



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

**LAURA ROMERO AND ABC NEWS,  
Requester**

**v.**

**LACKAWANNA COUNTY,  
Respondent**

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**Docket No: AP 2026-1386**

## **FACTUAL BACKGROUND**

On April 1, 2026, Laura Romero, on behalf of ABC News (collectively, “Requester”), submitted a request (“Request”) to Lackawanna County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the “[a]udio recording of the 911 emergency call and the associated ‘CAD’ (Computer Aided Dispatch) log” for a December 26, 2025 incident on Lincoln Ave, Blakely, PA, regarding “[a] sinkhole/subsidence involving a vehicle.”

On April 7, 2026, the County partially granted the Request, providing a responsive Call for Service Log from the County Department of Emergency Services for the address identified in the Request, while also partially denying the Request under 65 P.S. § 67.708(b)(18)(i). Additionally, the County stated that “[r]etention is 180 days and a subpoena is required for audio, and there is a fee of \$75 with check made out to [the] County Department of Emergency Services.”

That same day, the Requester appealed to the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure.<sup>1</sup> Specifically, the Requester argued that there is a significant public interest in the release of the “requested audio and full CAD logs,” and that they should be “redacted only for information that is strictly personal or medical in nature[.]” 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 April 20, 2026, the OOR notified the parties that it had no record of receiving a submission in support of the County’s position on appeal. The OOR also provided the parties additional time until April 29, 2026, to supplement the record.<sup>2</sup> To date, the County has not made a submission or participated on appeal.

### 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

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<sup>1</sup> 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)”).

<sup>2</sup> The OOR also left a voicemail message for Traci Harte, County Deputy Chief of Staff and Agency Open Records Officer (“AORO”), to confirm receipt of the notice of appeal (“NOA”); however, the County did not return that call. Nevertheless, the appeal record reflects that the NOA was properly sent to hartet@lackawannacounty.org, which is the email address on file for Ms. Harte. That email address is also contained in the Final Response and is publicly accessible via the County’s RTKL webpage. *See* [https://www.lackawannacounty.org/how\\_do\\_i/submit\\_a\\_right\\_to\\_know\\_request.php](https://www.lackawannacounty.org/how_do_i/submit_a_right_to_know_request.php) (last visited May 28, 2026).

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)).

In the Final Response, the County asserts that 65 P.S. § 67.708(b)(18)(i) is applicable. That section of the RTKL 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).<sup>3</sup> However, “[t]his paragraph shall not apply to a 911 recording, 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). The OOR has previously found that records relating to 911 calls, such as CAD reports, may be exempt under Section 708(b)(18)(i) of the RTKL, whether or not they contain any actual transcriptions of the call. *See Perrong v. Phila. Police Dep't.*, OOR Dkt. AP 2023-1486, 2023 PA O.O.R.D. LEXIS 1804 (holding that the CAD reports were exempt from production under Section 708(b)(18), except for “time response” information); *see also Vurimindi v. Phila. Police Dep't.*, OOR Dkt. AP 2017-1662, 2017 PA O.O.R.D. LEXIS 1459 (holding that the responsive 911 call logs that pertained to 911 calls to emergency dispatch personnel and the CAD reports were exempt from production under Section 708(b)(18), except for the “time response” information in the CAD reports).

As noted above, the County did not participate on appeal or submit evidence establishing whether it identified any responsive 911 call audio recordings or CAD logs. However, the Request facially seeks the audio recording of a specific 911 emergency call and the associated CAD log.

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<sup>3</sup> The Commonwealth Court has explained that “time response logs must contain the time of the request for service, the address or cross-street information, and when the responder arrived at the scene.” *County of York v. Pa. Off. of Open Records*, 13 A.3d 594, 602 (Pa. Commw. Ct. 2011) (“Necessarily then, the term ‘time response logs’ as used in Section 708(b)(18) of the RTKL does not exempt destination addresses or cross-street information”); *see also Larish v. City of Phila. Police Dep't.*, OOR Dkt. AP 2025-2230, 2025 PA O.O.R.D. LEXIS 2485.

*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); *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).

On appeal, the Requester asks the OOR to direct the release of the requested records, asserting that they “involve a significant public safety event—a vehicle-related sinkhole/subsidence[,]” and that said “incident is a matter of urgent public concern regarding the environmental and structural risks posed by abandoned mine lands in the region.” Requester Appeal, p. 4. The Requester also asserts that she “is seeking these records to raise public awareness about the ongoing hazards associated with mine subsidence and the effectiveness of local emergency response to these geological threats.” *Id.* Additionally, the Requester states that “the public interest in understanding the scope of the mine-related subsidence outweighs the generic privacy concerns often associated with 911 calls.” *Id.*

Despite the Requester’s arguments, the Requester’s identity and motivation for seeking the records is irrelevant in determining whether they are accessible under the RTKL.<sup>4</sup> Further, the OOR has previously found 911 call audio recordings and CAD logs/reports to be exempt under Section 708(b)(18)(i) of the RTKL. *See, e.g., Dougherty v. Tioga Cnty.*, OOR Dkt. AP 2025-1650, 2025-1650, 2025 PA O.O.R.D LEXIS 1546 (finding that the responsive 911 call recording was exempt in its entirety under Section 708(b)(18)(i)); *Perrong, supra*; *Vurimindi supra*. Moreover, there is no indication in the appeal record that the County determined that the public interest in the disclosure of any responsive 911 call records outweighed the interest in nondisclosure. *See* 65

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<sup>4</sup> *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”).

P.S. § 67.708(b)(18)(ii). As such, the OOR may not disturb the County’s decision to withhold the requested 911 call audio recording, rather than exercising its discretion to release it in accordance with 65 P.S. § 67.708(b)(18)(ii). *See 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”); *see also EWU Media, LLC v. City of Altoona*, OOR Dkt. AP 2025-0198, 2025 PA O.O.R.D. LEXIS 415, \*12 (noting that “the law does not afford the OOR the ability to make” determinations as set forth in 65 P.S. § 67.708(b)(18)(ii)).

However, to the extent that any responsive CAD Log exists, the County has not presented any evidence establishing that it does not contain any “time response” information. The purpose for excepting “time response logs” from the exemption at Section 708(b)(18) of the RTKL is to provide citizens with oversight of the government’s actions and to enable the public to evaluate the efficiency of an entity’s response time to reported emergencies. *See Cnty. of York v. Pa. Off. of Open Records*, 13 A.3d 594, 602 (Pa. Commw. Ct. 2011); *see also Pa. State Police v. Muller*, 124 A.3d 761 (Pa. Commw. Ct. 2015) (holding that the agency improperly withheld an incident memo, containing time response information, including the time of the request for service, the address or cross-street information and when/if a trooper responded to the call and arrived at the scene of the incident).

Accordingly, the County must provide the time response information contained in any responsive CAD Log to the Requester.<sup>5</sup> *See Brown v. Lancaster Cnty.*, OOR Dkt. AP 2026-1451, 2026 PA O.O.R.D. LEXIS 1544 (finding that after the agency failed to present additional evidence

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<sup>5</sup> The OOR is not ordering the release of any information protected from disclosure under Section 5399 of the Emergency Communications Service Act. 35 Pa.C.S. § 5399(a). However, Section 5399(c)(1,2) provides “identifying information” that is not protected from disclosure. *Id.* at § 5399(c)(1,2).

on appeal, it did not demonstrate that “time response” information contained in CAD reports was exempt from disclosure). To the extent that no such CAD Log exists, the County is required to provide an affidavit or attestation describing the search for said record and affirming its non-existence.

### CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the County is required to provide the “time response” information from the CAD Log to the Requester within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that no such record exists. 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 Lackawanna 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.<sup>6</sup> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: June 3, 2026**

*/s/ Megan Burns*

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MEGAN BURNS  
APPEALS OFFICER

Sent via OOR Portal to: Laura Romero; Traci K. Harte

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