



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**NORMA BLAIR,
Requester**

v.

**LEBANON COUNTY,
Respondent**

:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-2074

FACTUAL BACKGROUND

On May 15, 2026, Norma Blair (“Requester”) submitted a request (“Request”) to Lebanon County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...[R]ecords documenting or relating to official County action taken to promote, transfer, change status, appoint, or reassign Alaya M. Ward into the position of Adult Probation Aide with [] County Probation Services.

This [R]equest includes, but is not limited to:

-Any job posting, vacancy notices, internal announcement, external advertisement, website listing, bulletin-board posting, job description, minimum qualifications of, posting dates, and application instructions for the Adult Probation Aide position filed by Alaya M. Ward, to include any email, distribution list, memorandum, notice, or other record showing who or what offices, departments, employees, websites, employment platforms, bulletin boards, agencies, or recruitment sources received the job posting, internal announcement, or vacancy notice;

-Any written request, emailed request, letter, memorandum, form, or other record requesting or recommending that Ms. Ward be promoted, transferred, changed in status, appointed, or reassigned into the Adult Probation Aide position;

-The letter of interest referenced in the County's May 25, 2026 RTK[L] response (dated for the date March 24, 2026) to my prior [RTKL] request of the employment application/resume of Alaya M. Ward; [and]

-Any personnel action form, change-of-status form, approval form, payroll/status-change record, HR processing record, or similar document documenting the County's official action.

As the Requester did not receive the County's response within five business days of the Request, the Requester filed an appeal with the Office of Open Records ("OOR") on May 27, 2026, claiming that the Request was deemed denied. *See* 65 P.S. § 67.901. 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 May 31, 2026, the Requester submitted emails exchanged between herself and the County regarding the Request, which show that the County provided her with some responsive records on May 28, 2026, including the August 9, 2025 job application of Alaya Ward, an August 26, 2025 Memorandum from the Director of County Probation Services to President Judge John C. Tylwalk, an August 27, 2026, a September 4, 2025 letter from County Human Resources to Alaya Ward, an October 30, 2025 Letter of Interest from Alaya Ward, a November 4, 2025 Memorandum from Director of County Probation Services to President Judge Tylwalk, a November 4, 2025. The County also asked for clarification of her Request, which she provided.

On June 8, 2026, the County submitted an additional 21 pages of responsive records and an attestation made under penalty of perjury¹ authored by Matthew Bugli, Esquire ("Bugli Attestation"), the Solicitor for the County. The responsive records include personnel records for

¹ 18 Pa. C.S. § 4904.

the individual named in the Request, emails and job announcements. On that same date, the OOR asked the Requester to identify any remaining challenges she wished to raise on appeal, based upon the numerous responsive records that were provided. The Requester responded on June 9, 2026, identifying responsive records that had not yet been provided in response to the Request.

On June 11, 2026, the County submitted a position statement, arguing that any further responsive records are not subject to release, as they are records of a judicial agency not subject to the RTKL. On that same date, the Requester made a submission, disputing the County's argument. Additionally, the OOR also asked the County to provide an attestation or affidavit supporting the argument raised in its position statement.

On June 16, 2026, the County provided an additional attestation authored by Attorney Bugli ("Bugli Second Attestation"), describing the search performed for responsive records and asserting that there are additional responsive records that have not been released, but did not describe the records or cite any exemptions to support nondisclosure. On that same date, the Requester submitted her objections to the sufficiency of the attestation.

On June 17, 2026, the OOR sought clarification from the County. Specifically, the OOR sought an attestation describing the remaining responsive records and the basis for any exemptions that apply.

On June 19, 2026, the County provided a third attestation authored by Attorney Bugli ("Bugli Third Attestation"), which describes one remaining responsive record that consists of an email disseminating the Job Announcement from the Director of Probations Services to the entire staff of the County Probation Services. Attorney Bugli asserts the email is exempt from disclosure as it pertains to a record of a judicial agency.

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 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. Responsive records were provided on appeal

On appeal, the County provided numerous responsive records to the Request including Alaya Ward’s personnel file, letters of interest, job postings job announcements, request to hire, letters, memoranda and emails between the Director of County Probation Services, County Human Resources and President Judge Tylwalk. Bugli Attestation ¶¶ 3, 9. Therefore, to the extent the Request sought that information, the appeal is dismissed as moot. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records and, thus, “the controversy has been mooted”).

2. The County established that records of the County’s Adult Probation Services is a judicial agency, and judicial records are not accessible under the RTKL

The County indicates that the only remaining responsive record to the Request is an email sent from the Director of Adult Probation Services to the entire Adult Probation Services staff, and therefore, a judicial record not subject to disclosure. Bugli Third Attestation ¶¶ 5-6. The County’s Adult Probation Services is a judicial agency. *See Lawrence v. Phila. Adult Probation and Parole*

Dep't., OOR Dkt. AP 2023-0215, 2023 PA O.O.R.D. LEXIS 225 (finding the agency to be part of the unified judicial system and, thus, a judicial agency under the RTKL); *Shields v. Chester County Adult Probation and Parole Dep't*, OOR Dkt. AP 2024-0866, 2024 PA O.O.R.D. LEXIS 819. The OOR does not have jurisdiction over judicial agencies. 65 P.S. § 503(a)-(b); *Grine v. Cnty. of Centre*, 138 A.3d 88, 99 (Pa. Commw. Ct. 2016) (the “OOR lacks jurisdiction over appeals involving records of a judicial agency... Indeed, allowing OOR to direct an agency to disclose a record showing activities of a judicial agency violates the separation of powers”); *Court of Common Pleas of Lackawanna Cnty. v. Off. of Open Records*, 2 A.3d 810 (Pa. Commw. Ct. 2010) (finding that the OOR lacked jurisdiction to order disclosure of records of a county domestic relations director because he was a judicial employee despite being paid by the county and the county having access to the records); *Diebold v. Westmoreland Cnty.*, OOR Dkt. AP 2024-0337, 2024 PA O.O.R.D. LEXIS 572 (records of an adult probation department are judicial records). Therefore, the appeal is dismissed as it relates to the email in the possession of the County Probation Services.

3. No additional responsive records to the Request exist in the County’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 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 Second Bugli Attestation indicates that Attorney Bugli obtained the entire personnel file for Alaya Ward and provided relevant responsive records to the Requester. Bugli Second Attestation ¶ 5. Attorney Bugli also contacted Leane Shank, Deputy Director of County Human Resources, who is responsible for disseminating job announcements for positions within the County. *Id.* at ¶ 6. The County Information and Technology Services was also contacted and Attorney Bugli obtained responsive emails between Ms. Shank and Audrey Fortna, Director of the County Probation Services, which were provided to the Requester. *Id.* at ¶ 9. Attorney Bugli also contacted Stephanie Axarlis, County Court Administrator, and Director Fortna regarding any other responsive records responsive to the Request. *Id.* at ¶ 10. Only one further responsive record was identified as an email dated October 29, 2025, disseminating the Job Announcement for the Adult Probation Aide position from Director Fortna to the entire staff of the County Probation Services. Bugli Third Attestation at ¶ 5.

In the absence of any evidence that the County 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)). Therefore, based upon the evidence provided, the County has met its burden of proof that it does not possess additional records

responsive to the Request. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

CONCLUSION

For the foregoing reasons, the appeal is **denied in part, dismissed as moot in part and dismissed for lack of jurisdiction in part**, and the County 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 Lebanon 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.² 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 25, 2026

/s/ Julie Sodl

APPEALS OFFICER
JULIE SODL

Sent via E-File Portal to: Norma Blair
 Matthew Bugli, Esq.

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).