



FINAL DETERMINATION

IN THE MATTER OF	:
	:
JENNIFER HAMMERSTONE,	:
Requester	:
	:
v.	: Docket No: AP 2026-3316
	:
PENNSYLVANIA DEPARTMENT OF	:
TRANSPORTATION,	:
Respondent	:

On June 29, 2026, Jennifer Hammerstone (“Requester”) submitted a request (“Request”) to the Pennsylvania Department of Transportation (“Department” or “PennDOT”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

... a complete copy of my call history to the PennDOT agency. I am requesting incoming as well as outgoing calls, dates, times, and also call summary. It is to my understanding that each agent is required to document a detailed summary pertaining to the communication had with the client. I am also requesting a copy of communications exchanged via email with myself, [email address omitted] and PennDOT, as well as USPS mail from June 05,2025 until present.

Following a thirty-day extension of time to respond to the Request, 65 P.S. § 67.902, during which the Department was in communication with the Requester to further clarify the Request, on August 6, 2026, the Department partially denied the Request, by providing redacted records, claiming that the responsive records contain exempt personal identification information, 65 P.S. § 67.708(b)(6)(i)(A), an individual’s birth date, 65 P.S. §§ 67.708(b)(1)(ii); (b)(6)(i)(A), and home addresses that are protected by the constitutional right to privacy.

On August 12, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the partial denial and stating grounds for disclosure. Specifically, the Requester claims that the records provided are not the specific records sought in the Request. The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On August 25, 2026, the Requester submitted two statements in support of the appeal, claiming that “PennDOT represented that responsive records were provided, but the responsive records that I specifically requested were not actually provided to me[,]” as she did not “receive the actual responsive production corresponding to the call records, email communications, USPS records, and other communications specifically identified in my request.” The Requester further states that she is not challenging any redaction permitted under the law and that the Request concerns her dispute with the Department regarding the status of her driving privileges. We note that the RTKL must be construed without regard to the identity of the requester, as “[t]he status of the individual requesting the record and the reason for the request, good or bad, are irrelevant as to whether a document should be made public under Section 301(b) [of the RTKL].” *See Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Commw. Ct. 2014); *see also* 65 P.S. § 67.102; 65 P.S. § 67.305; *Advancement Project v. Pa. Dep’t of Transp.*, 60 A.3d 891 (Pa. Commw. Ct. 2013).

On September 2, 2026, the Department submitted a position statement, indicating that when the appeal was filed, the Department contacted the Requester in an attempt to resolve the appeal and provided one additional responsive record.¹ *See* Department position statement, p. 2;

¹ The Department notes that during the interaction with the Requester, an attempt was made to expand the scope of the Request. While we commend the Department for clarifying the Request during the initial processing, as neither the OOR nor the Requester are permitted to alter the request on appeal. *See McKelvey v. Office of Attorney General*,

Shanabrook Attestation, ¶¶ 20-21; Exh. B. The Department further argues that the responsive records were provided to the Requester and the redactions were appropriate. Lastly, the Department claims that no additional responsive records exist within its possession, custody or control. The Department submitted an attestation authored by the Department's Open Records Officer, Adam Shanabrook ("AORO"), that was made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities who attests that a search was conducted and that no additional responsive records exist ("Shanabrook Attestation").²

1. The appeal is moot in part

Upon receipt of the appeal, AORO Shanabrook contacted the Requester in an attempt to resolve the appeal and conducted a supplemental search of records within the Department's the Driver and Licensing Services ("DVS") Office. Based upon the supplemental search, one additional email record was provide to the Requester. *See* Shanabrook Attestation, ¶¶ 21-22; Exh. B. Accordingly, the appeal is moot as to the additional email record. *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 Department proved that no additional responsive records exist

The Department argues that, other than the additional record provided during the appeal, no additional responsive records exist within its possession, custody or control. In response to a request for records, "an agency shall make a good faith effort to determine if ... the agency has

172 A.3d 122 (Pa. Commw. Ct. 2017) ("Once a RTKL request is submitted, a requester is not permitted to expand or modify the request on appeal.")

² 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 Department has acted in bad faith or that additional responsive records exist, "the averments in [the statement] 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 *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Additionally, AORO Shanabrook attests that the statements made in the Department's position statement are true and correct. *See* Shanabrook Attestation, ¶ 25.

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 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).

In support of the Department’s position, Shanabrook attests, in relevant part, the following:

4. After receipt of this request, Hammerstone emailed me stating she is expanding the scope of her request to include correspondence with Bureau of Driver Licensing (“BDL”), Clerk Supervisor 2, Georgette Cottrell. *See* July 14, 2026 email attached as Exhibit A.

5. Upon receipt of this Request and additional email, I assigned the request to DVS Digital Coordinator, Lauren Davis, to conduct a thorough and good faith search for records.

6. In her position with the Department, Davis would have access to records pertaining to the referenced actions in the Request.

7. Davis produced records responsive to the Request, which were appropriately redacted and provided to Hammerstone.

8. DVS interpreted the request for “date and times” and “copy of my call history” to mean Hammerstone is requesting a call log, which the Department does not possess.

9. Additionally, DVS call center and clerical staff are not required to create or maintain a record of calls that would correspond to Hammerstone's request for call summaries.

10. Moreover, it should be noted that Hammerstone has communicated by phone with both the Department's DVS call center and the BDL.

11. I confirmed with Davis that BDL does not record telephone conversations, and thus, the Department does not possess phone call recordings responsive to this supplementary request.

12. DVS call center calls are recorded and were produced to Hammerstone in response to the Request along with all responsive emails (the responsive emails are attached as Exhibit B); BDL calls are not recorded, and therefore, there are no extant call recording to produce from calls made to BDL.

...

19. On August 6, 2026, Hammerstone sent another email which again widened the scope of the original request. (August 6, 2026 email attached as Exhibit C).

20. Upon receipt of Hammerstone's appeal, I contacted DVS to conduct a second thorough, good faith search for records.

21. DVS produced one additional email, which is included in Exhibit B.

22. This additional email was produced to Hammerstone....³

The Department sought clarification during the processing of the Request. The search was conducted by relevant staff within the Driver and Vehicle Services Department and the Bureau of Drivers Licensing. Therefore, based on the evidence provided, the Department has met its burden of proof that it does not possess additional records responsive to the Request. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011). While the Requester claims that additional record should exist, the OOR makes no determination as to whether records *should* exist, as our

³ Shanabrook further attests that "on August 17, 2026 Hammerstone again expanded the scope of the original request." Shanabrook Attestation, ¶ 21; Exhibit C. the Requester cannot modify or expand the Request on appeal. *See, e.g., McKelvey v. Off. of the Att'y Gen.*, 172 A.3d 122, 125 (Pa. Commw. Ct. 2017); *Michak v. Pa. Dep't of Pub. Welf.*, 56 A.3d 925, 930 (Pa. Commw. Ct. 2012).

inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909; *see also* 65 P.S. § 67.705.

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, 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.⁴ 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: October 13, 2026

/s/ Kelly C. Isenberg

KELLY C. ISENBERG
DEPUTY CHIEF COUNSEL

Sent via OOR E-file Portal: Jennifer Hammerstone; Cassidy DeCosmo, Esq.; Madison Reed, Esq.; Jeffrey Spots, Esq.; Adam Shanabrook, AORO

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).