pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JAKE NIEWINSKI,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-3856**
	:	
WRIGHT TOWNSHIP,	:	
Respondent	:	

FACTUAL BACKGROUND

On August 12, 2026, Jake Niewinski ("Requester") submitted a request ("Request") to Wright Township ("Township") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., stating:

> Subject Matter: [The Township's] consideration, authorization, purchase, installation, funding, operation, use, data sharing, and renewal of Flock Safety automated license plate reader [("ALPR")] cameras.
>
> Time frame: January 1, 2021 through the date of this [R]equest.
>
> Records Sought are electronic copies of:
>
> [1] All board of supervisor[s'] agendas, meeting packets, minutes, motions, resolutions, vote records, and available meeting audio/video concerning the approval, purchase, subscription, installation, renewal, expansion, or funding of ALPR cameras, including records showing the motion authorizing the program, voting method, and individual supervisor's votes if recorded.

> [2] The complete [] Flock contract, proposal, quote, order form, subscription agreement, amendments, renewals, invoices, purchase orders, payment records, grants, and funding records, including records showing the Township's total financial commitment and recurring subscription costs.
>
> [3] Records identifying each ALPR camera's location, including address/GPS coordinates, maps/site plans, property ownership, installation authorization, leases/licenses/easements/property-owner permissions, and any [Pennsylvania Department of Transportation] permits, approvals, correspondence, or right-of-way records for cameras located on, adjacent to, or monitoring PA route 309, Church Road, or other state-maintained highways.
>
> [4] All policies, general orders, procedures, contracts, data-retention rules, user-access rules, audit procedures, and system/network settings governing ALPR data collected; how long it is retained, deletion; historical searches; search justification; supervisory approval; and access to [the Township] ALPR data.
>
> [5] Records identifying all agencies or entities authorized or technically able to search, access, receive, or share [Township] ALPR databases/networks searchable by [Township] personnel, including Flock regional/national network access and federal, state, county, municipal, interstate, or private-entity access.
>
> [6] Existing audit reports, access/search logs, aggregate usage reports, compliance reports, and statistics showing the number and purpose/category of ALPR searches, and corrective action.
>
> Personal information of individual motorists is not requested.

On September 11, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Township partially granted the Request, providing responsive records. The Township also partially denied the Request, arguing that certain responsive records would threaten public safety or endanger the safety or physical security of public infrastructure. 65 P.S. §§ 67.708(b)(2), (b)(3). Additionally, the Township withheld records claiming the records contain exempt donor information and information protected by the constitutional right to privacy, as well as criminal investigative information. 65 P.S. §§ 67.708(b)(13), (b)(16).

On September 11, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. Specifically, the Requester indicates that

the Request does not require the disclosure of the donor's identity and the responsive records can be disclosed with this information redacted.[1] Additionally, the Requester notes that the Request does not seek criminal investigative materials, rather, the Request seeks "categories of records concerning administration, auditing, aggregate usage, compliance and statistics."[2] The OOR invited both parties to supplement the record and directed the Township to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On September 24, 2026, the Township submitted a position statement reiterating its grounds for denial. In support of its position, the Township submitted the attestation made under the penalty of perjury[3] authored by Pamela Heard ("Heard Attestation"), the Township's Agency Open Records Officer ("AORO").

On September 24, 2026, the Requester submitted a response to the Township's position statement, arguing that the Township has not described the search performed for responsive records, specified whether records are being withheld, or indicated if additional responsive records exist. The Requester also reiterates that he is not seeking criminal investigative records and does not object to donor information being withheld, but instead, argues redacted records should be provided.

On October 1, 2026,[4] the Township submitted a reply brief and second attestation made under the penalty of perjury[5] authored by AORO Heard ("Heard Attestation II"). The Township provided additional responsive records and confirms that no additional responsive records exist

[1] *See* Requester appeal p. 5.
[2] *See* Requester appeal p. 6.
[3] 18 Pa. C.S. § 4904.
[4] On September 25, 2026, the Township requested an extension to submit a response to the Requester's arguments raised in his September 24, 2026 submission, which was granted. *See* 65 P.S. § 67.1102(b)(3) (stating that the appeals officers "shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute").
[5] 18 Pa. C.S. § 4904.

regarding funding or that reflect the location of cameras. As such, the Township no longer asserts records are being withheld under Sections 708(b)(2), (b)(3) and (b)(13) of the RTKL and the constitutional right to privacy. The Township also asserts that the Requester's September 24, 2026 submission is untimely and impermissibly expands the Requester's basis for the appeal.[6]

LEGAL ANALYSIS

The Township 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 Township 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. Responsive records were provided on appeal

On appeal, the Township provided a photograph regarding the location of a camera responsive to Item 3 of the Request and four records concerning the donation made by a citizen f

[6] The Requester's attempts to object to the thoroughness of the Township's search and the existence of a contract agreement with Flock were not raised in his initial appeal statement. As a result, the Requester waived these issues. *See Pa. Dep't of Corr. v. Off. of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011). Furthermore, both parties had the opportunity to submit their positions on appeal, and the burden of proof remains on the agency, not the requester. *See* 65 P.S.§ 67.1101(a)(2); 65 P.S. § 67.708(a)(1). Of note, a requester in a RTKL appeal does not have the right to rebut an agency's submission. *UnitedHealthcare of Pa., Inc. v. Baron*, 171 A.3d 943, 952 (Pa. Commw. Ct. 2017) ("Requester is not entitled to rebuttal for the sake of having the last word"); *Jensen v. Pa. Dep't of Corr.*, No. 317 C.D. 2023, 2024 Pa. Commw. Unpub. LEXIS 108, *8 (finding that a requester did not have a due process right to respond to the agency's position statement). However, the OOR did accept the Requester's September 24, 2026 submission into the record.

or the purchase of Flock cameras in response to Items 1 and 2 of the Request.[7] Therefore, the appeal is dismissed as moot as to the records provided. *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 Township proved additional funding records responsive to Item 2 of the Request and additional records identifying the location of the Flock cameras responsive to Item 3 of the Request do not exist in its possession, custody or control

The Township asserts that additional funding records responsive to Item 2 of the Request and additional records identifying the location of the Flock cameras responsive to Item 3 of the Request do not exist in the possession, custody or control of the Township. In response to a request for records, "…an agency shall make a good faith effort to determine…whether 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 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

[7] One responsive record contained redacted donor identification information; however, the Requester has indicated he does not object to such a redaction. *See* Requester's September 24, 2026 Submission.

O.O.R.D. LEXIS 750; *see also Mollick v. Twp. Of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

Here, AORO Heard indicates that she conducted a thorough search of Township files regarding funding records and found four records comprising of four pages. Heard Affidavit II ¶¶ 3-4. These records were provided to the Requester, with only one record redacted of personal information of the donor who provided the funds for the Flock cameras. *Id.* ¶¶ 6-8. AORO Heard also located an additional record responsive to the portion of the Request seeking the location of Flock cameras and provided the record to the Requester on appeal. *Id.* ¶ 11. AORO Heard also confirmed that all records responsive to Item 6 of the Request have been provided, except for records related to criminal investigations.[8] Heard Affidavit ¶ 10.

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 Township has acted in bad faith or that additional responsive records exist, "the averments in [the attestations] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)). There has been no sufficient evidence provided that otherwise contradicts the statements offered by the Township in the attestations submitted. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022). Thus, based upon the evidence presented, the Township has proven by a preponderance of the evidence that no additional responsive records exist in the Township's possession, custody or control. *See* 65 P.S. § 67.708(a).

[8] The Requester asserts he does not seek criminal investigation records, nor does the language of Item 6 of the Request seek criminal investigative records. Accordingly, the criminal investigative records are not responsive to the Request.

CONCLUSION

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the Township 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 to the Luzerne 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.[9] 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/ Julie Sodl

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APPEALS OFFICER
JULIE SODL

Sent via E-File Portal to: Jake Niewinski
Pamela Heard, AORO
John T. Zelinka, Esq.

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