



FINAL DETERMINATION

DATE ISSUED AND MAILED: September 23, 2026

IN RE: *Janice Stoudemire v. Phoenixville Police Dep't*, OOR Dkt. AP 2026-3732

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the parties’ submissions, the OOR finds as follows:

The records are exempt from disclosure. The Request submitted to the Phoenixville Police Department (“Department”) seeks records concerning the death of the Requester’s sister.¹ Section 708(b)(17) of the Right-to-Know Law exempts from disclosure records “of an agency relating to a noncriminal investigation, including ... [i]nvestigative materials, notes, correspondence and reports...” 65 P.S. § 67.708(b)(17)(ii). On September 18 and September 22, 2026, the Department submitted a position statement and two attestations, made subject to the penalty of perjury, from Patrick Mark, the Department’s Open Records Officer, who identified and reviewed the responsive records and attests that the records relate to a wellness check conducted by Officer Gauger and/or Detective Komorowski. Mark Attestation, ¶¶ 5-12. Based upon this evidence, as well as the undisputed statements regarding the nature of the investigation, the Department has met its burden of proving that the records are exempt from disclosure.² 65 P.S. § 67.708(a)(1); *Pa. Game Comm’n v. Fennell*, 148 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements contained in the appeal as evidence).

For this reason, the appeal is **DENIED IN PART** and **DISMISSED AS MOOT IN PART**, the Department is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Chester 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.³ 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>.

Issued by:

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Janice Stoudemire; Bethany O’Neill, Esq.; Lt. Patrick Mark, AORO

¹ A copy of a will document with a penned note responsive to Items 3 and 4 of the Request was provided to the Requester during the appeal; therefore, the appeal as it relates to the record provided is moot. *See* Mark Second Attestation, ¶¶ 3-8.

² In her response to the Department’s submission, the Requester acknowledges the presence of an investigation and disputes the alleged loss of evidence related thereto. *See* Requester Submission dated September 18, 2026.

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