore, the Requester has waived all such issues 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). However, we note that the only information redacted from the CAD Log is the name, address and phone number of the 911 caller, which is protected from disclosure under Section 5399 of the Emergency Communication Services Act. *See* 35 Pa.C.S. §§ 5399(a), (c) (stating that “in a response to a request under the ... [RTKL], the agency or a PSAP may not release individual identifying information of an individual contacting a 911 center, victim or witness[,]” which “includes, but is not limited to, name, telephone number, home address, voice, appearance or other data provided in 911 communications service that can be used to identify an individual”); *see also* 65 P.S. § 67.306 (“Nothing in ...[the RTKL] shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree).

redaction and/or that the County is not required to create a new record under 65 P.S. § 67.705. In support of its position, the County submitted a copy of its 911 Records Policy and the attestations of Amber Franko (“Franko Attestation”), County Agency Open Records Officer (“AORO”), and Jeff Porter (“Porter Attestation”), Director of the County 911 Center.⁴

LEGAL ANALYSIS

The County 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 County 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)). Although the Requester asked the OOR to conduct *in camera* review, the OOR declines to do so because it has sufficient information and evidence before it to adjudicate this matter. *See* 65 P.S. § 67.1102(a)(2).

On appeal, the County argues that it properly withheld the 911 audio recording in its entirety under Section 708(b)(18)(i) of the RTKL, which exempts from disclosure “[r]ecords or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings.” 65 P.S. § 67.708(b)(18)(i) (emphasis added). However, “[t]his paragraph shall not apply to a 911 recording,

⁴ Both of the County’s attestations are made subject to penalties under 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.” 65 P.S. § 67.708(b)(18)(ii).

In support of its position, the County submitted two attestations authored by Ms. Franko and Mr. Porter, who in their respective positions as County AORO and Director of the County 911 Center, are familiar with the County’s records and/or “the creation, maintenance, and classification of 911 call audio recordings.” Franko Attestation, ¶¶ 1-2; Porter Attestation, ¶¶ 1-2.⁵ The attestations further affirm that “[t]he record at issue is a 911 call audio recording received by emergency dispatch personnel on November 21, 2025[,]” and that it “is not a time response log[,]” nor “reasonably separable into nonexempt portions.” Porter Attestation, ¶¶ 3-5. The attestations also demonstrate that “[t]he denial of the recording was based solely on the statutory exemption [in 65 P.S. § 67.708(b)(18)(i)], not internal policy[,]” and that “[t]he County has not determined that the public interest in disclosure outweighs the interest in nondisclosure.” Franko Attestation, ¶¶ 5-6; Porter Attestation, ¶¶ 6-7.

Moreover, the Request expressly seeks a complete copy of the 911 call audio recording for the November 21, 2025 EMS response. Despite the Requester’s arguments that the disclosure of the dispatch radio traffic audio and CAD Log reflect that said incident is not confidential in nature, that it involved “a completed emergency response ... and that it does not involve an ongoing investigation or law enforcement activity[,] the discretion to determine whether to release the responsive 911 call recording lies with the County itself and the court system. As such, the OOR may not disturb the County’s decision to withhold the requested 911 call recording, rather than

⁵ 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 County 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)).

exercising its discretion to release it in accordance with 65 P.S. § 67.708(b)(18)(ii). *See, e.g., Hobbs v. Bethel Park Police Dep't*, OOR Dkt. AP 2026-0833, 2026 PA O.O.R.D. LEXIS 1099, *4 (“Section 708(b)(18) clearly vests the discretion to make the determination whether to release 911 recordings with the agency and the court system, and the OOR is neither”); *Long v. York Cnty.*, OOR Dkt. AP 2025-1402, 2025 PA O.O.R.D. LEXIS 1392. Accordingly, the County has established, by a preponderance of the evidence, that the responsive 911 call recording is exempt from disclosure in its entirety under 65 P.S. § 67.708(b)(18)(i); therefore, contrary to the Requester’s assertions, the recording is not subject to the redaction provisions in 65 P.S. § 67.706.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the County 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 Wyoming 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.⁶ 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>.

FINAL DETERMINATION ISSUED AND MAILED: May 7, 2026

/s/ Megan Burns

MEGAN BURNS
APPEALS OFFICER

Sent via OOR Portal to: Alexa Ginsburg; Amber Franko, AORO; Anthony P. Litwin, Esq.

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).