pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
DARWIN LEUBA,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-3891**
	:	
WEST YORK BOROUGH POLICE DEPARTMENT,	:	
Respondent	:	

FACTUAL BACKGROUND

On July 29, 2026, Darwin Leuba ("Requester") submitted a request ("Request") to the West York Borough Police Department ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> All correspondence concerning money, equipment, remuneration, reimbursement, awards, or the costs or funding of the 287(g) program or immigration enforcement, exchanged during the period January 1, 2025 – July 29, 2026 between any officer, employee, official, agent, contractor, or solicitor of the [Department], whether sworn or civilian, and any officer, employee, contractor, or representative of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP)], Homeland Security Investigations (HSI), the U.S. Department of Homeland Security (DHS), the Federal Emergency Management Agency (FEMA), the U.S. Department of Justice, or the U.S. Marshals Service. This includes[,] but is not limited to[,] email to or from any address ending in @ice.dhs.gov, @cbp.dhs.gov, @hsi.dhs.gov, @hq.dhs.gov, @associates.hq.dhs.gov, @dhs.gov, @fema.dhs.gov, @usdoj.gov, or @usms.doj.gov; and text messages, direct messages, voicemail and voicemail transcriptions, and messages sent through Signal, WhatsApp, Microsoft Teams, or any other application, whether on agency or personal accounts or devices.

On August 25, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department partially granted and partially denied the Request. The Department provided responsive records to the Requester subject to redactions.[1]

On September 15, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the redactions. The OOR invited both parties to supplement the record and directed the Department to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 1, 2026, the Department submitted a position statement and an attestation made under the penalty of unsworn falsification[2] from Matthew J. Millsaps ("Millsaps Attestation"),[3] the Department's Chief of Police, explains that the redactions – "the names of officers who participate in 287(g) enforcement and the names of ICE officials and officers" – were made pursuant to the personal security exemption of the RTKL, 65 P.S. § 67.708(b)(1)(ii). *See* Millsaps Attestation, ¶ 13.

LEGAL ANALYSIS

The Department 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

[1] The record reflects that the Requester submitted nine separate RTKL requests to the Department concurrently with this instant Request, which the Department internally docketed as 7-29-26-07. The Requester submitted the incorrect Department response with the appeal filing, which was for the request docketed as 7-29-29-07 by the Department. The Requester never submitted the correct Department response to the record. However, the Department participated in this appeal and supported its positions regarding the instant Request, 7-29-26-07; therefore, the OOR is satisfied that the record is complete and is able to reach the merits of this appeal.

[2] 18 Pa.C.S. § 4904.

[3] 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 [Attestation] should be accepted as true." *McGowan v. Pa. Dep't of Envt'l. 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

subject to the RTKL, the Department 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)).

In this matter, the Department identified responsive records that consisted of "correspondence and related materials concerning the 287(g) program exchanged between Department personnel and ICE and other federal personnel" and redacted the names of the officers and ICE officials who participate in the 287(g) program from the responsive records. Millsaps Attestation, ¶ 9. Section 708(b)(1)(ii) of the RTKL exempts from disclosure a record that "would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual." 65 P.S. § 67.708(b)(1)(ii). To establish that this exemption applies, an agency must show: (1) a "reasonable likelihood" of (2) "substantial and demonstrable risk" to a person's security. *Del. Cnty. v. Schaefer*, 45 A.3d 1149 (Pa. Commw. Ct. 2012). "Reasonably likely" has been interpreted as "requiring more than speculation." *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 375 (Pa. Commw. Ct. 2013); *see also California Borough v. Rothey*, 185 A.3d 456 (Pa. Commw. Ct. 2018) (holding that an agency must "offer more than speculation or conjecture to establish the security-related exceptions under the [RTKL]").

In support of its position, the Department relies on *Ciavaglia v. Bucks Cnty. Sheriff's Office*, OOR Dkt. AP 2025-2649, 2025 PA O.O.R.D. LEXIS 3175, 16 * that determined "[w]hile there is a clear public interest in the training certification of law enforcement, the OOR finds that the Office has met its burden of proof by a preponderance of the evidence that the disclosure

of the responsive 287(g) certification records poses a likelihood of a substantial and demonstrable risk to the personal security of those deputies." Additionally, the Department provided the Millsaps Attestation, which asserts, in part:

> 9. The search located records responsive to the Request, consisting of correspondence and related materials concerning the 287(g) program exchanged between Department personnel and ICE and other federal personnel.
>
> 10. The Department produced all of the responsive records to the Requester. No responsive record was withheld in its entirety.
>
> 11. Before the records were produced, I reviewed each responsive record and personally applied the redactions at issue in this appeal.
>
> 12. The only information I redacted was the names of two categories of individuals: (a) the Department's law enforcement officers who participate, or are credentialed to participate, in the 287(g) program; and (b) the officers, employees, and officials of ICE and other federal agencies who appear in the correspondence. No other information was redacted, and the balance of each record was produced.
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> …
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> 14. Based on my experience in law enforcement, I determined that publicly identifying these individuals by name as participants in, or counterparts in, 287(g) immigration enforcement would be reasonably likely to result in a substantial and demonstrable risk to their personal security. Law enforcement officers and ICE personnel associated with immigration enforcement have been subjected to a documented and escalating pattern of doxxing, swatting, harassment, and violence including the publication of home addresses, death threats against officers and their families, and physical attacks on agents and facilities. The redactions were the narrowest measure necessary to protect these individuals while releasing the substance of the responsive records.

Millsaps Attestation, ¶¶ 9-12, 14.

Here, the Department's evidence meets the burden of proving that the names of the officers and officials relating to the participation in the 287(g) program are exempt from disclosure under the RTKL because the disclosure of the names poses a likelihood of a substantial and demonstrable risk to the personal security of those officers and officials. *See* 65 P.S. § 67.708(b)(1)(ii). Moreover, the OOR recently reached the same conclusion in *Darney v. Carroll Twp. Police Dep't*,

OOR Dkt. AP 2026-2490, 2026 PA O.O.R.D. LEXIS 3175. *See Bayne v. New Kensington City*, OOR Dkt. AP 2021-0106, 2021 PA O.O.R.D. LEXIS 176; *Steinheiser v. SEPTA*, OOR Dkt. AP 2022-1908, 2022 PA O.O.R.D. LEXIS 2352.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, 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 to the York 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.[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 OOR website at: http://openrecords.pa.gov.

FINAL DETERMINATION ISSUED AND MAILED: October 15, 2026

/s/ Damian J. DeStefano

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DAMIAN J. DESTEFANO
APPEALS OFFICER

Sent via OOR E-file appeal portal to: Darwin Leuba; Nancy Love, AORO; Robert Gavin, Esq.

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