



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:
	:
<b>JASON HOPKINS,</b>	:
<b>Requester</b>	:
	:
<b>v.</b>	: <b>Docket No.: AP 2026-1277</b>
	:
<b>PHILADELPHIA COUNTY DISTRICT</b>	:
<b>ATTORNEY’S OFFICE,</b>	:
<b>Respondent</b>	:

On February 18, 2026, Jason Hopkins (“Requester”) submitted a request (“request”) to the Philadelphia County District Attorney’s Office (“Office” or “DAO”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “[t]he case list of defendants Immigration Counsel has consulted with, or otherwise worked on, over the 2025 calendar year. While this list is not legally required to disclose names, this list must include all charges against each defendant.” On March 27, 2026, after extending its time to respond by thirty days, *see* 65 P.S. § 67.902(b)(2), the Office denied the Request, stating that responsive records do not exist.

On March 30, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.<sup>1</sup> The OOR invited both parties

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<sup>1</sup> In the appeal, the Requester granted the OOR an additional thirty days to issue this Final Determination. *See* 65 P.S. § 67.1101(b)(1).

to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

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).

On April 21, 2026, the Office submitted the attestation of Thomas Gaeta, Esq., the Office’s Open Records Officer (“Gaeta Attestation”),<sup>2</sup> who attests, in part, as follows:

6. After receiving the Request, I contacted the DAO’s Immigration Counsel, Assistant District Attorney Stephanie Costa, to determine whether the DAO had any responsive records.
7. ADA Costa advised that she does not maintain a list of defendants she has consulted with or otherwise worked on over a given period of time.

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<sup>2</sup> Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the Office acted in bad faith, “the averments in [the attestation] should be accepted as true.”

8. ADA Costa shared copies of the spreadsheets she maintains to track her casework. Her records track information relevant to ADA Costa's ongoing work, including, among other things:
  - a. Case information, such as defendant names, docket numbers, assigned court rooms, etc.;
  - b. ADA Costa's case notes;
  - c. Dates of upcoming listings and tasks;
  - d. The names and contact information of victims, including minors; and
  - e. Confidential personal identifying numbers, including immigrants' A-numbers.
9. ADA Costa's spreadsheets do not indicate when cases were referred to ADA Immigration Counsel or indicate when ADA Costa performed various tasks. They do not reflect which cases ADA worked on over any specific period of time.
10. Because the DAO's Immigration Counsel does not maintain a list of cases worked on in a given timeframe, I determined that the DAO has no public records responsive to the [R]equest.

Here, the Gaeta Attestation explains that the likely custodian of responsive records was contacted, a search was conducted and that no responsive records exist. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true).

The Requester argues that the Office "completed this exact request on at least two separate occasions in prior years, proving they do have access to this information." However, as the Office explains, "[t]hose prior requests were for calendar years 2020 and 2023. But the DAO has subsequently retained new immigration counsel whose recordkeeping practices differ from those employed previously." Therefore, based on the evidence provided, the Office has met its burden of proving that records responsive to the Request do not exist within its possession, custody or control. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the appeal is **denied**, and the Office 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 or petition for review to the Philadelphia 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>3</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/ Magdalene C. Zeppos-Brown  
MAGDALENE C. ZEPPOS-BROWN, ESQ.  
DEPUTY CHIEF COUNSEL

Sent to: Jason Hopkins (via OOR e-file portal); and  
Thomas Gaeta, Esq., AORO (via OOR e-file portal)

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