



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**SOLARIS BELTRAN RAMIREZ,
Requester**

v.

**ALLENTOWN CITY,
Respondent**

:
:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-1500

FACTUAL BACKGROUND

On April 1, 2026, Solaris Beltran Ramirez (“Requester”) submitted a request (“Request”) to Allentown City (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking an unredacted copy of police incident report 25-012176 (“Incident Report”), which the Requester alleges relates to a February 28, 2025 domestic violence incident in which he was the victim.

On April 8, 2026, the City partially granted the Request, disclosing the eleven-page Incident Report, while also partially denying the Request, asserting that it withheld an additional five pages of supplemental reports and redacted personal telephone numbers, social security numbers, driver’s license numbers, victim information, medical information and criminal investigative material from the Incident Report under 65 P.S. §§ 67.708(b)(5), (b)(6)(i)(A) and (b)(16); the Criminal History Record Information Act (“CHRIA”), 18 Pa.C.S. §§ 9101 *et seq.*,

and/or the federal Health Information Portability and Accountability Act of 1996 (“HIPAA”), 42 U.S.C.S. §§ 1320d *et seq.*

On April 14, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 23, 2026, the City submitted a position statement, reiterating its grounds for denial and further asserting that the OOR lacks jurisdiction over appeals concerning criminal investigative records. *See* 65 P.S. § 67.503(d)(2). In support of its position, the City submitted the sworn affidavit of Kyle Pammer (“Pammer Affidavit”), Captain of Administration for the Allentown Police Department (“Department”).

LEGAL ANALYSIS

The City 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 City 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)).

On appeal, the City argues that it properly redacted the disclosed Incident Report and withheld three supplemental reports under 65 P.S. §§ 67.708(b)(6)(i)(A) and (b)(16). Section

708(b)(6)(i)(A) of the RTKL expressly exempts personal identification information, including “[a] record containing all or part of a person’s Social Security number, driver’s license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.” 65 P.S. § 67.708(b)(6)(i)(A). Additionally, Section 708(b)(16) of the RTKL exempts:

A record of an agency relating to or resulting in a criminal investigation, including:

(i) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos and reports.

....

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

....

65 P.S. §§ 67.708(b)(16)(i), (ii), (v), (vi)(A).

The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See* 65 P.S. § 67.503(d)(2). Instead, such appeals are to be heard by an appeals officer designated by the local district attorney. *See id.* While the RTKL does not define the phrase “criminal investigation,” the Pennsylvania courts have observed that the term “clearly and obviously refers to an official inquiry into a possible crime.” *Cal. Borough v. Rothey*, 185 A.3d 456, *465 (Pa. Commw. Ct. 2018) (quoting *Pa. State Police v. Grove*, 161 A.3d 877, 893 (Pa. 2017)).

In support of the City’s position, Captain Pammer attests, in part, as follows:

3. In compliance with [the] RTKL, the City provided the Requester with a response letter and a partially redacted copy of the lead sheet and arrest sheets of Incident Report Number 25-012176.

4. In consultation with the [City] Solicitor's Office, I reviewed and confirmed that the following records/information contained within Incident Report Number 25-012176 were redacted from the Incident Report:
 - a. Victim's name and personal information on the Incident Report Cover Sheet
 - b. Complainant's/Victim's name, personal information, and contact information on page 1 of the Incident Report.
 - c. Details of the criminal complaint made by Complainant/Victim on page 2 of the Incident Report.
 - d. Victim's name, personal information, and contact information on page 2 of the Incident Report.
 - e. Suspect's (arrested) social security number and telephone number on page 2 of the Incident Report.
 - f. Suspect's (arrested) telephone number and driver's license number on page 3 of the Incident Report.
 - g. Victim's name, personal information, and contact information on page 3 of the Incident Report.
 - h. Criminal Affidavit of Probable Cause with criminal investigative notes on page 1 of the Arrest/Warrant Report #1 of the Incident Report.
 - i. Victim's name and personal information on page 2 of the Arrest/Warrant Report #1 of the Incident Report.
 - j. Defendant's personal information and contact information on page 2 of the Arrest/Warrant Report #1 of the Incident Report.
 - k. Victim's name and personal information on page 3 of the Arrest/Warrant Report #1 of the Incident Report.
 - l. Defendant's social security number on page 3 of the Arrest/Warrant Report #1 of the Incident Report.
 - m. Defendant's contact information and driver's license information on page 4 of the Arrest/Warrant Report #1 of the Incident Report.
 - n. Criminal Affidavit of Probable Cause with criminal investigative notes on page 1 of the Arrest/Warrant (Taken into Custody) Report of the Incident Report.

- o. Victim's name and personal information on page 1 of the Arrest/Warrant (Taken into Custody) Report of the Incident Report.
 - p. Defendant's telephone number and social security number on page 2 of the Arrest/Warrant (Taken into Custody) Report of the Incident Report.
 - q. Victim's name and personal information on page 2 of the Arrest/Warrant (Taken into Custody) Report of the Incident Report.
 - r. Defendant's telephone number and driver's license number on page 3[.]
5. I attest that the information redacted consists of the criminal investigative notes and steps taken, and victim information, and personal information; thus, this information is criminal investigative information that is exempt from disclosure under the RTKL and ... CHRIA[.]
 6. I attest that all supplemental reports of [the] Incident Report (three supplemental reports to the incident report totaling five (5) pages) were withheld because they consist of the criminal investigative notes and steps taken; thus, this information is exempt from disclosure under the RTKL and ... CHRIA[.]

....
Pammer Affidavit, ¶¶ 3-6.

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 City has acted in bad, "... the averments in the [affidavit] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)).

As noted above, the Request facially seeks the responsive Incident Report, which the Requester asserts relates to a February 28, 2025 domestic violence incident, in which he was the victim. *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). A review of the disclosed Incident Report confirms that Department officers investigated that incident and that the Suspect/Defendant was charged with simple assault and harassment, which constitute criminal offenses. *See* 18 Pa.C.S. §§ 2701, 2709.

Further, the evidence presented by the City and the disclosed Incident Report reflect that the City was permitted to redact the following information throughout the Incident Report because it is expressly exempt under 65 P.S. § 67.708(b)(6)(i)(A) or it is protected by the constitutional right to privacy: the Complainant's/Victim's name, home address, phone number, date of birth, race, gender and ethnicity;¹ and the Suspect's/Defendant's Social Security number, phone number and driver's license number. *See* Pammer Affidavit, ¶ 4; *see also* Incident Report, pp. 1-11. In addition, the evidence and the disclosed record demonstrate that the details of the criminal complaint made by the Complainant/Victim, the information regarding the Complainant's/Victim's alleged injuries and the Criminal Affidavits of Probable Cause with investigative notes that were redacted from the Incident Report may relate to the Department's criminal investigation into the February 28, 2025 domestic violence incident. *See* Pammer Affidavit, ¶¶ 4-5; *see also* Incident Report. The evidence also shows that the three supplemental reports, totaling five pages, "were withheld because they consist of the criminal investigative notes

¹ The OOR may raise the issue of the constitutional right to privacy *sua sponte* on appeal, and it has previously found that individuals have a strong privacy interest in their entire dates of birth, race, gender and ethnicity. *See e.g., Pulka v. Allegheny Cnty.*, OOR Dkt. AP 2025-0489, 2025 PA O.O.R.D. LEXIS 1495, *30 (finding that the county was permitted to redact an individual's date of birth, gender and country of citizenship from an immigration detainer form under the constitutional right to privacy); *Pinero v. Pittston City*, OOR Dkt. AP 2021-0154, 2021 PA O.O.R.D. LEXIS 500, *15 (applying the right to privacy balancing test to a request for race and ethnicity of law enforcement officers). Here, the Requester has not articulated any public interest supporting the disclosure of the Complainant's/Victim's date of birth, race, gender or ethnicity, nor is the OOR able to perceive any such interest that outweighs the privacy interest of that individual. Therefore, the City was permitted to redacted that information from the Incident Report under the constitutional right to privacy.

and steps taken” by the Department concerning that investigation. Pammer Affidavit, ¶ 6.

Additionally, the Final Response notified the Requester that “[f]or the criminal investigative information, an appeal must be made in writing to Heather Gallagher, Esquire, Lehigh County District Attorney, Lehigh County Courthouse, District Attorney’s Office, 455 West Hamilton Street, Allentown, Pennsylvania 18101 within 15 business days of the mailing date of [that] letter.” Accordingly, to the extent that the appeal pertains to the remainder of the redactions to the Incident Report and the withheld supplemental reports, the appeal must be dismissed for lack of jurisdiction because the City has made a preliminary showing that said information and records may relate to a criminal investigation conducted by the Department, and the Requester was properly notified of his appellate rights to the Lehigh County District Attorney’s Office.² See 65 P.S. §§ 67.503(d)(2), 67.708(b)(16); *Kennedy v. Tredyffrin Twp. Police Dep’t*, OOR Dkt. AP 2025-3687, 2026 PA O.O.R.D. LEXIS 367.

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed for lack of jurisdiction in part**, and the City 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 Lehigh 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

² Based on these determinations, the OOR need not address any of the City’s alternative grounds for denial. See *Jamison v. Norristown Borough Police Dep’t*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927. Despite the Requester’s argument that he is “the victim in th[e]case and need[s] the [unredacted] report to show as such[,]” his identity or motivation for seeking the records is irrelevant in determining whether they are accessible under the RTKL. See e.g., *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Commw. Ct. 2014); *Cafoncelli v. Pa. State Police*, 2017 Pa. Commw. Unpub. LEXIS 405, *9-10 (Pa. Commw. Ct. June 5, 2017) (citations omitted) (“Under the RTKL, a record is either available to the public at large as a public record or it is shielded from disclosure).

and should not be named as a party.³ 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: Solaris Beltran Ramirez; Bridget Winter, AORO; Sarah J. Rotz, Esq.

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