



FINAL DETERMINATION

IN THE MATTER OF	:
	:
RAYMOND HOFELDER,	:
Requester	:
	:
v.	: Docket No: AP 2026-3358
	:
YARDLEY BOROUGH,	:
Respondent	:

FACTUAL BACKGROUND

On July 7, 2026, Raymond Hofelder (“Requester”) submitted a request (“Request”) to Yardley Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking the following:

Yardley Borough employees, Council members and Police Intern records regarding training, apparel and equipment expenditures from January 1, 2023, through July 7, 2026. This request includes purchase orders, invoices, receipts, credit card statements, and uniform allowance records. Covered items include training courses, patches, badges, standard uniforms (shirts, pants, shorts, shoes, ties, gloves, hats), specialized apparel (coats, jackets, fleeces, sweatshirts, hoodies, polo shirts, vests, masks), and tactical gear (armored vests, tactical helmets, duty belts, tactical boots and gloves, traffic control wands, heavy-duty flashlights).

The Requester asked for the records in electronic format. On August 4, 2026, following a thirty-day extension, 65 P.S. § 67.902(b), the Borough issued a response granting in part and denying in part the Request. The Borough informed the Requester that it had identified approximately ten pages of responsive invoices concerning apparel purchases for Borough

employees, all of which are maintained solely in paper format. The Borough made these records available for in-person inspection at the office or, alternatively, as paper copies at a duplication rate of \$0.25 per page, for an estimated total of \$2.50. The Borough denied the portion of the Request with respect to electronic copies as they are not maintained electronically. The Borough also denied the portions of the Request seeking training, apparel and equipment expenditure records for Borough Council members and police interns as the search did not identify responsive records in the Borough's possession, custody or control.

On August 14, 2026, the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. The Requester challenged the sufficiency of the search and argued that electronic records are required to be provided. The Requester also asked for the OOR to make a finding of bad faith on behalf of the Borough. 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 this appeal. 65 P.S. § 67.1101(c).

On September 1, 2026, in support of its position that the appeal should be denied, the Borough provided the attestation of Patricia Sargent, ("Sargent Attestation"). Ms. Sargent is the Financial Assistant for the Borough and attests that she has personal knowledge of the facts as outlined in the position statement. Sargent Attestation, ¶1.

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. 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). Under the RTKL, a sworn affidavit or 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 the requested records exist, “the averments in [the Affidavit] should be accepted as true.” *McGowan v. Pa. Dep’t of Envlt. 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)).

Section 701 of the RTKL provides that “[a] record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.” 65 P.S. § 67.701. The RTKL does not define “medium;” however, the OOR has defined it “as the substance through which something is transmitted or carried, a ‘means,’ such as on paper or on the hard-drive or on a database or over the internet.” *Acton v. Fort Cherry*

Sch. Dist., OOR Dkt. AP 2009-0926, 2009 PA O.O.R.D. LEXIS 786, *aff'd*, No. 2010-719 (Wash. Com. Pl. July 26, 2011), *aff'd*, 38 A.3d 1092 (Pa. Commw. Ct. 2012), *petition for allowance of appeal denied*, 57 A.3d 72 (Pa. 2012). “Under the RTKL, ‘medium’ is a broad term, and ‘electronic medium’ encompasses all electronic formats.”

Section 705 of the RTKL frees agencies from the obligation “to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Moore v. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (holding that an agency cannot be made to create a record that does not exist). In accordance with Section 705 of the RTKL, the Borough is not required to convert these records into an electronic medium. *See* 65 P.S. § 67.705; *Ayoob v. Glenfield Borough*, OOR Dkt. AP 2021-1513, 2021 PA O.O.R.D. LEXIS 1516 (acknowledging that the agency was not required to create electronic copies of records that existed only as hard copies); *Ayoob v. Haysville Borough*, OOR Dkt. AP 2021-1565, 2021 PA O.O.R.D. LEXIS 1651 (same).

Preliminarily, the Borough states that while the initial review of the Request was interpreted to understand that the reference to “Borough employees” meant administrative staff only, the Borough admits on appeal that it is reasonable to include police officers within the Request as police officers are Borough employees. The Borough states it is currently searching for records related to police officers and any responsive records found will be produced to the Requester. Therefore, the appeal is granted with respect to responsive records relating to the police officers.

With respect to the issue of whether the Borough conducted a good faith search for the records and the production of said records in paper format only, the Borough supplies the Sargent

Attestation. Ms. Sargent attests that following the receipt of the Request, a record search was initiated under the direction of the Borough Manager and Open Records Officer, Paula Johnson.¹ *Id.* at ¶6. Ms. Sargent attests that the search was initiated by Ms. Johnson, herself, and Recording Secretary and RTK Assistant Kathryn Wessels. *Id.* She affirms that the only responsive records found, with the exception of the police officers as indicated above, were the ten pages of responsive invoices concerning the purchase of shirts for Borough employees. *See* Position Statement; *see also* Sargent Attestation, ¶7. These records were maintained solely in paper copy format. *Id.* The Borough offered to provide these to the Requester either via in-person inspection or by duplication at a duplication rate of \$0.25 per page. *Id.*

With respect to the issue of electronic production of records, the Borough also states that it properly provided access to the responsive records in the medium in which they exist, therefore fulfilling its duty under the RTKL. Section 701 of the RTKL states that “[a] record being provided to a requester shall be provided in the medium requested if it exists in that medium; otherwise, it shall be provided in the medium in which it exists.” 65 P.S. § 67.701. The Requester argues that the records should be supplied in electronic form. However, the Borough is only required to provide the records in the form in which they exist, as was done here. *See* Sargent Attestation, ¶7.

Although the Borough did not initially include police officers in the search, the Borough admits that this was an error on its part and is currently remedying the issue. The OOR therefore declines to make a finding of bad faith. With respect to the format the responsive records were provided in, the Borough is not required to provide the records in the medium it does not exist in. The Requester argues that in other RTKL cases with the Borough, RTKL requests were fulfilled by reproducing responsive records onto a digital flash drive; however, that has no bearing on this

¹ During the pendency of this appeal, Ms. Johnson was out of the office due to a personal matter and delegated the responsibility of the appeal issue to Ms. Sargent. Sargent Attestation, ¶3.

particular RTKL Request. *See* 65 P.S. § 67.705; *Ayoob v. Glenfield Borough*, OOR Dkt. AP 2021-1513, 2021 PA O.O.R.D. LEXIS 1516. As the Borough attests the records are only in paper format, they are not required to reproduce the record electronically. *See* Sargent Attestation, ¶7.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the Borough is required to provide all responsive records as related to police officers to the Requester 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 or petition for review 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.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 website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 8, 2026

/s/ Meryl M. Peterman

MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via OOR E-file appeal portal to: Raymond Hofelder
Travis Hunsberger, Esq.

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