



FINAL DETERMINATION

IN THE MATTER OF

**JIMMY CLOUTIER AND
PITTSBURGH POST-GAZETTE,
Requester**

v.

**PITTSBURGH CITY,
Respondent**

:
:
:
:
:
:
:
:
:
:
:
:

Docket No: AP 2026-3119

FACTUAL BACKGROUND

On June 10, 2026, Jimmy Cloutier, on behalf of the Pittsburgh Post-Gazette (collectively, “Requester”), submitted a request (“Request”) to Pittsburgh City (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking fire incident data from August 11, 2025 to June 10, 2026,¹ in “native digital formats,” including, call number; incident type and description; address, block or intersection of incident; time of alarm; time of first [Pittsburgh City Bureau of Fire (“PBF”)] unit on scene; number of alarms; responding unit and “any additional fields not listed above but included in fire incidents data[,]” such as “incident coordinates, cause of incident, number of injuries, etc.” (“Item 1”). The Request also sought “any documentation produced to describe how the data is structured, updated, and interpreted[,]” including, “but not

¹ Although the timeframe is listed in the Request as from “Aug. 11, 2025 to the date this [R]equest is fulfilled[,]” the Request can only seek records that were existence as of the date of the Request. *See, e.g., Pa. Dep’t of Labor & Indus. v. Tabor*, No. 525 C.D. 2015, 2016 Pa. Commw. Unpub. LEXIS 251 (Pa. Commw. Ct. Mar. 31, 2016). Therefore, the timeframe is actually from August 11, 2025 to June 10, 2026.

necessarily be limited to[.]” “all record layouts, database schemas, entity relationship diagrams, database diagrams, data dictionaries, glossaries, and user guides describing the data and/or its usage” (“Item 2”).²

On July 16, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the City denied the Request, asserting that it is insufficiently specific under 65 P.S. § 67.703, that the City is not required to create records, *see* 65 P.S. § 67.705, and that nothing in the RTKL should be construed to modify, rescind or supersede any of the City’s record retention policies. *See* 65 P.S. § 67.507.

On July 30, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.³ Specifically, the Requester argued that the Request is sufficiently specific and that 65 P.S. § 67.705 is inapplicable because fire departments are required to report incident data to state and federal reporting systems and because the PBF has historically published the requested data “and presumably relies on some internal version of it to compile the incident statistics in its own public annual reports.” The OOR invited both parties to supplement the record and directed the City to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On August 20, 2026, the City submitted a 1640-page excel spreadsheet containing responsive fire incident data (“Disclosed Spreadsheet”), a note to the responsive record (“Note”)

² The Request, which is five pages, is summarized here for the sake of efficiency. *See* Requester Appeal, pp. 13-17. The Request also included a link to the Western Pennsylvania Regional Data Center website where fire incident data for the PBF was publicly accessible prior to August 11, 2025. *See* <https://data.wprdc.org/dataset/fire-incidents-in-city-of-pittsburgh> (last accessed Oct. 1, 2026).

³ The Requester granted the OOR a thirty-day extension to issue a final determination. *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)”).

and a position statement, arguing that it “possesses no other responsive data or data dictionaries or similar records.”⁴

That same day, the OOR directed the Requester to review the information provided by the City and to identify all outstanding issues by August 27, 2026, noting that otherwise, the OOR may find the appeal to be moot, at least in part.

On August 28, 2026, having received no response from the Requester, the OOR directed the City to file competent evidence supporting the factual statements made in its August 20, 2026 submission and providing clarification as to the existence of any additional responsive records.

In response, on September 4, 2026, the City submitted correspondence, indicating that the PBF makes responsive fire incident data available on the National Emergency Response Information System (“NERIS”) website.⁵ *See* 65 P.S. § 67.704. In addition, the City submitted the attestation of Mat Davis, Assistant Chief for the PBF (“Davis Attestation”), which is made subject to penalties under 18 Pa.C.S. § 4904⁶ and indicates, in part, that certain data is exempt because it relates to criminal and noncriminal investigations. *See* 65 P.S. §§ 67.708(b)(16), (b)(17).⁷

⁴ The City abandoned its 65 P.S. § 67.703 argument on appeal; therefore, that issue will not be further addressed in this Final Determination.

⁵ *See* <https://neris.fsri.org/> (last accessed Oct. 1, 2026). NERIS “is the new primary platform for documenting fire and all-hazards incident data across the United States, and “NERIS Public” provides separate data services for fire department locations, fire stations tied to their fire departments, fire department service area boundaries and incident data. *See* <https://neris.fsri.org/faqs>; <https://neris.fsri.org/public>.

⁶ Generally, under the RTKL, a 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. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the City has acted in bad faith, “... the averments in the [attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

⁷ The City also indicated that “personally identifiable information like names and personal medical conditions” are exempt from public disclosure. *See* Davis Attestation, ¶ 11. Further, while the Request also sought “call numbers,” based on the Fire Incidents Data Dictionary of the Western Pennsylvania Regional Data Center, such refers to the “Unique ID” for the incident, not the actual caller phone number, as believed by the City. *See* <https://data.wprdc.org/dataset/fire-incidents-in-city-of-pittsburgh/resource/c3814fb2-e5c4-4e63-8d9d-78daeb6162ec> (last accessed Oct. 1, 2026). Therefore, because names, personal medical conditions and caller numbers were not

To date, the Requester has not responded to the OOR's August 20, 2026 inquiry or further supplemented the record.

LEGAL ANALYSIS

The City 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 City 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. The appeal is dismissed as moot in part

During the pendency of this matter, the City provided the Disclosed Spreadsheet, which contains an XREF ID, dispatch address, dispatch/incident type and the date/time for each fire incident covering the timeframe of the Request. *See* Davis Attestation, ¶¶ 7-8; *see also* August 20, 2026 City Submissions. The disclosed Note further explains that the “Incident Type” category listed in that spreadsheet “is the same as the data entered into category ‘Dispatch Type[.]’”

Additionally, on September 4, 2026, the City directed the Requester to the NERIS website where fire incident data for the same timeframe is publicly accessible and can be downloaded to an excel spreadsheet, including, in part, the following information for each incident: unique identifiers/call numbers, the incident type and description, the timestamp when the call was created

actually sought in the Request, they are not responsive; therefore, the OOR need not address the City's grounds for withholding that information.

and call processing began, the time in seconds between “call_create” and when dispatch closed the incident, the number of units dispatched, the actions/tactics taken by the department at the scene and the incident coordinates. User guides/references, data schemas, incident type diagrams, a Data Definition table and a Data Dictionary, which define the codes/categories of information included in the NERIS Incident Data spreadsheet for the PBF, which are responsive to Item 2, are also publicly accessible on the NERIS website.^{8,9}

To date, the Requester has not raised any issues for the OOR to adjudicate with respect to the above-mentioned responsive information and records that were provided on appeal. Accordingly, the appeal is dismissed as moot in part. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that a matter was settled by provision of records, and thus, “the controversy has been mooted”).

2. The appeal is transferred in part, and the District failed to show that certain information is exempt from disclosure under the RTKL

On appeal, the City indicates that it withheld certain categories of responsive information because they constitute personally identifiable information and/or relate to criminal and noncriminal investigations. Section 708(b)(6)(i)(A) of the RTKL exempts from disclosure “[a] record containing all or part of a person’s Social Security number, driver’s license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.” 65 P.S. § 67.708(b)(6)(i)(A).

⁸ See https://hub.arcgis.com/datasets/241c7985c3b14da39ae67d2925a677e0_0/about; <https://neris.fsri.org/data-dictionary?module=incident-fire&page=1&pageSize=25>; <https://neris.fsri.org/user-reference> (last accessed Oct. 1, 2026).

⁹ Section 704(b) of the RTKL permits an agency to respond to a request for records “by notifying the requester that the record is available through publicly accessible electronic means” 65 P.S. § 67.704(b)(1). Directing a requester to an internet website satisfies an agency’s obligation under 65 P.S. § 67.704. *See Hutchman v. Allegheny Cnty.*, OOR Dkt. AP 2026-0208, 2026 PA O.O.R.D. LEXIS 581, *4-5.

Further, while not specifically raised by the City, the Pennsylvania Supreme Court has held that an individual possesses a constitutional right to privacy in certain types of personal information. *Pa. State Educ. Ass'n v. Commonwealth* (“PSEA”), 148 A.3d 142 (Pa. 2016). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must balance the individual’s interest in informational privacy with the public’s interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. *PSEA, supra*.

Additionally, Section 708(b)(16) of the RTKL exempts from disclosure “[a] record of an agency relating to or resulting in a criminal investigation[.]” 65 P.S. §§ 67.708(b)(16). The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See* 65 P.S. § 67.503(d)(2). Instead, such appeals are to be heard by an appeals officer designated by the local district attorney. *See id.*

Section 708(b)(17) of the RTKL, on the other hand, exempts from disclosure “[a] record of an agency relating to a noncriminal investigation, including,” among other things, “[i]nvestigative materials, notes, correspondence and reports.” 65 P.S. §§ 67.708(b)(17)(ii). For this exemption to apply, an agency must demonstrate that “a systematic or searching inquiry, a detailed examination, or an official probe ...” was conducted regarding a noncriminal matter. *Pa. Dep’t of Health v. Off. of Open Records*, 4 A.3d 803, 811 (Pa. Commw. Ct. 2010). Further, the inquiry, examination or probe must be conducted as “... part of the agency’s official duties.” *Id.* at 814; *see also Pa. Dep’t of Public Welfare v. Chawaga*, 91 A.3d 257, 259 (Pa. Commw. Ct. 2014).

As noted above, the Request expressly seeks fire incident data involving incidents from August 11, 2025 to June 10, 2026. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw.

Ct. 2016) (explaining that the OOR must consider uncontradicted statements contained in the appeal as evidence). The City’s attestation affirms that, in response to the Request, an inquiry was made to the PBF, which “consulted with the vendor of its internal data-management system, FirstDue[,]” and was able to export the data provided to the Requester in the Disclosed Spreadsheet. Davis Attestation, ¶¶ 2-8. In addition, the attestation indicates that:

9. Information such as ... cause of incident[] and number of injuries relate to the City’s criminal and noncriminal investigations relate[d] to arson and unintentional fire-related events.
10. The ... cause of incident, number of alarms, time of first response, and number of injuries would be relevant to City’s determination of arson and disclosure of this information would highlight cases the City is actively investigate[ng].
11. Information about the ... cause of incident, number of alarms, and number of injuries would also indicate what calls are for medical injuries

Id. at ¶¶ 9-11.

Accordingly, the instant appeal must be transferred, in part, to the Appeals Officer for the Allegheny County District Attorney’s Officer (“DA’s Office”), to the extent that it pertains to the withheld causes of incidents, number of alarms, times of first responses and number of injuries pertaining to arson events because the City has made a preliminary showing that said information may relate to criminal investigations. *See* 18 Pa.C.S. § 3301 (indicating that arson is a criminal offense in this Commonwealth); *see also* 65 P.S. § 67.503(d)(2); *Burgess v. Willistown Twp. Police Dep’t*, OOR Dkt. AP 2013-1511, 2013 PA O.O.R.D. LEXIS 868 (holding that where a local agency made a preliminary showing that records relate to a criminal investigation, the OOR lacked jurisdiction to consider the merits of the appeal).

However, the City’s attestation is too conclusory and does not contain enough factual detail to demonstrate how the withheld causes of incidents, number of alarms, times of first responses

and numbers of injuries pertaining to “unintentional fire-related events” are investigative in character or relate to specific noncriminal investigations conducted by the City and/or the PBF. *See, e.g., Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) (“a generic determination or conclusory statements are not sufficient to justify the exemption of public records”); *Pa. Dep’t of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2016) (“Affidavits that are conclusory or merely parrot the exemption do not suffice”). Therefore, the OOR must conclude that the City failed to show that said information is exempt from disclosure under 65 P.S. § 67.708(b)(17).

Furthermore, the cause of incident, number of alarms and number of injuries for each incident are not the types of information that are expressly exempt under 65 P.S. § 67.708(b)(6)(i)(A), nor can the OOR discern a cognizable privacy interest that exists in such information.¹⁰ Therefore, the City is directed to disclose the responsive causes of incidents, number of alarms, times of first responses and numbers of injuries pertaining to “unintentional fire-related events” to the Requester.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **dismissed as moot in part**, and the City is required to provide the responsive causes of incidents, number of alarms, times of first responses and numbers of injuries pertaining to “unintentional fire-related events” to the Requester within thirty days. Additionally, pursuant to 65 P.S. § 67.503(d)(2), the appeal is **transferred in part** to the Appeals Officer for the Allegheny County DA’s Office, to the extent it pertains to the withheld causes of incidents, number of alarms, times of first responses and number of injuries pertaining to arson events for the timeframe of the Request. A copy of this Final

¹⁰ Additionally, while not raised by the City, we note that the *number* of injuries for each incident would also not be exempt under 65 P.S. § 67.708(b)(5).

Determination and the appeal filed by the Requester will be sent to the Appeals Officer for the DA's Office.

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 Allegheny 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.¹¹ 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: October 8, 2026

/s/ Megan Burns

MEGAN BURNS
APPEALS OFFICER

Sent via OOR Portal to: Jimmy Cloutier; and Cade Richmond, AORO

Sent via mail/email to: Appeals Officer for the Allegheny County District Attorney's Office

¹¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).