

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF :
 :
DARWIN LEUBA, :
Requester :
 :
v. : **Docket No: AP 2026-2399**
 :
BUTLER COUNTY SHERIFF’S OFFICE, :
Respondent :

FACTUAL BACKGROUND

On May 26, 2026, Darwin Leuba (“Requester”) submitted a request (“Request”) to the Butler County Sheriff’s Office (“Sheriff’s Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

All available email metadata (limited to subject, sender address, all recipient addresses, including “to,” “cc,” and “bcc” fields, and date/time) for communications exchanged between any member of the [Sheriff’s Office] and any email address ending in @hsi.dhs.gov, @ice.dhs.gov, or @dhs.gov, during the period January 20, 2025 - May 26, 2026.

On May 27, 2026, the Sheriff’s Office asserted that the Request was misdirected and should have been forwarded to federal authorities. The Sheriff’s Office forwarded the Request to the Department of Homeland Security (“DHS”).

On June 18, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the Sheriff’s Office response and stating grounds for disclosure. The OOR invited

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

On July 9, 2026,¹ the Sheriff's Office submitted an attestation made under penalty of perjury² authored by Eric McCall ("McCall Attestation"), the agency open records officer ("AORO") for the Office, indicating that DHS provided guidance regarding the Request and advised that the Request was not misdirected. The Sheriff's Office conducted a search and responsive records were discovered, but the Sheriff's Office was advised by DHS that responsive records must be first sent to ICE³ for consultation.

LEGAL ANALYSIS

The Sheriff's Office 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 Sheriff's Office 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)).

Based upon the McCall Attestation, there is no objection by the agency to providing responsive records to the Request; however, the Sheriff's Office is still compiling responsive records and intends to send the records to ICE for review prior to providing those records to the

¹ A submission extension was granted until July 10, 2026. *See* 65 P.S. § 67.1102(a)(1).

² 18 Pa.C.S. § 4904.

³ U.S. Immigration and Customs Enforcement.

Requester. McCall Attestation ¶¶ 13-14. Captain McCall attests that he began compiling responsive records on July 8, 2026 to transmit to ICE for review, and that the redacted responsive records are expected to be provided to the Requester by July 24, 2026 and the Sheriff's Office will provide an attestation stating why responsive records are not public, if necessary. McCall Attestation ¶¶ 15-16. While the Sheriff's Office originally requested in its July 1, 2026 correspondence a submission extension until July 30, 2026, in order to provide enough time for this process, the Requester would not agree to a Final Determination extension that would have allowed an extended submission period. *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)."). However, as the statutory Final Determination deadline is July 20, 2026, and no grounds for denial have been raised by the Sheriff's Office, we must grant the appeal.

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the Sheriff's Office is required to provide all responsive records 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 Butler 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.⁴ All documents or communications following the issuance of this Final Determination shall be sent to

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

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 14, 2026

/s/ Julie Sodl

APPEALS OFFICER
JULIE SODL

Sent via E-File Portal to: Darwin Leuba
Captain Eric McCall, AORO