



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

IN THE MATTER OF

KELLY PRILLA,  
Requester

v.

BALDWIN BOROUGH,  
Respondent

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Docket No: AP 2026-1685

## FACTUAL BACKGROUND

On March 13, 2026, Kelly Prilla (“Requester”) submitted a request (“Request”) to Baldwin Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:<sup>1</sup>

[...R]ecords relating to Detective John B. Prilla, Baldwin Borough Police Department [(“Police Department”)], including any [D]epartment-wide notifications, command notifications, or internal communications issued following Detective Prilla’s death.

### 1. Police Duty Status and Work Activity

All records reflecting Detective John B. Prilla’s duty status, assignments, or work activity from January 1, 2026 through January 7, 2026, including but not limited to:

- a. [D]uty rosters[;]
- b. [O]n-call schedules[;]
- c. [S]hift assignments[;]
- d. [C]ourt assignments[;]
- e. [I]nvestigative assignments[;]
- f. [D]etective activity logs[;]
- g. [C]ase assignment records[;]

<sup>1</sup> For ease of discussion, the OOR will list the Request as seeking Items 1(a-j), 2(a-g), 3(a-c), 4(a-c), 5(a-d) and 6.

- h. [C]rime lab assignments[;]
- i. [C]all-out logs[; and]
- j. [R]eports reflecting investigative activity.

## **2. Incident and Investigative Records**

All records relating to the death of Borough employee Eric Foster, whose passing Detective Prilla responded to in his official capacity, including:

- a. [I]ncident reports[;]
- b. [I]nvestigative reports[;]
- c. [S]upplemental reports[;]
- d. [C]ase assignment records[;]
- e. [O]fficer notification reports[;]
- f. [D]epartmental communications[; and]
- g. [D]ispatch/CAS records related to that incident.

## **3. Dispatch Records**

All Computer Aided Dispatch (CAD) records, dispatch logs, radio logs, or call logs reflecting:

- a. [T]he notification call received by Detective Prilla regarding the death of Borough employee Eric Foster[;]
- b. [A]ny police response to that incident[; and]
- c. [A]ny departmental activity relating to that event.

## **4. Internal Police Communications**

All communications between or among:

- a. [Department] personnel[;]
- b. [T]he Police Chief[;]
- c. Borough officials regarding:
  - Detective Prilla's duty status[;]
  - [T]he death of Eric Foster that he responded to[;]
  - Detective Prilla's involvement in that incident[;]
  - [D]iscussions of benefits or duty classification.

## **5. Command Staff/Administrative Review Records**

Please produce any command staff reviews, administrative reviews, memoranda, reports or internal documentation created by the [Department] concerning the death of Detective John B. Prilla, including any records reflecting:

- a. Internal review [o]f the circumstances surrounding his death[;]
- b. Departmental response to his death[;]
- c. Duty-status or line-of-duty classification discussions[;]
- d. Communications among supervisory or command staff.

## 6. RMS Activity Records

All Records Management System (RMS) activity logs or detective activity logs reflecting investigative activity performed by Detective John B. Prilla between January 1, 2026 and January 7, 2026.

On April 17, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Borough partially granted the Request, providing records responsive to Items 1(a-d) and 5(b). The Borough partially denied the Request, arguing that it does not have records responsive to Items 1(e-j), 2(e-g), 3(a-c), and 5(a, c, d); that the identified record to Items 2(a-d)(i.e. the “Incident Report BB-26-00043) relates to a noncriminal investigation, 65 P.S. § 67.708(b)(17); that Item 4 is insufficiently specific, 65 P.S. § 67.703; that records responsive to Item 6 relate to a criminal investigation, 65 P.S. § 67.708(b)(16) and that disclosure of those records would violate Pennsylvania’s Criminal History Record Information Act (“CHRIA”), 18 Pa. C.S. §§ 9101-9183.<sup>2</sup>

On April 27, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging, among other things, “both the Borough’s denial and the sufficiency of its production.”<sup>3</sup> The OOR invited both parties to supplement the record and directed the Borough to notify the OOR if any third parties have a direct interest in the appeal. *See* 65 P.S. § 67.1101(c).

On May 7, 2026, the Borough submitted a position statement, reiterating its grounds for denial. In support of its assertions, the Borough submitted the attestations, made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, of Robert Firek, P.E. (“Firek

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<sup>2</sup> The OOR notes that the Borough’s final response properly notified the Requester of her appellate rights to the Allegheny County District Attorney’s Office for the denial of Item 6, relating to a criminal investigation record.

<sup>3</sup> The Requester granted the OOR an additional extension of time to issue a final determination. *See* 65 P.S. § 67.1101(b)(1).

Attestation”), the Borough’s Open Records Officer (“AORO”) and Manager, and Police Department Chief Anthony Cortazzo (“Cortazzo Attestation”).

On May 8, 2026, the Requester submitted a supplemental position statement, challenging the Borough’s submission.

### LEGAL ANALYSIS

The Borough 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 Borough 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 Borough demonstrated that there are no records responsive to certain portions of the Request and that there are no additional responsive records to other portions of the Request**

The Borough asserts that it “conducted an adequate search for responsive records and there are no other responsive records in the Borough’s possession, custody or control.” 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 record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, 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).

In support of the Borough's assertion that it has no additional records responsive to the Request and that it has no records responsive to Items 1(d-j) and 3, the Borough has provided the Firek and Cortazzo Attestations.<sup>4</sup> The Firek Attestation is authored by the Borough's AORO and Manager, who is familiar with the records of the Borough. Firek Attestation, ¶¶ 1-4. Mr. Firek conducted an inspection of the Borough's electronic and physical files and electronic databases; and inquired with all other relevant Borough officials, employees, or professionals who may have access to or knowledge of responsive records. *Id.* at ¶ 15. Specifically, Mr. Firek identified the Borough employee, Chief Cortazzo, who is most likely to have responsive records and would be most familiar with the police records subject to the Request. *Id.* at ¶¶ 15, 21. Chief Cortazzo conducted an inspection of "the Police Department's electronic and physical files and electronic databases." Cortazzo Attestation, ¶ 20. Based upon this good faith search, Mr. Firek and Chief

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<sup>4</sup> Under the RTKL, a sworn 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 Borough has acted in bad faith or that additional 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)).

Cortazzo “confirmed that the Department [and the Borough do] not have responsive documents in its possession, other than the documents that were produced to the Requester or were identified by the Borough as a responsive document not subject to the RTKL.” Cortazzo Attestation, ¶ 21; Firek attestation, ¶ 26.

More specifically, the Borough asserts that it does not have additional records responsive to Item 1(a-c) and that it has no records responsive to Item 1(e-j). Firek Attestation, ¶¶ 29-38; Cortazzo Attestation, ¶¶ 24-33. Finally, the Borough asserts that it does not have records responsive to Item 3 of the Request because the requested records, if available, “would be in the possession, custody, and control of the Allegheny County Department of Emergency Services, not the Borough [] or the [Police Department.]”<sup>5</sup> Firek Attestation, ¶ 55; Cortazzo Attestation, ¶ 50.

Thus, based upon this evidence, the Borough has demonstrated that it performed a good faith search, and no evidence has been provided that contradicts the statements offered by the Borough in the attestations submitted. *See 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...”). Therefore, the Borough has met its burden of proof that additional responsive records to the Request do not exist in its possession, custody or control. *See Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (“[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request”).

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<sup>5</sup> The Borough further explains that “[t]he Allegheny County Department of Emergency Services is its own agency and is not affiliated with the Borough or the [Police] Department.” Firek Attestation, ¶ 56; Cortazzo Attestation, ¶ 51. The Borough is under no obligation under the RKTL to obtain responsive records from a separate agency. *See generally, Mutchler v. Pa. Off. of Admin.*, 334 A.3d 57, 2025 Pa. Commw. LEXIS 50 (Pa. Commw. Ct., Mar. 18, 2025) (the Commonwealth Court explained that the RTKL does not “require one agency to obtain from another agency information that the requester could get from that other agency directly”), *petition for allowance of appeal granted in limited part*, No. 196 MAL 2025, 2025 Pa. LEXIS 1472 (Sept. 23, 2025).

**2. The Borough has demonstrated that it properly withheld Incident Report BB-26-00043 pursuant to Section 708(b)(17) of the RTKL**

The Borough asserts that it properly withheld Incident Report BB-26-00043 because it relates to a noncriminal investigation.<sup>6</sup> Section 708(b)(17) of the RTKL exempts from disclosure records of an agency “relating to a noncriminal investigation, including: ... [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)(ii), (17)(vi)(A). In order for this 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.

In this instance, Chief Cortazzo attests that Incident Report BB-26-00043 was prepared in response to a wellness check and “documents an official probe that was conducted as part of the [Police] Department’s official duties involving its legislatively-granted fact finding powers.” Cortazzo Attestation, ¶¶ 65-66. Further, the incident report includes a description of Patrol Officer Alex Jashinski’s “investigative actions associated with conducting the wellness check along with his findings and conclusions” and documents statements and observations of witnesses. *Id.* at ¶¶

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<sup>6</sup> The Borough determined that Incident Report BB-26-00043 is the only record responsive to Item 2 of the Request.

67, 68. Thus, the Borough withheld the incident report, prepared by Officer Jashinski as a result of his investigation, under Section 708(b)(17) of the RTKL. *Id.* at ¶¶ 73-78.

The OOR has recognized that municipal police departments are empowered to enforce the laws of the Commonwealth or otherwise perform their functions as to “[a]ny ... event that occurs within [the Department’s] primary jurisdiction and which reasonably requires action on the part of the police in order to preserve, protect or defend persons or property or to otherwise maintain the peace and dignity of this Commonwealth.” 42 Pa.C.S. § 8952; *see also Plaut v. Cheltenham Twp. Police Dep’t*, OOR Dkt. AP 2023-2513, 2023 PA O.O.R.D. LEXIS 2637. Here, based on the evidence submitted, the Borough has met its burden of proof that the responsive record relates to an ongoing noncriminal investigation that the Police Department conducted and is not subject to public disclosure under the RTKL. *See* 65 P.S. § 67.708(b)(17); *see also Benner v. Upper Macungie Twp. Police Dep’t*, OOR Dkt. AP 2026-0727, 2026 PA O.O.R.D. LEXIS 1543 (finding that a police report relates to a noncriminal investigation and is exempt from disclosure).

### **3. Item 4 of the Request is insufficiently specific**

The Borough argues that Item 4 of the Request is insufficiently specific because the Borough “could not determine what records [the] Requester was seeking or how it was supposed to conduct a search for potentially responsive records.” Item 4 seeks “[a]ll communications between or among: [the] Police Department personnel[;] the Police Chief[;] and Borough officials regarding: Detective Prilla’s duty status[;] the death of Eric Foster that he responded to[;] Detective Prilla’s involvement in that incident[;] and] discussions of benefits or duty classification.” The Borough submitted the Firek and Cortazzo Attestation in support of its argument that the Item 4 of the Request is insufficiently specific. *See generally*, Firek Attestation, ¶¶ 84-112; Cortazzo Attestation, ¶¶ 79-107.

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.” 65 P.S. § 67.703. To determine whether a request is sufficiently specific, the *Pittsburgh Post-Gazette* Court established a three-prong test “examining the extent to which the request sets forth[:] (1) the subject matter of the request; (2) the scope of documents sought; and (3) the timeframe for which records are sought.” *Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121, 1124 (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).

Item 4 of the Request has a broad subject matter, “regarding: Detective Prilla’s duty status[;] the death of Eric Foster that he responded to[;] Detective Prilla’s involvement in that incident[;] and discussions of benefits or duty classification[.]” which does not provide the

Borough with the necessary information to search for responsive records. Firek Attestation, ¶ 84. Further, the scope of the Request is not limited by a specific type of record and, instead, seeks “all communications.” See *Pittsburgh Post-Gazette*, 119 A.3d at 1125-26 (“A request for a broad category of documents, such as all records, may be sufficiently specific if confined to a particular recipient or recipients”). Further, the scope of the Request includes a large number of senders/receivers and seeks records “between” all the listed individuals. See Firek Attestation, ¶¶ 102-107 (explaining the number of employees employed by the Borough and the Police Department). Moreover, responding to the Request would require the Township to review all of the potentially responsive records and to make judgment calls as to what records are regarding Detective Prilla’s duty status, the death of Eric Foster that he responded to, Detective Prilla’s involvement in that incident and discussions of benefits or duty classification. See *Pa. Dep’t of Env’tl. Prot. v Legere*, 50 A.3d 260, 264-265. Finally, while Item 4 of the Request does not list a specified timeframe, the Request does seek communications issued following Detective Prilla’s death,<sup>7</sup> and the Borough could imply a timeframe of January 7, 2026 to the date of the Request, approximately two months. See *Barry v. Bensalem Twp. Police Dep’t*, OOR Dkt. AP 2013-1151, 2023 PA O.O.R.D. LEXIS 690 (noting that a timeframe may be implied from the context of the records requested).

Accordingly, the test enunciated in *Pa. Dep’t of Educ.* supports a finding that Item 4 of the Request is insufficiently specific under Section 703 of the RTKL. Without a more defined subject matter and a more limited scope, and taking the implied to timeframe into consideration, the Request does not satisfy Section 703 of the RTKL. See *Winklosky v. Pa. Off. of Admin.*, OOR Dkt. AP 2018-1438, 2018 PA O.O.R.D. LEXIS 1391 ( “[s]eeking all records related to a topic or topic

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<sup>7</sup> Detective Prilla passed away on January 7, 2026. See [John B. Prilla Obituary January 7, 2026 - Slater Funeral Homes](#) (last visited June 4, 2026).

does not necessarily make a request insufficiently specific; however, a request must provide enough specificity in its scope and timeframe to help guide the agency in its search for records”). However, nothing in this Final Determination prevents the Requester from filing a more specific RTKL request for the same information, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

#### **4. The OOR lacks jurisdiction over Item 6 of the Request**

The Borough asserts that it properly denied records responsive to Item 6 of the Request under 65 P.S. § 67.708(b)(16). Accordingly, the OOR must determine if it has jurisdiction over this portion of the appeal. Section 708(b)(16) of the RTKL exempts from disclosure “[a] record of an agency relating to or resulting in a criminal investigation, including:… [i]nvestigative materials, notes, correspondence, videos and reports[,]…and [a] record that, if disclosed, would do any of the following: … [r]eveale the institution, progress or result of a criminal investigation, except the filing of criminal charges.” 65 P.S. § 67.708(b)(16)(ii), (vi)(A).

The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See* 65 P.S. § 67.503(d)(2). Instead, such appeals are to be heard by an appeals officer designated by the local district attorney. *See id.* While the RTKL does not define the phrase “criminal investigation,” the Pennsylvania courts have observed that the term “clearly and obviously refers to an official inquiry into a possible crime.” *Cal.Borough v. Rothey*, 185 A.3d 456, \*465 (Pa. Commw. Ct. 2018) (quoting *Pa. State Police v. Grove*, 161 A.3d 877, 893 (Pa. 2017)).

Here, Item 6 of the Request expressly seeks “investigative activity” and Chief Cortazzo, who is familiar with the records, attests that the records responsive to Item 6 are “exempt on its face” because “any responsive documents would contain ‘investigative information’ performed by

Detective Prilla during the course of his employment as a [Police Department] Detective between January 1, 2026 and January 7, 2026.” Cortazzo Attestation, ¶¶ 112-13; *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); *see also 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). Additionally, when the Borough issued its final response to the Requester, it notified the Requester that she may appeal the denial to the Open Records Appeals Officer for the District Attorney of Allegheny County within 15 business days of the mailing date of the Borough’s response. Therefore, as Item 6 of the Request may relate to a criminal investigation, and the Requester was properly notified of her appellate rights to the Allegheny County District Attorney’s Office, the OOR is without jurisdiction to make a finding on whether Item 6 relates to a criminal investigation.<sup>8</sup> *See* 65 P.S. §§ 67.503(d)(2), 67.708(b)(16); *Kennedy v. Tredyffrin Twp. Police Dep’t*, OOR Dkt. AP 2025-3687, 2026 PA O.O.R.D. LEXIS 367.

### CONCLUSION

For the foregoing reasons, Requester’s appeal is **denied in part** and **dismissed in part for lack of jurisdiction**, and the Borough 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 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 as per Section 1303 of the RTKL, 65 P.S. § 67.1303,

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<sup>8</sup> Because the OOR has determined that records responsive to Item 6 may relate to a criminal investigation, the OOR need not reach the Borough’s alternative ground for denying access under CHRIA. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

but as the quasi-judicial tribunal that adjudicated this matter, the OOR is not a proper party to any appeal and should not be named as a party.<sup>9</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 website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: June 10, 2026**

/s/ Lyle Hartranft  
Lyle Hartranft, Esq.  
Appeals Officer

Sent via e-file portal to: Kelly Prilla; Ashley Puchalski, Esq.; Robert Firek, AORO

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<sup>9</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).