



FINAL DETERMINATION

IN THE MATTER OF

JOSEPH IWANCZEWSKI,
Requester

v.

BUCKS COUNTY,
Respondent

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Docket No.: AP 2026-1770

FACTUAL BACKGROUND

On April 8, 2026, Joseph Iwanczewski (“Requester”) submitted a request (“Request”) to Bucks County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking from the County Children and Youth Services (“CYS”) records relating to a General Protective Services referral made to CYS and specifically:

Category A - Communications with Jennifer M. Dickerson / Antheil Maslow & MacMinn LLP All emails, letters, text messages, voicemails, call logs, or other written or electronic communications between any ACYS employee or agent and Jennifer M. Dickerson, Esq., or any attorney or staff member of Antheil Maslow & MacMinn LLP, between March 1 and March 30, 2026; all records identifying who initiated each communication, the date and time, and subject matter; all documents transmitted to or from Dickerson / AMM during this period.

Category B - Records Disclosed to Any Third Party re [specified general protective services case number (“GPS Case Number”)] All records identifying every individual or entity to whom any document, report, finding, or information related to [GPS Case Number] was disclosed between March 10 and March 30, 2026; for each disclosure: the identity of the recipient, date of disclosure, specific records disclosed, and legal authority; all records reflecting disclosure of the CY-47¹ or

¹ CY-47 is the Opening Report created by CYS in response to the general protective services referral.

CY-48² to any attorney, party, or third party prior to the March 30, 2026 hearing.

Category C - Internal Communications Regarding the March 30, 2026 Hearing All emails, memoranda, notes, or communications between any ACYS employee and any attorney in *Sanfratello v. Iwanczewski* between March 10 and March 30, 2026; all records reflecting ACYS preparation for or coordination about the March 30 hearing; all external communications of Linda J. McCann, LSW, and Karly Binninger related to this referral or custody matter during this period.

On April 13, 2026, the County denied the Request, stating that records responsive to the Request are exempt as noncriminal investigative records. *See* 65 P.S. § 67.708(b)(17).

On May 4, 2026, the Requester appealed to the Office of Open Records (“OOR”),³ challenging the denial and stating grounds for disclosure.⁴ The Requester argues that the denial is a blanket denial and that the County is required provide a specific record-by-record analysis of what records were withheld.⁵ The Requester further argues that records reflecting the payment of the CYS witness fee for testifying at trial are “administrative records” that are public under the RTKL. 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 13, 2026, the County submitted a position statement, arguing that records responsive to the Request are exempt as records of a noncriminal investigation of CYS and are protected under Pennsylvania’s Child Protective Services Law (“CPSL”) and the Health Insurance Portability and Accountability Act (“HIPAA”). In support of its position, the County submitted the attestation of Robert Yochum, the Director of Bucks County CYS (“Yochum Attestation”).

² CY-48 is the Outcome Report created by CYS in response to the general protective services referral.

³ The Requester granted the OOR a 30-day 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).”)

⁴ In the Requester’s appeal submission, he provides a copy of a court order from the Family Court Division of the Buck County Court of Common Pleas in which the Requester is a party and that directs that the parties and their counsel are to be permitted to review the certain CYS records at CYS’s offices prior to the March 30, 2026 hearing.

⁵ The Requester also argues that the Request sought “All records reflecting the source and channel through which the December 2, 2022 entry was added to the Adult Functioning section of the CY-47.” This language does not appear in the April 8, 2026 Request as submitted to the County, and thus ,is not before the OOR in this appeal.

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)).

The OOR may not consider the Requester’s relationship to the responsive records, but instead, only whether the contents of the record should be available to the *public at large*. *See Padgett v. Pa. State Police*, 73 A.3d 644, 647 (Pa. Commw. Ct. 2013) (noting that a requester’s identity or motivation for making a request is not relevant to determining whether a record is accessible under the RTKL). Under the RTKL, a record is either available to the public at large as a public record or it is shielded from disclosure. *See* 65 P.S. § 67.102; 65 P.S. § 67.305; *see also Cafoncelli v. Pa. State Police*, No. 1392 CD 2016, 172 A.3d 140 (Pa. Commw. Ct. 2017) (citing *Hunsicker v. Pa. State Police*, 93 A.3d 911, 912 (Pa. Commw. Ct. 2014)).

The Request seeks records of the County CYS relating to a specified general protective services report and investigation and provides context that certain CYS employees testified at a specific custody hearing, which involves the Requester, on March 30, 2026. The Request seeks communications between CYS employees and any attorneys with a specific law firm from March 1, 2026 through March 30, 2026, any records relating to the general protective services

investigation that were provided to third parties between March 10, 2026 and March 30, 2026, communications between CYS and any attorney involved in the specified child custody action, and records reflecting communications and preparations made by CYS to testify at the child custody hearing. The Requester's submissions are clear that the CYS testimony provided at the specified child custody hearing relates to the subject of the GPS report received by CYS.

The County asserts, among other things, that the responsive records are exempt from disclosure as records related to a noncriminal investigation. 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); 65 P.S. § 67.708(b)(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).

In support of the County's position, the Yocum Attestation states:

4. The Agency's records and related documents are protected under the Child Protective Services Law ("CPSL"), 23 Pa. C.S. §6301 et seq., and federal law, including HIPPA which protects sensitive health information. . . .
5. In accordance with 23 Pa. C.S. §6340(b), upon written request by the subject of a report and/or biological parent of a victim child, the Agency is only

permitted to release the CY47 (Report of Suspected Child Abuse) and CY-48 (Child Abuse Investigation Outcome Report) which represents the information maintained in the statewide database.

6. Statutorily permitted parties, upon written request, are allowed to view records at the Agency's office, subject to necessary redactions.
7. Statutorily permitted parties are also allowed to view records at the Agency's office upon receipt of a signed judicial order.
8. Judicial orders (as depicted in Requester's Exhibit D), order counsel of record or litigants to contact the Agency to make an appointment to view the records at the Agency's office.
9. This process does not allow records to be copied or removed from the Agency's office due to the sensitive and confidential nature of the records.
10. Prior to viewing records in Agency's office, the litigant's identity is verified as an individual statutorily permitted to view records.
11. Providing Agency records through a Right-to-Know request does not allow for any identification verification.
12. Additionally, due to the highly confidential nature of these documents and to protect the identity of children potentially receiving services from the Agency, the Agency would not be able to confirm or deny the existence of a case and in-turn, existence or non-existence of records, including email correspondence, through a Right-to-Know request.

See Yocum Attestation ¶¶ 4-12.⁶

The OOR has previously recognized that a county's CYS department conducts noncriminal investigations pursuant to its statutory and regulatory mandates under the CPSL. *See e.g., Knepp v. Mifflin County*, OOR Dkt. AP 2023-1460, 2023 PA O.O.R.D. LEXIS 2048; *Kochanski v. Montgomery Cnty.*, OOR Dkt. AP 2017-0500, 2017 PA O.O.R.D. LEXIS 478. Without confirming

⁶ Under the RTKL, an affidavit or statement made under 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 competent evidence that the County acted in bad faith, "the averments in [the attestation] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)).

or denying the existence of records responsive to the Request, the County has demonstrated that any responsive records it possesses must be part of the investigative process in response to a general protective services referral, as outlined in the CPSL. The County CYS routinely completes noncriminal investigations as they relate to the welfare of the children it services, and accordingly, the records sought in the Request could only have been produced by a noncriminal investigation. *See Pa. Liquor Control Bd. v. Perretta*, No. 1470 C.D. 2018, 2019 Pa. Commw. Unpub. LEXIS 628 (Pa. Commw. Ct. 2019) (concluding that the evidence submitted by the agency, which explained how it consistently conducted a noncriminal investigation in similar, prior instances, was legally sufficient to establish that “more likely than not” the agency conducted a noncriminal investigation in the present instance).

Further, the language of the Request and appeal filing clearly seek facially investigative records, as the Request seeks CYS records, case file information, and communications related to the GPS investigation and CYS communications and preparation in relation to testimony provided by CYS at the Requester’s child custody action. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider the uncontradicted statements in the appeal materials when determining when an exemption applies.). The only purpose for CYS to generate these records or be involved in other litigation involving the best interests of children is because of their statutorily-mandated duties under the CPSL.

Relating to the Requester’s argument that records responsive to Category C regarding communications between private attorneys and CYS in preparation for testimony at the custody hearing are “administrative records” which are public under the RTKL, this argument fails, as such correspondence still relates to the specific investigation of CYS and the discharge of CYS’s duties in relation to its investigations. These records only exist by virtue of the CYS’s investigation of

the specified GPS case number and any records or reports created in the course of that investigation. Accordingly, based on the evidence provided and the Court’s reasoning in *Peretta*, the County has demonstrated that the responsive records are exempt from access as relating to a noncriminal investigation under Section 708(b)(17) of the RTKL. *See e.g., Knepp v. Mifflin County*, OOR Dkt. AP 2023-1460, 2023 PA O.O.R.D. LEXIS 2048 (finding that CYS records relating to a specified CYS investigation are exempt from public disclosure under Section 708(b)(17) of the RTKL); *Leibowitz and WJAC 6 News v. Pa. Dep’t of Human Services*, OOR Dkt. AP 2017-0279, 2017 PA O.O.R.D. LEXIS 348 (finding that certain child welfare records are exempt from access as noncriminal investigations under Section 708(b)(17)).⁷

CONCLUSION

For the foregoing reasons, the appeal is **denied**, 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 Bucks 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.⁸ All documents or communications following

⁷ The OOR notes that the Requester was given access to view CYS records through a March 25, 2026 court order of the Bucks County Court of Common Pleas, which provides that the Requester “[is] to contact the Agency to schedule an appointment to view the Children and Youth records prior to the [March 30, 2026] hearing date” and that CYS shall allow the Requester to view records as the Agency’s office. The Requester’s argument as to whether CYS is fairly providing him with reports and other information as required by the CPSL or court orders is outside the scope of the RTKL.

The record is clear that the Requester has been granted access to records in the possession of CYS by virtue of the court order. The issue in this appeal is whether communications and other records relating to CYS’s investigations and testimony is a public record subject to public access under the RTKL. The RTKL grants members of the public access to public, government records. The inquiry for RTKL appeals is whether the records sought are records which should be made available to any member of the public at large. Records relating to allegations of child abuse, CYS investigations, and the information of minors generally are not records which should be available to any member of the public and as such, they are not public records under the RTKL.

⁸ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

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: July 6, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via portal to: Joseph Iwanczewski
Laura Riba