

Item #2 – On October 4, 2025, Wesley Charles sent an email to Scott which identified J. Correll, OM7728 by name as an inmate who had been trying for over two weeks to have his name placed on the SDA roster. Scott sent Charles a reply on October 6, 2025 which identified inmate Correll by name while indicating that he “has rescinded his request to participate in the Saturday SDA study in writing.” Scott further stated that this is “the second inmate over the last week rescinding pre-written request slips.”

Please provided me with a copy of the original request slip dated 9/26/25, in addition to the two request slips referred to above wherein a request to participate in the Saturday SDA study that was “rescinded in writing,” as referred to above.

On March 25, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department denied the Request. The Department identified one responsive record - an inmate request slip - for Item #1 of the Request and asserts the record can be withheld because disclosure would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual, 65 P.S. § 67.708(b)(1)(ii), the record is maintained in connection with law enforcement and would be reasonably likely to jeopardize or threaten public safety, 65 P.S. § 67.708(b)(2), and the record is part of a noncriminal investigation, 65 P.S. § 67.708(b)(17). The Department also asserts that no additional responsive records exist for either Items 1 or 2 of the Request.

On April 10, 2026,¹ the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. 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 May 18, 2026, the Department submitted a position statement and Declarations made under the penalty of unsworn falsification to authorities² from Robert Williamson (“William

¹ The appeal filing date with the OOR is the postmark date of the Requester’s appeal submission. *See Commonwealth v. Jones*, 700 A.2d 423, 426 (Pa. 1997) (In an incarcerated requester’s appeal to the OOR, the postmark date is considered the date in which the appeal was filed.).

² 18 Pa.C.S.A. § 4904.

Declaration”), the Department’s Chief of Security (Major), and Kimberly Grant, the Department’s Deputy Open Records Officer (“AORO”).³ The Department claims that it can withhold the one identified responsive inmate request slip from disclosure because the record is maintained in connection with a law enforcement activity and disclosure would reasonably likely jeopardize or threaten public safety, 65 P.S. § 67.708(b)(2), and that additional requested records do not exist.⁴

LEGAL ANALYSIS

The Department 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 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)).

1. The Department can withhold the responsive request slip for Item #1 of the Request under the public safety security exemption of the RTKL.

In this appeal, the Department contends the records sought for Item #1 of the Request – an inmate request slip – is exempt from public disclosure under the public safety exemption of the

³ 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. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the Department has acted in bad faith or that the requested records exist, “the averments in [the Declarations] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. 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)).

⁴ On appeal, the Department abandons the arguments that responsive records can be withheld pursuant to the personal security exemption, 65 P.S. § 67.708(b)(1)(ii), and that the records are part of a noncriminal investigation, 65 P.S. § 67.708(b)(17). Therefore, those issues will not be addressed in this Final Determination.

RTKL. See 65 P.S. § 67.708(b)(2). Section 708(b)(2) of the RTKL exempts from disclosure “[a] record maintained by an agency in connection with ... law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety ... or public protection activity.” 65 P.S. § 67.708(b)(2). With respect to the public safety exception, “an agency must show: To withhold records under Section 708(b)(2) of the RTKL, the Department must show: (1) the record at issue relates to law enforcement or public safety activity; and (2) disclosure of the record would be reasonably likely to threaten public safety or a public protection activity. *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 374-75 (Pa. Commw. Ct. 2013); *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 184 (Pa. Commw. Ct. 2019). “In interpreting the ‘reasonably likely’ part of the test, as with all the [RTKL’s] security-related exceptions, we look to the likelihood that disclosure would cause the alleged harm, requiring more than speculation.” *Carey*, 61 A.3d at 375. Typically, in order to show a reasonable likelihood, “[a]n agency must offer more than speculation or conjecture.” *California Borough v. Rothery*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018) (the agency failed to satisfy its burden for safety related exceptions under the RTKL because it offered nothing more than speculation and conjecture).

In this appeal, the Department cites to *Woods v. Office of Open Records*, 998 A.2d 665, 670 (Pa. Commw. Ct. 2010) and *Adams v. Pennsylvania State Police*, 51 A.3d 322 (Pa. Commw. Ct. 2012) in support of its position. The Commonwealth Court in the matter of *Myers v. Pa. Dep’t of Corr. (Off. of Open Recs.)*, No. 268 C.D. 2024, 2025 Pa. Commw. Unpub. LEXIS 85 (Pa. Commw. Ct., Feb. 24, 2025) analyzed the Court’s holding in the matter of *Woods*, 998 A.2d 665, 670 (Pa. Commw. Ct. 2010), when deciding a similar issue, and its analysis is telling in this appeal. In *Myers*, the Court focused on the second prong of the public safety exception, the reasonable likelihood component, and reiterated that it has repeatedly held that an agency can satisfy its

burden through relevant and credible testimonial affidavits and conclusory and speculative statements are insufficient. *See Myers v. Pa. Dep't of Corr. (Off. of Open Recs.)*, 2025 Pa. Commw. Unpub. LEXIS 85 (Pa. Commw. Ct., Feb. 24, 2025). The Court noted that an affidavit in the RTKL context must be detailed, nonconclusory, and submitted in good faith, but that the Department's Declaration "does nothing more than state that, based on [] professional experience, the disclosure of the information would create a substantial risk of [] harm, which is insufficient." *Myers*, 2025 Pa. Commw. Unpub. LEXIS 85, *10. The Court found the case to be distinguishable from the Court's determination in *Woods*, 998 A.2d 665 (Pa. Commw. Ct. 2010). However, the Court in the matter of *Myers* reasoned:

There is, however, one noted exception. At several points, the Policy identifies the title of the Department employee responsible for making decisions with respect to parolees' supervision levels, i.e., who must approve a parolee's assignment to another level of supervision. We agree with the Department's assertion [...] that access to such information could be used to intimidate or exact retribution against the decisionmakers, thus hindering their ability to conduct their public protection activities and impacting public safety.

Myers v. Pa. Dep't of Corr. (Off. of Open Recs.), No. 268 C.D. 2024, 2025 Pa. Commw. Unpub. LEXIS 85, *13 (Pa. Commw. Ct., Feb. 24, 2025); *see also Pa. Off. Att. Gen. v. Mellon*, 2023 Pa. Commw. Unpub. LEXIS 577*, No. 600 C.D. 2022 (Pa. Commw. Ct., October 23, 2023); *ACLU*, 232 A.3d at 666 (recognizing that law enforcement agencies must be able to protect documents that would reveal identities so as to ensure public safety); *Ocasio v. Pa. Dep't of Corr.*, No. 306 C.D. 2017, 2018 Pa. Commw. LEXIS 18 (Pa. Commw. Ct., filed Jan. 3, 2018) (finding the Department met its burden of establishing that inmate's requested records were exempt under personal security and public safety exception for various reasons, including potential risk of retaliation).

Additionally, while the OOR has addressed inmate request slips before in its decisions, the results in those cases were largely dependent on the RTKL exemption raised and the evidence submitted by the agency. *See Cooper v. Lycoming Cnty.*, OOR Dkt. AP 2024-1829, 2024 PA O.O.R.D. LEXIS 2085 (the County met its burden of proof in showing that the requested inmate request slips and grievance forms are related to a noncriminal investigation and are exempt under Section 708(b)(17) of the RTKL); *Cooper v. Lycoming Cnty.*, OOR Dkt. AP 2024-1815, 2024 PA O.O.R.D. LEXIS 2043; *Hitchens v. Franklin Cnty.*, OOR Dkt. AP 2021-0346, 2021 PA O.O.R.D. LEXIS 396 (the County's evidence demonstrated that the responsive request slips were treated as grievances, were subject to an official investigation per the County's established policies, and that the purposes of an official inmate grievance system would be undermined if inmate grievances were available to third parties, even in part; and, because the records constitute a complaint, are exempt from disclosure under Section 708(b)(17)); *Berrier v. Mifflin Cnty.*, OOR Dkt. AP 2019-0551, 2019 PA O.O.R.D. LEXIS 506 (the OOR found that the agency did not provide evidence explaining how an inmate's request to speak with an employee would be reasonably likely to threaten public safety and the County did not meet its burden of proof to show the records are exempt under Section 708(b)(2)); *Soberick v. Lansford Borough*, OOR Dkt. AP 2026-0276, 2026 PA O.O.R.D. LEXIS 1772 (The OOR determined that the Borough's evidence did not establish a link between the disclosure of the responsive records and any apparent harm, found that the claim of nonspecific general threats falls short of establishing the required elements of the security-related exemptions, only offered speculative and conclusory evidence, and did not establish a connection between disclosure of the responsive record and a threat to public safety.).

The OOR is also cognizant that courts have noted that security issues are of particular concern in police and prison settings. *See Myers*, 2025 Pa. Commw. Unpub. LEXIS 85; *ACLU of*

Pa. v. Pa. State Police, 232 A.3d 654 (Pa. 2020); *Ocasio v. Pa. Dep’t of Corr.*, 183 A.3d 506, 2018 Pa. Commw. LEXIS 18 (Pa. Commw. Ct. 2018) (“This Court has repeatedly recognized that the nature of the prison setting requires that personal security and public safety issues be given serious consideration where a RTKL request seeks records concerning prisons”); *Carey*, 61 A.3d at 374 (“Personal security issues are of particular concern in a prison setting”).

In this appeal, in support of its position, the Department submitted the Williamson Declaration, which states:

1. Currently, the [Department] employs me as its Chief of Security (Major).
2. In my capacity as Chief of Security, I oversee all security aspects of the Department, including supervision of facility security practices and procedures, and I review all policies and procedures as they relate to security.
3. I am aware of the recent [Request] that was issued by [the Requester], wherein he sought access to submitted Inmate Request to Staff Member DC 135A forms. [...].
4. Safety and security of staff and inmates is a critical issue in prison management where each prison institution maintains the care, custody, and control of a multitude of dangerous and potentially dangerous inmates.
5. Information regarding the request inmates make to staff reflect a request by an inmate to DOC staff for either an action, permission or an item and is highly sensitive. Such information is not provided to other inmates, or the public at large unless the inmate who made the request discloses it. It is reasonably likely that the dissemination of the requested records would result in the manipulation thereof by inmates that would adversely affect the safety and security of the housing units within the facility, the facility itself, and the surrounding communities.
6. Circumvention or manipulation of the information contained in the requested records would also have a direct adverse effect on the security and safety of State Correctional Institutions, inmates, and staff.
7. The threat of violence and retaliation is an ever-present threat in a prison setting and the disclosure of confidential materials including confidential policy processes and procedures facilitates the reasonable possibility of harm to officers, staff and other inmates alike.

8. Allowing the public, including inmates who routinely utilize the RTKL, to ascertain individual inmate request slips poses a security threat and impacts the safety of both inmates and staff, as well as the public.

9. The records requested reflect personal requests made by inmates.

10. As mentioned, the threat of violence is real and constant concern within the walls of a prison.

11. It should go without saying that inmates are quite adept at using and manipulating any information they can obtain in order to obtain things of value for themselves, to threaten or coerce staff and other inmates to gain access to areas where they otherwise should not be or perform illegal acts on their behalf, and to cause violence and/or effectuate escape.

12. Without providing specific examples of misconduct that could be copied, I am certainly aware of instances where inmates utilized and/or manipulated this type of personal information to blackmail or coerce other inmates, perpetuate violence, or facilitate the flow of contraband, all of which pose a direct threat to the safety of other inmates and the Department's staff within the correctional institutions.

13. The disclosure of the requested records would threaten public safety and the Department's public protection activities in maintaining safe and secure correctional institutions by allowing inmates or others to access information that will interfere with the orderly operation of the Department's various institutions.

14. Safety and security of staff and inmates is a critical issue in prison management where each prison institution maintains the care, custody, and control of a multitude of dangerous and potentially dangerous inmates.

15. As a whole, the requested records are maintained by the Department in connection with its law enforcement function of supervising the incarceration of inmates in a safe and secure manner.

16. For the reasons set forth above, the disclosure of the requested records is reasonably likely to result in a substantial and demonstrable risk of physical harm to, or the personal security of, institution staff, inmates, and/or the general public.

17. Additionally, based on the foregoing reasons, the disclosure of the requested records is reasonably likely to threaten public safety, as well as compromise the Department's public protection activities and function of maintaining order and control of inmates.

Williamson Declaration, ¶¶ 1-17.

The Department relies on the Williamson Declaration, which is authored by the Chief of Security, which offers a professional opinion assessing the risks to public security regarding the disclosure of responsive records. The Department's evidence describes how the release of information could pose an "actual or real and apparent" threat to public safety and the operation of the prison facility and establishes a link between the disclosure of the responsive inmate request slip and apparent harm. See Williamson Declaration, ¶¶ 12-13; Cf. *Berrier*, OOR Dkt. AP 2019-0551, 2019 PA O.O.R.D. LEXIS 506; *Soberick*, OOR Dkt. AP 2026-0276, 2026 PA O.O.R.D. LEXIS 1772. Moreover, the Requester's evidentiary exhibits help to corroborate the evidence submitted by the Department, specifically that access to such information could be used to intimidate or exact retribution, or retaliate against the other inmates and Department personnel, thus hindering their ability to conduct their public protection activities and impacting public safety. The Department's evidence establishes the required elements of the security-related exemption and based on the evidence submitted, the Department proved that disclosure of the inmate request slip would reasonably likely to jeopardize or threaten public safety. See 65 P.S. §§ 67.708(a)(1), (b)(2).

2. The Department demonstrated that additional responsive records do not exist.

The Department also asserts that additional responsive records do not exist. 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) (holding that, when there is evidence that a record does not exist, "[i]t is questionable to what degree additional detail and explanation are necessary"); *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, and is tantamount to a “more likely than not” inquiry).

Here, the Department provided the Grant Declaration, which was authored by the Department’s Deputy AORO, which affirms that all responsive records were identified, properly withheld records under the RTKL, and that no additional records exist in its possession, custody or control. *See* Grant Declaration, ¶¶ 1, 6-7. The Department’s AORO describes the search employed to determine whether it possesses responsive records and affirms that additional records sought in the Request do not exist in its possession, custody or control. *See Id.*, ¶¶ 5-7. The Requester asserts that the Department copies all request slips, and therefore, additional responsive records must exist in the Department’s possession in electronic format. Based on this, the Requester asserts that the Department’s search for “original” request slips only identified hard copies of the request slips but its search was deficient because it did include a search of the electronic copies of inmate request slips. However, there is no indication on the record that the Department’s search did not include a search for all responsive records regardless of the format of the records (i.e. hard copies or electronically stored). The Requester has not provided evidence to question the veracity of the Department’s assertions. Accordingly, the Department demonstrated that it does not possess additional records sought in the Request. *See Hodges*, 29 A.3d 1190 (Pa. Commw. Ct. 2011); *Campbell*, 268 A.3d 502 (Pa. Commw. Ct. 2021).

CONCLUSION

For the foregoing reasons, the appeal is **denied**, 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 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.⁵ 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: June 3, 2026

/s/ Damian J. DeStefano

DAMIAN J. DESTEFANO
APPEALS OFFICER

Sent to: Nelson Ryder, SCI-Mahanoy, #GQ8219 (U.S. mail);
Kimberly Grant, AORO; Ralph Salvia, Esq. (OOR E-file appeal portal)

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