

7. Any policy review, use-of-force review, warrant review, or procedural compliance analysis conducted as part of the investigation.
8. The final disposition letter issued to the complainant.
9. Any documentation reflecting the date the investigation was opened & closed.
10. Any body-worn camera, dash camera, CAD logs, or documentary evidence reviewed as part of the Internal Affairs investigation.
11. Any records reflecting whether the complaint was sustained, not sustained, unfounded, exonerated, or otherwise categorized.

Time Frame: January 1, 2025 through present

On March 23, 2026, after invoking a thirty-day extension to respond, *see* 65 P.S. § 67.902(b), the Department denied the Request, arguing that responsive records constitute exempt employee information, *see* 65 P.S. § 67.708(b)(7), and are related to a noncriminal investigation, *see* 65 P.S. § 67.708(b)(17).

On March 30, 2026, the Requesters filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.¹ 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 various dates, the Requesters submitted several position statements, which, among other things, identifies various purported flaws with Mr. Shuda’s arrest, challenges the Department’s denial as conclusory and accuses the Department of misconduct and bad faith.² On

¹ The Requesters provided the OOR with additional time to issue a final determination in this matter. *See* 65 P.S. § 67.1101(b)(1). The Requesters’ appeal is 151 pages in length, contains material inaccuracies and appears to be AI generated. The OOR declines to review the entirety of the Requesters’ numerous, lengthy submissions. *See* 65 P.S. § 67.1102(a)(2) (“The appeals officer may admit into evidence ... documents ... believe[d] to be reasonably probative and relevant to an issue in dispute [and] may limit the nature and extent of evidence found to be cumulative.”); 65 P.S. § 67.1102(b)(3) (“In the absence of a regulation, policy or procedure ..., the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute”).

² The OOR has no jurisdiction over the proprietary of the Department’s actions in the underlying matter. As a result, this Final Determination will only address whether responsive records are accessible under the RTKL.

April 4, 2026, the Requesters agreed to a brief extension of the Final Determination due date. *See* 65 P.S. § 67.1101(b)(1).

On April 16, 2026, the Department submitted a position statement, verified by a statement made under the penalties of unsworn falsification to authorities by Chief Mark Ruegg (“Ruegg Attestation”).³ The Department also produced the complaint Mrs. Shuda filed, accusing Detective Sean Woods of criminal conduct and violation of the constitutional rights of Mr. Shuda; correspondence about the complaint; and a two page Internal affairs complaint RMS Report. On the same day, the Requesters filed another position statement

LEGAL ANALYSIS

Local agencies are 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 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)). The Requesters have asked the OOR to conduct *in camera*

³ The Department also submitted a separate statement by Chief Ruegg that purports to be an affidavit. In the document, Chief Ruegg represents that he is under oath; however, the document is not notarized, nor does it state that it was made under the penalties of unsworn falsification to authorities. Nevertheless, the Ruegg Attestation verifies that “the statements set forth in the foregoing response to [the] appeal are true and correct to the best of my knowledge, information, and belief.” This statement is sufficient for the purposes of the RTKL to verify the purported affidavit. *See Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021), *aff’d*, 2024 Pa. LEXIS 1087 (Pa., Feb. 21, 2024) (noting that in RTKL proceedings, the preponderance of the evidence standard applies, which is the lowest evidentiary standard, and is tantamount to a more-likely-than not inquiry). The Department does not discuss Section 708(b)(7) on appeal and appears to have abandoned the argument.

review; however, this request is denied, as the parties have presented a sufficient factual record to enable the OOR to adjudicate the matter on the merits.

1. The appeal is moot in part

The Department has produced some responsive records on appeal. Therefore, insofar as these records are responsive to the Request, the appeal is 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. Responsive records are related to a noncriminal investigation

The Department argues that responsive records are related to a noncriminal investigation. Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “[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); 65 P.S. § 67.708(b)(17)(vi)(A).

In order 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. *See Pa. Dep't of Health v. Off. of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814; *see also Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *See Pa. Dep't of Pub. Welf. v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014). To hold otherwise would “craft a gaping exemption under which any governmental information-gathering could be shielded from disclosure.” *Id.* at 259.

Here, the Chief of Police commands the Department and is responsible for supervising officers and ensuring proper conduct. POLICE DEPARTMENT ORDINANCE OF THE BOROUGH OF HATBORO § 1-403 (1989). Accordingly, the Department is legislatively authorized to investigate the conduct of its officers.

The Ruegg Attestation affirms that the Report relates to a noncriminal investigation. Ruegg Attestation, ¶ 8. Additionally, the Request facially seeks records related to an internal affairs investigation. *See Off. of the Governor v. Davis*, 122 A.3d 1185, 1194 (Pa. Commw. Ct. 2015) (en banc) (an affidavit may be unnecessary when an exemption is clear from the face of the record); *Pa. Game Comm'n v. Fennell*, 149 A.3d 101, 105 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal filing when construing exemptions).

The OOR has previously found that records related to complaints of police misconduct, similar to those requested in this appeal, are exempt from public access under the RTKL. *See, e.g., Nathans v. Allentown City*, OOR Dkt. 2026-0552, 2026 PA O.O.R.D. LEXIS 1101 (finding records related to civilian generated complaints and internal investigation of those complaints are exempt noncriminal investigative materials); *see also Green v. Phila. Police Dep't*, OOR Dkt. AP 2023-1061, 2023 PA O.O.R.D. LEXIS 1250 (finding the portion of the request seeking misconduct allegations pertaining to six detectives sought records that were facially exempt noncriminal investigative records).

Based on the evidence produced by the Department and the face of the Request, the Department has met its burden of proving that responsive records are exempt from disclosure. *See* 65 P.S. § 67.708(a).⁴

⁴ The Department did not originally assert the exemption, but on appeal, it argues that some responsive records are related to a criminal investigation. *See* 65 P.S. § 67.708(b)(16). It appears that the Department included reference to

The Requesters argue that Detective Sergeant Conner Dilks offered to provide either the complete formal Report or a summarized version thereof. With the Requesters' appeal, the Requesters include the Declaration of Alex Shuda, which provides that, according to her recollection, Detective Dilks offered to provide the Report to her. Shuda Attestation, ¶¶ 4-6. However, even assuming this is true, it does not change the nature of the Report or make it unconditionally available under the RTKL. A requester's identity or motivation for making a request is not relevant to determining whether a record is accessible under the RTKL. *Padgett v. Pa. State Police*, 73 A.3d 644, 647 (Pa. Commw. Ct. 2013). Under the RTKL, a record is either available to the public at large as a public record or it is shielded from disclosure. *See* 65 P.S. § 67.102; 65 P.S. § 67.305; *see also Cafoncelli v. Pa. State Police*, 2017 Pa. Commw. Unpub. LEXIS 405 (Pa. Commw. Ct. 2017) (citing *Hunsicker v. Pa. State Police*, 93 A.3d 911, 912 (Pa. Commw. Ct. 2014)).

In a related argument, the Requesters argue that there is a substantial public interest in the disclosure of responsive records. While agencies generally have the discretion to release otherwise nonpublic records, 65 P.S. § 67.506(c), the exercise of that discretion lies solely with the agency and is not subject to the OOR's legal review.

3. The Department conducted a good faith search and has proven that no other responsive records exist

The Department argues that no records exist, aside from those that have been provided to the Requesters or those that are related to a criminal investigation. The Ruegg Attestation provides

a criminal investigation because the complaint relates to the arrest of Mr. Shuda. However, the Request seeks records related to the complaint filed by Mrs. Shuda, which the Department argues is noncriminal in nature, and does not seek records related to the underlying arrest. Therefore, it is unclear what records exist that are responsive to the Request that may be related to a criminal investigation. In any case, the OOR has no jurisdiction over appeals related to criminal investigative records held by local agencies. *See* 65 P.S. § 503(d).

that his search of the Department's physical and electronic files located a six-page internal investigative report, in addition to the records that had been provided to the Requesters.

“The 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). An attestation by the individual who searched for responsive records is sufficient to meet an agency's burden of proving the nonexistence of a record. *Id.*; *see also Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that in the absence of countervailing evidence establishing that the agency acted in bad faith or that the agency records exist, averments of nonexistence should be accepted as true.”); *Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021), *appeal granted in part*, 280 A.3d 870, *aff'd*, No. 71 MAP 2022, No. 72 MAP 2022, 2024 Pa. LEXIS 1087 (Feb. 21, 2024) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, which is tantamount to a “more likely than not” inquiry). Accordingly, the Department has met its burden of proving that no other records exist. *Hodges*, 29 A.3d at 1192.⁵

CONCLUSION

For the foregoing reasons, the Requesters' 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 Dauphin 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 as per Section 1303 of the RTKL, 65 P.S. § 67.1303, but as the quasi-

⁵ The Request sought video recordings. While the Ruegg Attestation establishes that responsive records do not include such video recordings, Act 22 of 2017 removed audio and video recordings made by law enforcement agencies from access under the RTKL and created a separate, exclusive means of access. 42 Pa.C.S. § 67A03.

judicial tribunal that adjudicated 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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: May 7, 2026

/s/ Blake Eilers

Blake Eilers, Esq.

Senior Appeals Officer

Delivered via OOR E-file Appeal Portal to: Alexa & Thomas Shuda; Mary Kovach; Rebecca Geiser, Esq.

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