pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KRISTEN BRUCE,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4263**
	:	
PENNSYLVANIA STATE POLICE,	:	
Respondent	:	
	:	

FACTUAL BACKGROUND

On August 24, 2026, Kristen Bruce ("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 records sufficient to show aggregate complaint and disciplinary statistics concerning PSP personnel assigned to Troop H – Gettysburg Station, for the period of January 1, 2016, through August 22, 2026. The Request sought eight items for each year.

On September 30, 2026, following a thirty-day extension, 65 P.S. §67.902(b), the PSP provided the Requester with its final response, granting the Request in part and denying the Request in part. For Items 1 – 7 of the Request, the PSP provided a responsive excel spreadsheet comprising of IAD disciplinary statistics concerning PSP personnel assigned to Troop H – Gettysburg station, from January 1, 2016, through August 22, 2026. The PSP denied Item 8 of the Request as exempt under Section 708 of the RTKL as relating to noncriminal investigations, 65

P.S. § 67.708(b)(17), and as records containing information regarding discipline, demotion or discharge contained in a personnel file. 65 P.S. § 67.708(b)(7)(viii).

On October 1, 2026, the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure. On appeal, the Requester argues that the PSP did not conduct a good faith search for Items 1 through 7 of the Request. The Requester identifies IAD No. 26-1694 as not being included in the records responsive to Items 1 through 7 and relies upon this as evidence of the lack of a good faith search. The Requester also argues that Item 8 is not exempt under the RTKL as she seeks aggregate data, not actual reports or records. 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 this appeal. 65 P.S. § 67.1101(c).

On October 15, 2026, the PSP submitted a position statement, supported by the verification of William A. Rozier ("Rozier Verification"), the Agency Open Records Officer ("AORO"), made subject to the penalties of perjury.

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. In response to a request for records, "an agency shall make a good faith effort to determine if … 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 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). 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 [PSP] has acted in bad faith or that the requested records exist, "the averments in [the Verification] should be accepted as true." *McGowan v. Pa. Dep't of Envlt. 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)).

The PSP asserts that upon receipt of the Request, it was forwarded to the Bureau of Professional Responsibility (Internal Affairs Division), PSP Human Resources, PSP Department of Discipline Office and PSP Troop H (Gettysburg) for responsive records. Rozier Verification, ¶8. Mr. Rozier explains that records of complaints are investigated and maintained by the PSP Bureau of Professional Responsibility (IAD) while disciplinary records are investigated and maintained by the PSP Department of Discipline Office. *Id*. at ¶9. The Requester was provided with all responsive aggregate data currently maintained by PSP Bureau of Professional Responsibility. *Id*. at ¶10.

The Requester argues that there is an omission of IAD No. 26-1694 from the responsive records to Items 1 through 7. The Requester states that she submitted an online complaint through the Pennsylvania Office of State Inspector General reporting portal on July 28, 2026, concerning the handling of IAD No. 26-1694. This was not listed in the aggregate data. This is correct; however, the Requester does not provide evidence that there was an IAD No. 26-1694 in the record. The only mentions of IAD No. 26-1694 are in emails sent from the Requester to others. The PSP is silent on the existence of IAD No. 26-1694; however, the Requester has not provided any proof of this IAD besides these emails. The Requester is not prohibited from filing a separate RTKL request with respect to IAD No. 26-1694. Therefore, the PSP has met its burden of proof by a preponderance of evidence that it conducted a good faith search for records and no further records exist responsive to Items 1 through 7 of the Request.

With respect to Item 8 of the Request, the PSP states that the Requester was not provided with IAD or Disciplinary Action Reports investigated against Members of Troop H, Gettysburg as the PSP asserts these records are exempt as noncriminal investigation records under the RTKL. *Id*. at ¶¶11-12. 65 P.S. § 67.708(b)(17). The Rozier Verification states that each record is the documented PSP investigation where the Investigating Trooper determined that no criminal activity occurred. Rozier Verification, ¶12.

The PSP also denied the records as exempt under Section 708(b)(7) of the RTKL as certain personal information relating to an agency employee, including "(ii) [a] performance rating or review; … (vi) [w]ritten criticisms of an employee; [and] (viii) [i]nformation regarding discipline, demotion or discharge contained in a personnel file." 65 P.S. § 67.708(b)(7)(ii), (viii). The Rozier Verification states that the IAD and DDO investigations are exempt from public disclosure under the RTKL as records containing information regarding discipline, demotion or discharge contained

in a personnel file. *Id*. at ¶13. None of the final actions of the agency resulted in demotion or discharge. *Id*. at ¶14.

However, the Requester does not argue on appeal that these records themselves are what she is requesting; instead, Item 8 requested:

> The number of complaints resulting in corrective or disciplinary action, including: counseling; retraining; written reprimand; suspension; demotion; transfer associated with disciplinary action; termination/discharge; resignation or retirement while disciplinary proceedings were pending, if such a statistical category of maintained. This request seeks aggregate statistical and administrative information only. It does not seek complainant names, witness identities, confidential investigative narratives, evidence or the substantive contents of any Internal affairs investigative file.

The PSP denied Item 8 of the Request, arguing that the responsive records are noncriminal investigative reports and personal employee information. However, the Requester did not seek these records but instead sought the number of complaints that resulted in corrective or disciplinary action. This information would not disclose personal information per an individual employee but instead would provide the aggregate data of complaints, which is what the Requester sought. Furthermore, as the Requester is not seeking reports, the information sought would not fall under the exemption under Section 708(b)(17). 65 P.S. § 67.708(b)(17). However, the PSP is not required to create a record, so to the extent that this information exists as a record in the possession, custody and control of the PSP, the PSP must provide this to the Requester.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part.** The PSP is required to provide responsive records to Item 8 of the Request, to the extent that they exist, within thirty days to the Requester, or, in the alternative, an affidavit or attestation 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 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.[1] 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 26, 2026

/s/ Meryl M. Peterman

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MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via OOR E-file appeal portal to:

Kristen Bruce
William A. Rozier (AORO)
Colin L. Hitt, Esq.

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