



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
MICHELLE PERFANOV,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2026-1658
	:	
PENNSYLVANIA STATE POLICE,	:	
Respondent	:	

FACTUAL BACKGROUND

On March 3, 2026, Michelle Perfanov (“Requester”) emailed a request (“Request”) to the Pennsylvania State Police (“PSP”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “complete records for PSP Incident #PA2023-10989150 in reference to Commonwealth v Davis” and “the full chain of custody log for [specified] mobile device, specifically covering all personnel and transfers between 8/21/2023 and 8/26/2023.”

On April 9, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the PSP denied the Request, arguing that the responsive PSP incident report and related records are exempt as a criminal investigative record, contain exempt personal identification information and information of an individual’s medical status, and are confidential under the Criminal History Record Information Act (“CHRIA”) and Pennsylvania Mental Health Procedures Act (“MHPA”). *See* 65 P.S. §§ 67.708(b)(5), (b)(6), (b)(16); 18 Pa.C.S. §§ 9101-9183; 50 P.S. § 7111. In support of its grounds for denial, the PSP provided the Requester with an attestation

authored by Illeana Trost (“Trost Attestation”), PSP Deputy Agency Open Records Officer (“AORO”).

On April 27, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The Requester specifically argues that she is entitled to the responsive records due to her connection to the incident. The OOR invited both parties to supplement the record and directed the PSP to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On May 8, 2026, the PSP submitted a position statement, reiterating its grounds for denial. In support of its position, the PSP submitted the attestation of William Rozier, the Open Records Officer for the PSP (“Rozier Attestation”).

LEGAL ANALYSIS

The PSP 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. § 67.305. As an agency subject to the RTKL, the PSP 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 PSP argues that the responsive records are exempt because they relate to a criminal investigation. Section 708(b)(16) of the RTKL exempts from disclosure, “[a] record of an agency relating to or resulting in a criminal investigation, including: ... [c]omplaints of potential criminal

conduct ... [i]nvestigative materials, notes correspondence, videos and reports...[v]ictim information ... [and] [a] record that, if disclosed, would ... [r]eveal the institution, progress or result of a criminal investigation, except the filing of charges.” 65 P.S. §§ 67.708(b)(16)(i)-(ii), (v), (vi)(A).

Here, the Rozier Attestation provides:

8. The responsive record, PSP General Offense Report PS 2023-1089150 is the corresponding responsive record and was thoroughly reviewed by PSP.
9. PSP General Offense Report PA 2023-1089150 is the seven hundred eighty-six-page report regarding a PSP criminal investigation of Strangulation, Kidnap/Unlawful Restraint, Official Oppression and Reckless Endangerment.
10. Thus, the criminal investigative report and its components, including the “full chain of custody log” are records of the agency relating to or resulting in a criminal investigation, which are exempt from public disclosure under RTKL section 67.708(b)(16). . . .
12. Accordingly, I withheld the responsive criminal investigative report, PSP General Offense Report PA 2023-1089150 and its component “chain of custody log.”

See Rozier Attestation ¶¶ 8-12.¹ Additionally, the Trost Attestation provides:

3. As a result of my searches, I identified and retrieved the following responsive PSP record: PSP General Offense Report No. PA 2023-1089150 (formerly referred to as PSP “Incident Report”).
4. I personally examined this incident report and found it to be manifestly related to a criminal investigation. PSP General Offense Report No. PA 2023-1089150 and its components, including property records for mobile devices, are a multiple page record assembled by Trooper Goodman on or after August 21, 2023 as the result of an investigation into a criminal incident or an allegation of criminal wrongdoing. . . .
 - a. The report contains “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing,” 18 Pa.C.S. § 9102, and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
 - b. The report’s component records reflect the findings and conclusions, as well as the actions, observations and notes of investigating troopers, thus

¹ Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *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 competent evidence that the PSP acted in bad faith, “the averments in [the attestations] should be accepted as true.”

constituting “investigative materials, notes, correspondence,... and reports,” all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).

- c. Based on its content, the report is clearly “a record that, if disclosed, would reveal the institution, progress or result of a criminal investigation,” and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A). . . .

See Trost Attestation ¶¶ 3-4. Based on the evidence submitted in this appeal, the PSP has proven that the responsive records are related to a criminal investigation and are exempt from public disclosure. *See, e.g., Graham v. Pa. State Police*, OOR Dkt. AP 2021-0249, 2021 PA O.O.R.D. LEXIS 598 (finding that interview notes and a serology report are exempt from disclosure as components of an exempt homicide incident report); *Haring v. Pa. State Police*, OOR Dkt. AP 2021-0944, 2021 PA O.O.R.D. LEXIS 1831 (General Offense Reports, formerly known as “Incident Reports,” are exempt from public disclosure as records related to a criminal investigation).

The Requester argues that because the incident involves her, it should not be withheld from her. The OOR may not consider the Requester’s relationship to the responsive record, but instead only whether the record should be available to the public at large. *See Padgett v. Pa. State Police*, 73 A.3d 644, 647 (Pa. Commw. Ct. 2013) (noting that a requester’s identity or motivation for making a request is not relevant to determining whether a record is accessible under the RTKL). 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*, No. 1392 CD 2016, 172 A.3d 140 (Pa. Commw. Ct. 2017) (unpublished) (citing *Hunsicker v. Pa. State Police*, 93 A.3d 911, 912 (Pa. Commw. Ct. 2014)).

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the PSP 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.² 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 29, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via the OOR portal to: Michelle Perfanov
Willaim Rozier

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).