



FINAL DETERMINATION

IN THE MATTER OF	:
	:
MARQUIS LIVINGSTON,	:
Requester	:
	:
v.	: Docket No: AP 2026-3648
	:
PENNSYLVANIA DEPARTMENT OF	:
TRANSPORTATION,	:
Respondent	:

On July 30, 2026, Randall Flager, Esq., on behalf of his client Marquis Livingston (“Requester”), submitted a request (“Request”) to the Pennsylvania Department of Transportation (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq*, seeking (1) “[r]ecords of any and all complaints made pertaining to a sunken and/or depressed drainage grate in the roadway of Interstate 95 northbound ... on any date within 5 year period preceding March 8, 2026”; and (2) [t]he contract identifying the contractors involved in performing the specific road work which included the installation of drainage grate identified above.”

On September 2, 2026, after invoking a thirty-day extension of time to respond, *see* 65 P.S. § 67.902(b), the Department denied Item 1 of the Request, arguing that the records related to a noncriminal investigation, 65 P.S. § 67.708(b)(17), and partially denied Item 2 of the Requested, providing responsive records to the Requester from which personal identification information was redacted, 65 P.S. § 67.708(b)(i)(A).

Also on September 2, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and informed the Department that notice to third parties may be necessary, 65 P.S. § 67.1101(c).

On September 16, 2026, the Department submitted a position statement, reiterating its grounds for denial, and the affidavits, made subject to the penalties set forth in 18 Pa.C.S. § 4904, from Adam Shanabrook (“Shanabrook Affidavit”), the Department’s Open Records Officer, and Din Abazi (“Abazi Affidavit”), the Department’s District Executive for Engineering District 6-0. The Requester did not submit any additional legal argument or evidence.

As the Appeals Officer assigned to this matter, I have reviewed the appeal filed with the OOR, as well as the parties’ submissions in support of their positions. Based upon my review of the appeal and the necessary evidence, I make the following conclusions of law and findings of fact:

1. The Department has proven that the records responsive to Item 1 of the Request relate to a noncriminal investigation.

The Department denied Item of the Request, arguing that Section 708(b)(17) of the RTKL exempts from disclosure records relating to a noncriminal investigation, including ... “[c]omplaints submitted to an agency” 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)(i), (vi)(A). The Abazi Affidavit demonstrates that District Executive Abazi conducted a search for records responsive to Item 1 of the Request, which seeks, in part, “[r]ecords of any and all complaints made pertaining to a sunken and/or depressed drainage grate in the roadway of Interstate 95 northbound” on any date within the five years proceeding March 8, 2026. The Abazi Affidavit confirms that the Department possesses responsive records that relate to the investigation of

potholes on Interstate 95 in Philadelphia County. Abazi Affidavit, ¶ 8. More generally, the Abazi Affidavit explains that, as part of the Department's investigatory responsibility, it is required to gather information by way of Customer Care Center complaints and, upon receipt of a complaint, the Department investigates the matter to assess the proper response by systematically assigning the complaint to the appropriate Department personnel for further examination and, if necessary, requesting assistance from other Department personnel to conduct a thorough examination of the complaint. *Id.* at ¶¶ 10-13. As a result of the investigation, the Department identifies potential courses of action to address roadway issues. *Id.* at ¶ 14. Finally, the Abazi Affidavit affirms that these investigations are undertaken pursuant to the Department's oversight responsibilities to maintain the Commonwealth's roadways. *See* 71 P.S. § 512(a)(10); *see also* 75 Pa.C.S. § 6104(c). Based upon the evidence provided, as well as the express language of Item 1 of the Request which seeks complaints, the Department has met its burden of proving that the complaint records responsive to Item 1 are exempt from disclosure. *See, e.g., Fitch v. Pa. Dep't of Transp.*, OOR Dkt. AP 2023-1743, 2023 PA O.O.R.D. LEXIS 1900.

2. The Department may redact personal telephone numbers from the records responsive to Item 2 of the Request.

The Department denied access to personal telephone numbers contained within certain records responsive to Item 2 of the Request. Shanabrook Affidavit, ¶¶ 4-5. Section 708(b)(6)(i)(A) of the RTKL expressly permits the redaction of certain personal identification information, including personal telephone numbers, from responsive records. 65 P.S. § 67.708(b)(6)(i)(A). Insofar as the redacted telephone numbers are not held out to the public, the Department has proven that they may be withheld from disclosure. 65 P.S. § 67.708(a); *see also Pa. State Sys. of Higher Educ. v. Fairness Ctr.*, No. 1203 C.D. 2015, 2016 Pa. Commw. Unpub. LEXIS 245 (Pa. Commw. Ct. 2016).

For the foregoing reasons, the appeal is **denied**, and the Department 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 Commonwealth Court. 65 P.S. § 67.1301(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. 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: 22 September 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Randall Flager, Esq. and Michael Levin, Esq.
Madison Reed, Esq. and Adam Shanabrook, AORO