pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
DARWIN LEUBA,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4232**
	:	
PENNSYLVANIA STATE POLICE,	:	
Respondent	:	

FACTUAL BACKGROUND

On July 30, 2026,[1] Darwin Leuba ("Requester") submitted a request ("Request") to the Pennsylvania State Police ("PSP") 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 [the PSP] and any email address ending in @ice.dhs.gov, @hsi.dhs.gov, @cbp.dhs.gov, or @dhs.gov, during the period January 1, 2025 through July 29, 2026.

On September 8, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the PSP denied the Request, arguing that the Request is insufficiently specific, 65 P.S. § 67.703. In support of the PSP's position, the PSP included a verification made subject to the

[1] The Request is dated July 29, 2026; however, it was received by the PSP on July 30, 2026.

penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, authored by Sarah Dietrich ("Dietrich Verification"), the PSP's Deputy Agency Open Records Officer ("AORO").

On September 29, 2026, the Requester appealed to the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed the PSP to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 14, 2026, the PSP submitted a position statement, reiterating its argument that the Request is insufficiently specific. The PSP argues that "the [R]equest does not contain enough information for the PSP to identify responsive public records" and that "the [R]equest fails to adequately define the subject matter of the communications in terms of an agency transaction or activity, and further fails to adequately limit the time period (more than one-and-a-half years) or scope of the communications requested (e.g., by naming specific PSP employees)."

On October 14, 2026, the Requester submitted a position statement, arguing that the "PSP's statement concedes that [OOR Dkt.] AP 2026-3964 involved 'a virtually identical request,' and it offers no new evidence."

LEGAL ANALYSIS

The PSP is a Commonwealth agency subject to the RTKL. 65 P.S. § 67.301. Records in the possession of a Commonwealth 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 PSP 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)).

Here, the PSP denied the Request as insufficiently specific under Section 703 of the RTKL, which 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." 65 P.S. § 67.703. 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 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 PSP] and any email address ending in @ice.dhs.gov, @hsi.dhs.gov, @cbp.dhs.gov, or @dhs.gov, during the period January 1, 2025 through July 29, 2026." 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 5, 2026). The OOR has considered email metadata to be 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 content of those emails are not at issue here, only the metadata concerning those emails.

Furthermore, the timeframe is clearly specified, spanning the course of approximately 19 months. The scope of the Request is somewhat broad, to the extent it seeks "all available" records but otherwise identifies a discrete type of record—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). Finally, the Request does not offer a clearly defined subject matter but generally seeks any evidence of communications between the PSP 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 the 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. The scope of the Request remains clear; it seeks records of email metadata. Additionally, while the Request does not identify any specific employees of either the PSP 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).

Because the Request identifies a discrete type of record, email metadata, the scope of the Request is sufficiently identified. The timeframe is finite, a period of approximately 19 months. As a result, the OOR determines that the Request is sufficiently specific. *See Leuba I; see also Leuba v. Schuylkill County*, OOR Dkt. AP 2026-2464, 2026 PA. O.O.R.D. LEXIS 2659 (finding a request seeking "metadata" to be sufficiently specific); *Leuba v. Schuylkill Haven Borough*, OOR Dkt. AP 2026-2647, 2026 PA O.O.R.D. LEXIS 2745; *Leuba v. Pa State Police,* OOR Dkt. AP 2026-3964, 2026 PA O.O.R.D. LEXIS 3842 (finding a similar request sufficiently specific). The PSP has not raised any other grounds for withholding or redacting responsive records, not demonstrated that no such records exist. Thus, we grant the appeal and order the PSP to conduct a good faith search for any records responsive to the Request and provide those records to the Requester.

CONCLUSION

For the foregoing reasons, the appeal is **granted**, and the PSP is required to conduct a good faith search for any requested records and provide them to the Requester within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist. 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 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 as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, 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.[2] 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: October23, 2026

/s/ Lyle Hartranft

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LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via OOR e-file portal to: Darwin Leuba; William Rozier, AORO; Colin Hitt, Esq.

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