



FINAL DETERMINATION

IN THE MATTER OF

**CHRISTOPHER MELUSKY,
Requester**

v.

**SCHUYLKILL COUNTY,
Respondent**

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Docket No: AP 2026-3122

FACTUAL BACKGROUND

On June 5, 2026, Christopher Melusky (“Requester”) submitted a request (“Request”) to Schuylkill County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records related to all Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funds and American Rescue Plan Act (“ARPA”) funds administered, allocated, transferred, or expended by the County. The Requester indicated that he wanted electronic copies.

On July 10, 2026, following an extension during which to respond, 65 P.S. § 67.902(b), the County granted the Request and provided responsive records, all in hard copy.

On July 30, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the County’s response and stating grounds for disclosure. The Requester claims that the County did not make a good faith effort to determine whether the agency has possession, custody, or control of the requested records, and that he is entitled to receive the records in

electronic format. 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).

In support of its position, on August 11, 2026, the County submitted attestations made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, by Open Records Officer Lois Lebo (“Lebo Attestation”) and Sharyn Yackenchick (“Yackenchick Attestation”), the County’s Controller.

On August 11, 2026 the Requester uploaded a supplemental position statement and responsive records, and on August 12, 2025, the Requester uploaded an additional supplemental position statement. The undersigned appeals officer reviewed all information filed relating to the Request.

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)).

1. Medium and Duplication Costs

The Requester asks the OOR to determine whether the County violated the Section 701 of the RTKL by providing hard copies of the Requested records. The Requester also asks the OOR

to determine whether assessing duplication fees after converting electronically maintained records into paper copies was consistent with the RTKL.

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. Here, the Requester asked to receive any responsive records as electronic copies, and he provided an email address. However, Open Records Officer Lebo attests that “[w]hile the documents exist within an electronic program, they cannot be saved to an outside source or emailed, so printed copies are the only option for review.” Lebo Attestation, ¶ 5.¹ Moreover, a review of the records submitted to the Appeals Portal by the Requester indicates that the information was drawn from an electronic database as opposed to simply printing existing electronic records. The County was permitted, therefore, to create hard copy records of the responsive information.

In addition, the OOR finds that the postage (\$9.55 for one envelope containing ninety-two pages) and \$0.25 per page duplication fees are reasonable. *See* OOR Fee Structure, www.openrecords.pa.gov/RTKL/FeeStructure.cfm (authorizing up to \$0.25 per copy for the first 1,000 pages of black and white copies).

2. The County failed to perform an adequate search for responsive records

We next consider whether County conducted a good faith search for all responsive records. 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

¹ 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).

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).

Here, Open Records Officer Lebo attests that upon receipt of the Request, she forwarded it to the County’s Controller, Sharyn Yackenchick. The fact that the search uncovered responsive records proves that this was an appropriate decision, however the County does not explain why this is the only County office with potentially responsive records. There is no evidence that Open Records Office Lebo contacted, for example, the County’s Financial Director, Administrator, or Treasurer.

For this reason, the OOR finds that the County did not prove that it conducted a search reasonably calculated to uncover all relevant documents. Therefore, it has not proven that no other records exist in its possession, custody or control. *See Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) (“The burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.”).

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the County is required to conduct a good faith search in accordance with 65 P.S. § 67.901 and provide any additional responsive records to the Requester; alternatively, if no records are discovered as a result of this search, the County is required to provide a sworn affidavit or a statement made under the penalty of perjury demonstrating that no additional records exist. Any such affidavit or statement shall outline the scope of the additional search. 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 Schuylkill 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 OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 30, 2026

/s/ Josh Macel

JOSH MACEL
APPEALS OFFICER

Sent via portal to: Christopher Melusky; Lois Lebo (AORO)

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