pennsylvania
OFFICE OF OPEN RECORDS

# FINAL DETERMINATION

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| **IN THE MATTER OF** | : | |
| | : | |
| **DARWIN LEUBA,** | : | |
| **Requester** | : | |
| | : | |
| **v.** | : | |
| | : | **Docket No: AP 2026-3892** |
| **PENNSYLVANIA DEPARTMENT OF CORRECTIONS,** | : | |
| **Respondent** | : | |

On July 20, 2026, Darwin Leuba ("Requester") submitted a request ("Request") to the Pennsylvania Department of Corrections ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> All available email metadata — limited to subject line, sender address, all recipient addresses (including "to," "cc," and "bcc" fields), and date/time sent — for communications exchanged between any employee or official of Pennsylvania Department of Corrections and any email address ending in @ice.dhs.gov, @hsi.dhs.gov, @cbp.dhs.gov, or @dhs.gov, during the period January 1, 2025 to the present.

On August 24, 2026, following a 30-day extension, 65 P.S. § 67.901, the Department responded, denying the Request as insufficiently specific under Section 703 of the RTKL. 65 P.S. § 67.703.

On September 15, 2026,[1] the Requester filed an appeal with the Office of Open Records ("OOR"), providing reasons for disclosure. 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 September 24, 2026, the Department submitted a position statement reiterating its argument that the Request is insufficiently specific. In support of this argument, the Department submitted the attestation of Kara Levering, a Legal Analyst, who attests that the Request cannot be fulfilled because the Department is unable to search all 17,000 employee accounts for responsive records.

On September 25, 2026, the Requester submitted a statement in reply, noting that the Request identifies a discrete type of record, a set number of parties, and a responsive timeframe. The Requester observes that the OOR has repeatedly found materially identical requests to other agencies to be sufficiently specific. Finally, the Requester argues that the Department has not established the technical infeasibility of compliance with the Request and notes that only a subset of the Department's workforce is likely to have corresponded with the identified addresses.

Section 703 of the RTKL states that "[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested." *Id*. When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, "[t]he subject matter of the request must identify the 'transaction or activity' of the agency for which the record is sought." *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, "[t]he

[1] On September 7, 2026 the OOR was closed in observance of Labor Day, and so the appeal was timely filed.

scope of the request must identify 'a discrete group of documents, either by type…or by recipient.'" *Id.* (quoting *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013). Finally, "[t]he timeframe of the request should identify a finite period of time for which records are sought." *Id*. at 1126 (citing *Carey*, *supra*). "The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request's timeframe is narrow enough is generally dependent upon the specificity of the request's subject matter and scope." *Id.*

The above factors are intended "to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested…. The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements." *Pa. Dep't of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), appeal denied, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting "the valid part of the request was included in a laundry list of requested materials").

Here, the Request seeks "[a]ll available email metadata," identifying various fields, "for communications exchanged between any employee or official of [the Department] and any email address ending in @ice.dhs.gov, @hsi.dhs.gov, @cbp.dhs.gov, or @dhs.gov, during the period January 1, 2025 - [date of the Request]." Metadata is a record that may be requested under the RTKL; it is commonly defined as "data that provides information about other data." Merriam-Webster, https://www.merriam-webster.com/dictionary/metadata (last accessed October 20, 2026). The OOR considers email metadata as a separate, distinct record from actual email records. *See, e.g., Leuba v. City of Pittsburgh* ("Leuba I"), OOR Dkt. AP 2025-3526 (consolidated), 2026

PA O.O.R.D. LEXIS 404. In other words, the underlying emails are not at issue here, only the metadata concerning those emails.

The timeframe is clearly specified but moderately lengthy, spanning the course of approximately 19 months. The scope of the Request identifies the types of information sought, seeking only a specific subset of email metadata. *See, e.g., Thomas v. Delaware Co.*, OOR Dkt. AP 2025-0528, 2025 PA O.O.R.D. LEXIS 1007 (explaining that "[m]etadata, or 'data that provides information about other data' is information in the possession, custody, or control of an agency, and therefore may qualify as a 'record' under the meaning of the RTKL") (citing 65 P.S. § 67.102). However, the Request does not identify specific senders or recipients. Finally, the Request does not offer a clearly defined subject matter but generally seeks any evidence of communications between the Department and the Department of Homeland Security.

While the Request does not state a specific subject matter, the lack of an identified subject matter is not fatal to a request. Notably, "[t]he absence of a stated subject matter is but one factor to consider in determining whether [a] request is sufficiently specific," and "[a] requester's failure to identify a subject matter may be accorded more or less weight depending upon other factors." *Methacton Sch. Dist. v. Office of Open Records*, 250 C.D. 2021, 2021 Pa. Commw. Unpub. LEXIS 670 (Pa. Commw. Ct. 2021). In *Carey*, the Commonwealth Court found a request for unspecified records ("all documents/communications") related to a specific agency project ("the transfer of Pennsylvania inmates to Michigan") that included a limiting timeframe to be sufficiently specific "to apprise [the agency] of the records sought." 61 A.3d 367. Additionally, while the Request does not identify any specific employees of either the Department or the Department of Homeland Security, as previously determined in *Pa. Dep't of Educ.*, "[t]he scope of the request must identify

'a discrete group of documents, either by *type* ... or by recipient.'" 119 A.3d 1121 (quoting *Carey*, 61 A.3d at 372) (Emphasis added).

As the Requester notes on appeal, this is not an issue of first impression for the OOR. In 2026, the Requester filed over eighty RTKL appeals against various municipal police departments, sheriff's offices and district attorney's offices, many using the same or substantially similar language to the language of the instant Request, and the OOR has generally found that the language is sufficiently specific. *See, e.g., Leuba v. Pa. State Police*, OOR Dkt. AP 2026-3964, 2026 PA O.O.R.D. LEXIS 3842.

However, the determination of specificity is a highly fact-specific endeavor. Here, the Department submitted the Levering Attestation, which provides that "[t]he Request does not identify any custodians of records, but instead includes any of the Department's nearly 17,000 employees, none of whom are identified within the Request[,]" and "[i]t is further important to note that there is no subject matter involved in this overarching matter that is applicable to the aforementioned request[.]" Levering Attestation, ¶¶ 9-10. In prior cases, the lack of any defined custodian weighed lightly against a finding of specificity because municipal agencies could easily narrow the universe of potentially responsive records to a few plausible individuals. Here, while the Requester correctly notes that "only a certain subset of the workforce would be communicating with external agencies[,]" the subset of 17,000 people across an entire statewide agency who might be communicating with the Department of Homeland Security is still substantial.[2]

[2] The OOR explicitly does not endorse the Department's argument that such a Request absolutely must list the Department staff who are custodians of the records; an RTKL request with a specific subject matter, for example, might reasonably allow the Department to identify probable custodians which the Requester has no way of knowing. However, the Request must provide sufficient context and information to permit the Department itself to identify those individuals.

Therefore, because the Department is a large agency which is likely to have many contacts with the Department of Homeland Security for various reasons, the lack of a subject matter or any context which would narrow the Department's search for records, in this case, renders the Request insufficiently specific. However, the OOR notes that nothing in this Final Determination prevents the Requester from filing a new RTKL request with the Department containing either a specific subject matter or other relevant context.

For the foregoing reasons, the appeal is **denied** and the Department is not required to take any further action at this time. 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.[3] 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 23, 2026**

*/s/ Jordan Davis*
Jordan C. Davis, Esq.
Deputy Chief Counsel

Delivered via e-file portal to: Darwin Leuba; Ralph Saliva, Esq.; Harlee Cuomo AORO;

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