



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:
	:
GAVIN PETRONE,	:
Requester	:
	:
v.	:
	:
	:
CITY OF PITTSBURGH	:
CONTROLLER’S OFFICE,	:
Respondent	:

Docket No: AP 2026-1427

On February 9, 2026, Gavin Petrone (“Requester”) submitted a request (“Request”) to the City of Pittsburgh Controller’s Office (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

All records, whether in paper or electronic form, including but not limited to incident reports, offense reports, complaint reports, supplemental or follow-up reports, call-for-service records, case summaries, investigative narratives, and any associated report numbers (including CCR numbers), created, received, or maintained by the City of Pittsburgh Bureau of Police or any City of Pittsburgh department, that reference, relate to, or were generated in response to complaints, reports, tips, or referrals concerning the entity known as the “Steel City Anti-Fascist League,” including references to related social media accounts, websites, or aliases, for the period January 1, 2025 through February 6, 2026.

On March 18, 2026, after invoking a thirty-day extension of time to respond to the Request, *see* 65 P.S. § 67.902(b), the Office denied the Request, stating that the records do not exist within the Office’s possession, custody or control.¹

On April 8, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.² The OOR invited both parties to supplement the record and directed the Office to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

In response to a request for records, “an agency shall make a good faith effort to determine if ... 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 all 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

¹ The Office’s final response was issued by the City of Pittsburgh Law Department on behalf of the Office.

² With his appeal documents, the Requester also submitted a similar RTKL request filed with the City of Pittsburgh Police Department (“Police Department”); however, the Requester only filed his appeal against the Office. Furthermore, the Requester did not provide a copy of the final response to the RTKL request filed with the Police Department, resulting in an insufficient appeal. *See* 65 P.S. § 67.1101(a)(1). Accordingly, the OOR will only address the appeal filed against the Office in this Final Determination.

O.O.R.D. LEXIS 750; *see also* *Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

On April 29, 2026, the Office submitted a position statement and the affidavit, made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, from Cade Richmond, Esq. (“Richmond Affidavit”), the Open Records Officer for the City of Pittsburgh, who attests that a search was conducted and that no responsive records exist in the Office’s possession, custody or control.³ Richmond Affidavit, ¶ 9. The Richmond Affidavit affirms that he, or somebody within his department, contacted the Office to determine whether responsive records existed. *Id.* at ¶ 2. As a result, Open Records Officer Richmond spoke with the records custodian of the Office, inquiring as to whether the Office “would maintain or possess any incident reports, offense reports, complaint reports, supplemental or follow-up reports, call-for-service records, case summaries, investigative narratives, and any associated report numbers (including CCR numbers)” generated or maintained by the Police Department. The Office’s records custodian confirmed that the Office would not possess or maintain any incident reports or any other law enforcement documents like those sought in the Request. *Id.* at ¶¶ 4-5.

The Office’s evidence was authored by its Open Records Officer, who, in conjunction with other representatives of the Office, conducted a search for records and determined that the Office does not possess the incident reports, investigative summaries or other similar law enforcement records sought in the Request. Furthermore, the Requester has not submitted evidence to undermine the credibility of the assertions made in the Richmond Affidavit. *See Pa. Dep’t of*

³ Under the RTKL, a 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. Office 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 or that the requested records exist, “the averments in [the Richmond 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 *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

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 requested records exist, averments of nonexistence should be accepted as true). Based on the evidence provided, therefore, the Office has met its burden of proof that it does not possess the records sought in the Request. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *see also 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, which is tantamount to a “more likely than not” inquiry).

For the foregoing reasons, the appeal is **denied**, and the Office 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 or petition for review to the Allegheny 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.⁴ 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>.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: 8 May 2026

/s/ Joshua T. Young

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SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Gavin Petrone;
Cade Richmond, Esq., AORO