



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
NATHAN STRUNK,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2026-1153
	:	
PENNSYLVANIA DEPARTMENT OF	:	
TRANSPORTATION,	:	
Respondent	:	

FACTUAL BACKGROUND

On February 12, 2026, Nathan Strunk (“Requester”) emailed a request (“Request”) to the Pennsylvania Department of Transportation (“Department” or “PennDOT”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

Records sufficient to show the involvement of PennDOT in activities connected to coordination with ICE, DHS, or CBP from January 1, 2025 to present. This request includes records relating to:

- [Part 1] Use of PennDOT-owned or controlled property (including highways, rest areas, weigh stations, maintenance facilities, or rights-of-way) for federal enforcement or staging activity
- [Part 2] Communications or coordination with PSP, PA Office of Homeland Security, fusion centers, or federal agencies regarding such activity
- [Part 3] Automated license plate reader (ALPR) systems, toll or vehicle movement data, surveillance cameras, or other transportation-related data systems that may be accessed or shared with federal agencies
- [Part 4] Data-sharing agreements, access permissions, audit logs, or records sufficient to show whether federal agencies were permitted to query transportation-related data
- [Part 5] Informal or discretionary accommodation of federal enforcement activity
- [Part 6] Analysis of legal authority, liability, or public-safety considerations

- [Part 7] Communications conducted via messaging applications used for official business
- [Part 8] Records retention schedules and deletion policies applicable to surveillance or movement data
- [Part 9] Communications conducted via electronic messaging platforms, including but not limited to Signal, WhatsApp, SMS/iMessage, Teams chat, Slack, or similar applications, where used for official business.

On March 23, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department granted the Request as to Part 8 and provided the Requester with a records retention schedule. The Department also denied the Request in part, arguing that: (1) it does not possess records responsive to Parts 1, 2, 3, and 5 of the Request; (2) records responsive to Part 4 of the Request are exempt as criminal and noncriminal investigative records, 65 P.S §§ 67.708(b)(16)-(17); and (3) Parts 6, 7, 9 of the Request are insufficiently specific and ask questions, 65 P.S. § 67.703.

On March 23, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial¹ and stating grounds for disclosure.² 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 April 2, 2026, the Requester submitted argument that additional responsive records should exist, that Parts 6, 7, and 9 of the Request are sufficiently specific, and that the records responsive to Part 4 of the Request are not exempt as noncriminal investigative records.

On April 3, 2026, the Department submitted a verified position statement, reiterating its grounds for denial. In support of its position, the Department submitted the attestations of Adam

¹ The Requester did not appeal the Department’s response to Part 8 of the Request; accordingly, the appeal is waived as to Part 8 of the Request.

² The Requester granted the OOR an 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).”).

Shanabrook, the Agency Open Records Officer (“Shanabrook Attestation”); Terrence Pearsall, Division Chief for the Facilities Management Division for the Department’s Bureau of Office Services (“Pearsall Attestation”); and Diosdado Arroyo, the Director of the Bureau of Driver Licensing for the Driver and Vehicle Services (“Arroyo Attestation”). On April 3, 2026, the Requester submitted argument that the Department’s evidence is insufficient to sustain its burden of proof.

On April 22, 2026, in response to the OOR’s inquiry, the Department submitted the attestation of Jennifer Thompson, the Director of the Risk Management Office for the Department’s Driver and Vehicle Service’s division (“Thompson Attestation”), the supplemental attestation of Diosdado Arroyo (“Supplemental Arroyo Attestation”), and a blank copy of the Request for Data form relevant to Part 4 of the Request.

On April 22, 2026, the Requester submitted argument that the Requests for Data responsive to Part 4 of the Request are not exempt as criminal or noncriminal investigative records. The Requester further argues that the Department states that it logs the Requests for Data and thus, the Department should possess logs of these Requests for Data as records responsive to Part 4 of the Request.

On May 14, 2026, in response to the OOR’s inquiry, the Department submitted the supplemental attestation of Jennifer Thompson (“Supplemental Thompson Attestation”), which confirmed that the records responsive to Part 4 of the Request are the Requests for Data themselves and an internal tracking log of the Requests for Data that is maintained by the Department. The Department submitted further argument that: (1) the internal tracking logs are exempt as notes and working papers, 65 P.S. § 67.708(b)(12); (2) the Requests for Data and the internal tracking log are exempt as noncriminal investigative records, 65 P.S. § 67.708(b)(17); and (3) the information

in the Requests for Data is exempt from public access under various state and federal laws, in addition to Section 708(b)(6) of the RTKL.

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 factfinder ... 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 proved that certain records do not exist

The Department argues that it does not possess records responsive to Parts 1, 2, 3, and 5 of the Request. 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 O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

The Arroyo and Pearsall Attestations state that a search was conducted by the relevant records custodians of the Department for records responsive to Parts 1, 2, 3, and 5 of the Request and that no responsive records exist in the Department's possession, custody or control. *See Arroyo Attestation* ¶¶ 4-11; *Pearsall Attestation* ¶¶ 5-14.³ The Arroyo Attestation further details that DVS is not involved in staging activities, does not maintain any automated license plate readers, and does not share surveillance footage with federal law enforcement or engage in accommodating federal law enforcement activities.⁴ *Arroyo Attestation* ¶¶ 4-11. The Pearsall Attestation states that he conducted a good faith search for records in the Department's possession, custody or control related to staging activities at Department rest areas and Welcome Centers. *See Pearsall Attestation* ¶ 5. The Pearsall Attestation further states that his office does not use automated plate readers and that no requests for video footage or surveillance data have been made by Department of Homeland Security, US Immigration and Customs Enforcement, or US Customs and Border Protection. *Id.* at ¶¶ 7-10. The Pearsall Attestation also verifies that Department's Bureau of Office Services which manages Department real property, does not engage in staging activities in coordination

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 attestations] 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 The Arroyo Attestation does clarify that federal agencies can and do submit requests for data on licensed drivers and registered vehicles by submitting a written request for data. These records are responsive to Part 4 of the Request and will be addressed in Parts 3, 4, and 5 of this Final Determination.

with the Department of Homeland Security, US Immigration and Customs Enforcement, or US Customs and Border Protection. *Id.* at ¶ 13.

The Requester submitted argument that the Pennsylvania Office of Administration issued statewide guidance and internal communications addressing law enforcement presence at Commonwealth facilities, and this demonstrates that the Department should possess records responsive to Parts 1, 2, 3, or 5 of the Request. The statewide guidance and internal communications submitted by the Requester in support of his position that responsive records do exist consists of general guidance for Commonwealth employees who may encounter federal agents at their worksites; these records would not be responsive to Parts 1, 2, 3, or 5 of the Request, as they do not relate to the Department's coordination of activities with federal agents. Therefore, based on the evidence submitted, the Department has met its burden of proof that it does not possess the records sought in Parts 1, 2, 3, and 5 of the Request. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

2. Parts 6, 7, and 9 of the Request are insufficiently specific

The Department argues that Parts 6, 7, and 9 of the Request are insufficiently specific. 65 P.S. § 67.703. Part 6 of the Request seeks records of analysis of legal authority, liability, or public-safety considerations relating to the Department's involvement in activities connected to coordination with ICE, DHS, or CBP. Part 7 of the Request seeks communications conducted via messaging applications used for official business relating to the Department's involvement in activities connected to coordination with ICE, DHS, or CBP. Part 9 seeks communications conducted via electronic messaging platforms, such as Signal, WhatsApp, SMS/iMessage, Teams chat, Slack, relating to the Department's involvement in activities connected to coordination with ICE, DHS, or CBP.

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” *Id.* When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, “[t]he subject matter of the request must identify the 'transaction or activity' of the agency for which the record is sought.” *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify 'a discrete group of documents, either by type...or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis...to determine whether an agency can ascertain which records are being requested.... The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials”).

In support of the Department's position, the Shanabrook Attestation states:

4. Items 6, 7, and 9 of [the Request] are insufficiently specific insofar as they request records showing the Department's involvement in the activities of various federal agencies, specifically the Department of Homeland Security ("DHS") and its internal agencies, US Immigration and Customs Enforcement ("ICE") and US Customs and Border Protection ("CBP"), but fail to provide any information allowing the Department to discern which records are being requested. In order to fulfill this [R]equest, I would have to conduct a search of all PennDOT employee correspondence.
5. According to the pennwatch.pa.gov website as of March 27, 2026, the Department had 11,497 salaried employees and 1,062 wage employees.
6. [The Requester] did not restrict his [R]equest to Department employees in any specific District, Bureau, or Division.
7. Instead, [the Request] would require a broad search of every method of correspondence from the Secretary to every District Office, Bureau, and Executive Office; essentially the [R]equest requires a search of every Department employee. I am unable to adequately conduct a thorough search for records for every Department employee, and this fact renders the [R]equest insufficiently specific.
8. I recognized that it is most likely that DVS employees would have records related to the Department involvement in DHS, ICE, and CBP related activities.
9. However, DVS contains executive offices, bureaus, and other offices, etc. and determining which offices to search would require a guessing game that again renders the [R]equest insufficiently specific.
10. [The Requester] argues that the subject matter, scope, and timeframe requirement are met by the Request, but fails to recognize the extensiveness of his [R]equest.
11. It does not specifically limit the exact subject matter of the Request to records pertaining to a precise activity or what these records are regarding.
12. Furthermore, [the Requester] contends that the Request explicitly asks for all correspondence between January 1, 2025 to the present, related to coordination between the Department and the DHS, ICE, and CBP, but does not narrow the scope of the subject matter being addressed within said documents.
13. Therefore, I was unable to determine which of the Department's various Divisions, Bureaus or Offices to contact in order to conduct a thorough search for responsive records in the Department's possession, custody and control.
14. The broad Request for all correspondence regarding the Department's involvement in DHS, ICE, and CBP activities does not specify which Department employee's communications [the Requester] is requesting and thus gives the Department no information to discern what specific records are being requested.
15. Also, there is insufficient descriptive information in any or all of the categories to assist the Office of Open Records in identifying records responsive to the Request. . . .

17. Due to the Request's lack of a specific Department activity or transaction, the Department is unable to discern what information is sought and locate the responsive records.
18. The Request is so broad that the Department is unable to narrow down the universe of potentially responsive documents.
19. Finally, the Request is so broad that it requires the Department to make judgments about what records are responsive.

See Shanabrook Attestation ¶¶ 4-19.

Parts 7 and 9 both seek communications of the Department relating to the Department's involvement in activities connected to coordination with ICE, DHS, or CBP. Part 6 of the Request seeks records of analysis of legal authority, liability, or public-safety considerations relating to the Department's involvement in activities connected to coordination with ICE, DHS, or CBP. All three portions of the Request have a timeframe of from January 1, 2025 until February 12, 2026. The subject-matter of Parts 7 and 9 is broad, relating to all activities of the Department conducted in coordination with three federal agencies. The subject-matter of Part 6 is more defined in that it seeks records relating to analysis of legal authority, liability, or public-safety considerations relating to the Department's involvement in coordinated activities with three federal agencies. The scope of Parts 7 and 9 are any communications of any Department personnel. The scope of Part 6 is all records of Department personnel.

The OOR finds the Department's evidence credible that a search for records responsive to Part 6, 7, or 9 of the Request would require the Department to exercise judgment to guess what records or communications relate to involvement in activities with the three named federal agencies. Given the breadth of the Request seeking all communications or all records of a large Commonwealth agency relating to a broad subject matter for a timeframe of over a year, the OOR finds that Parts 6, 7, and 9 of the Request are insufficiently specific for the Department to conduct

a search reasonably calculated to discover all responsive records.⁵ *Pa. Dep't of Env't Prot. v. Legere*, 50 A.3d 260, 264-265 (Pa. Commw. Ct. 2012) (finding that a request that would require an agency to review all potentially responsive files and “make judgments as to the relation of the documents to the specific request” would be insufficiently specific).

3. The Department failed to prove that certain records are exempt as notes and working papers

Part 4 of the Request seeks “[d]ata-sharing agreements, access permissions, audit logs, or records sufficient to show whether federal agencies were permitted to query transportation-related data” with the overall subject-matter of the Request being in relation to “activities connected to coordination with ICE, DHS, or CBP.” The Department identified only the internal administrative tracking logs for Requests for Data as records responsive to Part 4 of the Request and states that the Department does not possess audit logs, data-sharing agreements, or records of access permissions relating to the relevant federal agencies. *See* Supplemental Arroyo Attestation ¶¶ 4-5; Thompson Attestation ¶¶ 5-6. The Department argues that the tracking logs identified as responsive to Part 4 of the Request are exempt as notes and working papers. The Department specifically argues that these tracking logs are internal working papers and notes that are maintained by the Department Risk Management Office only to keep track of day-to-day administrative tasks.

Section 708(b)(12) exempts from disclosure “[n]otes and working papers prepared by or for a public official or agency employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.” 65 P.S. 67.708(b)(12). This exemption protects “notes and working papers created by a ... public official or employee regarding agency-related business, but not for an official function.”

⁵ The Requester is not prohibited from filing a new request that satisfies the requirements of 65 P.S. § 67.703.

Escalera v. Adams Cnty., OOR Dkt. AP 2011-0184, 2011 PA O.O.R.D. LEXIS 176. The records must be for the specific employee’s own personal use and not distributed outside of their office, *Glunk v. Pa. Dep’t of State*, 102 A.3d 605 (Pa. Commw. Ct. 2014), and must be used to carry out the employee’s official duties. *Pa. Dep’t of Labor & Indus. v. Tabor*, 2016 Pa. Commw. Ct. Unpub. LEXIS 251 (Pa. Commw. Ct. 2016). This exemption covers documents “necessary for that official that are ‘personal’ to that official in carrying out his public responsibilities.” *City of Phila. v. Phila. Inquirer*, 52 A. 3d 456, 461 (Pa. Commw. Ct. 2012) (*en banc*). The Commonwealth Court has also held that:

“Personal” within this definition does not mean that it has to involve a public official’s personal affairs—a message slip that his wife called—because those types of documents are not covered by the RTKL; it covers those documents necessary for that official that are “personal” to that official in carrying out his public responsibilities.

Smith ex rel. Smith Butz, LLC v. Pa. Dep’t of Env’t Prot., 161 A.3d 1049, 1066-67 (Pa. Commw. Ct. 2017).

The Supplemental Thompson Attestation states, in relevant part:

5. The only logs the Department is in possession of related to the Request for Data requests are internal administrative tracking logs. When a request comes in, the RMO staff will write down the request, specifically the agency and requestor, to ensure they are all being tracked and responded to as necessary.
6. These tracking logs are internal working papers and notes that are maintained only to keep track of day-to-day administrative tasks.

See Supplemental Thompson Attestation ¶¶ 5-6. Relating to the general processing procedure of the Department of Requests for Data, the Thompson Attestation states:

8. The Request for Data forms are completed by requesters, specifically federal, state, or local law enforcement agencies. Once a request form is submitted, the Department will log the request. Once the request is logged, the Department submits the requested information to the Project Management Office (“PMO”). PMO does an internal search for the requested information and documents.
9. The requested information is then sent back to the Risk Management Office,

which I oversee. My employees will then compile the relevant requested information and send this to the recipient.

See Thompson Attestation ¶¶ 8-9.

There is nothing in the record to support the contention that the administrative tracking logs are personal to a specific Department employee and used only by that Department employee for that employee's personal use. Further, there is no evidence which demonstrates that the tracking log for Requests for Data has no official agency purpose. The Commonwealth Court held that there is a distinction between records "facilitating daily activities of a division" and those "retained solely for the convenience of individual officials." *See Phila. Inquirer*, 52 A. 3d at 461. The Department submitted no evidence which indicates the withheld tracking logs were created solely for the convenience of an official or employee. Unlike routing slips, telephone message slips, or personal work calendars, which are retained solely for the convenience of individual officials, the tracking logs for Requests for Data received by the Department from various state, local, and federal agencies appear to serve an important purpose to ensure that the Department is appropriately and timely responding to these Requests for Data. For these reasons, the OOR finds that the Department failed to prove that these tracking logs are exempt notes and working papers.

4. The Department failed to prove that certain records are exempt as criminal or noncriminal investigative records

The Department identified the Request for Data tracking log and the actual completed Requests for Data forms as records responsive to Part 4 of the Request and argues that these are exempt as criminal and/or noncriminal investigative records. *See* 65 P.S. §§ 67.708(b)(16), (b)(17). 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).

Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation,” including “complaints,” “[i]nvestigative materials, notes, correspondence and reports” and “[a] record that, if disclosed, would...[r]eveal the institution, progress or result of an agency investigation.” 65 P.S. § 67.708(b)(17)(i)-(ii), (vi)(A). In order for the noncriminal exemption to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe” was conducted regarding a noncriminal matter. *See Pa. Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 810-11 (Pa. Commw. Ct. 2010). Further, the inquiry, examination, or probe must be “conducted as part of an agency’s official duties.” *Id.* at 814; *see also Johnson v. Pa. Convention Ctr. Auth.*, 49 A.3d 920 (Pa. Commw. Ct. 2012). An official probe only applies to noncriminal investigations conducted by agencies acting within their legislatively granted fact-finding and investigative powers. *Pa. Dep’t of Pub. Welfare v. Chawaga*, 91 A.3d 257 (Pa. Commw. Ct. 2014). To hold otherwise would “craft a gaping exemption under which any governmental information-gathering could be shielded from disclosure.” *Id.* at 259.

The Department has identified two categories of records responsive to Part 4 of the Request—(1) the Requests for Data submitted to the Department by the three specified federal agencies, and (2) the Department’s internal tracking log for the Requests for Data that it receives and processes. The record is clear that the Request for Data form contains six distinct sections labeled A.-F., which contain: (A) the information of the Law Enforcement or Government Agency requesting the data; (B) the End User of the information that is being requested, if it differs from the Requestor in Part A; (C) the Information being Requested; (D) the Purpose for the Request;

(E) information relating to how the information provided by the Department will be stored and kept secure; and (F) an attestation of the person completing the form that they will comply with relevant state and federal law. *See* Department Submission, Exhibit A, April 22, 2026. In the context of the records responsive to Part 4 of the Request, the Department receives these requests from federal agencies, processes these requests, and, if granted, provides the relevant driver and vehicle data to the requesting federal agencies.

The OOR inquired of the Department as to what portion of this process meets the definition of an investigation of the Department itself. The Department submitted argument that it conducts a noncriminal investigation in the vetting of vehicle and driver data when responding to Requests for Data. The OOR does not find this argument compelling, as this rationale would render any agency's attempt to verify that the accuracy of the information it provides to external entities a noncriminal investigation. The Department further states it is permitted under Section 6114 of the Vehicle Code to disclose driving records, subject to certain statutory limitations. *See* 75 Pa.C.S. § 6114(b)(4). The Department argues that the processing of Requests for Data and ensuring that the Department only provides driving data in accordance with Section 6114 constitutes a noncriminal investigation of the Department. Again, this is an overbroad interpretation of noncriminal investigative records, as all agencies are required to comply with some form of privacy laws when processing data.

The OOR sought further clarification from the Department as to whether there are any federal laws that require the Department to cooperate with the investigations of federal agencies, and the Department failed to submit evidence of such laws.⁶ As such, the OOR is constrained to

⁶ The Department submitted ample evidence that it is permitted under the Vehicle Code to provide federal agencies with driver information. *See* Thompson Attestation ¶ 18 (“Section 6114(b)(4) of the Vehicle Code allows the Department to provide records to federal agencies.”). The Department submitted further argument that it is required to comply with federal DHS regulations related standards for state-issued driver's licenses and identification cards

find that the information contained in the Requests for Data do not reflect information of a criminal or noncriminal investigation of the Department.

Further, the investigative exemptions generally only apply to protect records of the agency that is carrying out the investigation. *See Hayes v. Pa. Dep't of Pub. Welf.*, OOR Dkt. AP 2012-0415, 2012 PA O.O.R.D. LEXIS 530; *see also Levy v. Senate of Pa.*, 94 A.3d 436, 448 (Pa. Commw. Ct. 2014) (“To the extent the documents reference and arguably ‘relate’ to a criminal investigation conducted by another agency, the records themselves do not contain any investigative material”). The RTKL defines an “agency” as a “Commonwealth agency, a local agency, a judicial agency or a legislative agency.” 65 P.S. § 67.102. Nothing in the express language of Section 708(b)(17) of the RTKL can be read to extend the noncriminal investigative record exemption to records in the possession of a Commonwealth agency that relate to a criminal or noncriminal investigation of a federal agency. *See Walsh & Phila. Inquirer v City of Phila. Law Dep't*, OOR Dkt. AP 2025-3124, 2026 PA O.O.R.D. LEXIS 1; *Dupuy v. Pa. Game Commission*, OOR Dkt. AP 2014-1561, 2014 PA O.O.R.D. LEXIS 1376; *Hayes v. Pa. Dep't. of Public Welfare*, OOR Dkt. AP 2012-0415. The evidence before the OOR reflects that the Requests for Data do not relate to any investigation conducted by the Department, or another agency as defined by the RTKL because federal agencies are not agencies for purposes of the RTKL. *See DeMasi v. Upper Darby Township*, OOR Dkt. AP 2024-1755, 2024 PA O.O.R.D. LEXIS 2191 (holding that records relating to an investigation conducted by HUD and not the Township cannot be withheld as noncriminal investigative records of the Township). Accordingly, the Department has failed to

that participate in REAL ID. *See* 6 CFR 37.1, *et seq.* The REAL ID regulations state that the Department is subject to compliance checks to ensure compliance with REAL ID standards. The Department submitted no argument that it is required by the REAL ID regulations to grant all Requests for Data submitted by DHS to the Department. Further, no evidence has been submitted that the Department is *required* to provide driver or vehicle data in response to other federal investigations, such that an investigative exemption would arguably extend to the Department’s provision of such data.

prove that the Requests for Data are exempt as either criminal or noncriminal investigative records. *See Stanoch and Honik, LLC v Pa. Dept. of Trans.*, OOR Dkt. AP 2024-2692, 2025 PA O.O.R.D. LEXIS 3.

5. The Department is permitted to redact certain information

a. Driver and Vehicle Information

Notwithstanding the finding that the responsive Requests for Data and the Request for Data tracking sheets are not exempt as noncriminal investigative records of the Department, Section 6114 of the Vehicle Code, Department regulations, the Federal Driver's Privacy Protection Act, and federal regulations relating to REAL ID make clear that records of an individual's driving record that are held by the Department are prohibited from public release. 75 Pa.C.S. § 6114; 67 Pa. Code § 95.2; 6 C.F.R. 37.41(b)(2)(iii); 18 U.S.C. § 2721. Accordingly, the Department is not permitted to release any of the information in or relating to the Requests for Data that would identify individuals or their driving record or vehicle information. *See Advancement Project v. Pa. Dep't of Transp.*, 60 A.3d 891, 897 (Pa. Commw. Ct. 2013); *Lloyd v. Pa. Dep't of Trans.*, OOR Dkt. AP 2022-2577, 2022 PA O.O.R.D. LEXIS 2725.

b. Constitutional Right of Privacy and Personal Identification Information

Additionally, Section 708(b)(6)(i)(A) of the RTKL 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, the Pennsylvania Supreme Court has held that an individual possesses a constitutional right to privacy in certain types of personal information. *Pa. State Educ. Ass’n v. Commonwealth*, 148 A.3d 142 (Pa. 2016); PA. CONST. ART.

I, § 1. The Requester has not articulated a public benefit that would outweigh the privacy interest of citizens whose information may be contained on the responsive Requests for Data received by the Department. Thus, to the extent that the responsive Requests for Data and the Request for Data tracking sheets contain the names, home addresses, date of birth, telephone numbers, email addresses, or other exempt personal identification information of private citizens beyond protected driver and vehicle information, such information may be redacted.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Department is required to provide all records responsive to Part 4 of the Request, subject to redaction in accordance with the Final Determination within thirty days. 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.⁷ 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 4, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via the OOR portal to: Nathan Strunk
Adam Shanabrook

⁷ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).