



FINAL DETERMINATION

IN THE MATTER OF

**JULIETTE RIHL and PENNLIVE,
Requester**

v.

**HARRISBURG CITY,
Respondent**

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Docket No: AP 2026-4238

As the Appeals Officer assigned to this matter by the Office of Open Records (“OOR”), I have reviewed the appeal filed with the OOR,¹ as well as: Harrisburg City’s (“City”) position statement, submitted on October 14, 2026, and attestations, submitted on October 20 and October 22, 2026, and authored by Pamela A. Lastimosa-Schwartz (“Lastimosa-Schwartz Attestation” and “Lastimosa-Schwartz Supplemental Attestation”),² the City’s Senior Legal Assistant and Agency Open Records Officer (“AORO”); and Juliette Rihl and PennLive’s (collectively the “Requester”) position statement, submitted on October 2, 2026. Based upon my review of the appeal and necessary evidence, I make the following conclusions of law and findings of fact:

- The City met its burden of proving that the withheld AI policy is exempt as a draft policy under Section 708(b)(9) of the RTKL. Section 708(b)(9) exempts from disclosure “[t]he draft of a

¹ The Request includes four Items; however, as noted by the Requester, only Items 1 and 4 remain at issue in the appeal. *See* Requester position statement p. 1.

² The Lastimosa-Schwartz Attestations are made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

bill, resolution, regulation, statement of policy, management directive, ordinance or amendment thereto prepared by or for an agency.” 65 P.S. § 67.708(b)(9). This exemption covers only drafts that fall into the specific categories set forth in Section 708(b)(9) of the RTKL. *See, e.g., Public Interest Legal Foundation v. City of Phila. Office of City Comm’rs*, OOR Dkt. AP 2018-0256, 2018 PA O.O.R.D. LEXIS 562 (drafts of transcripts do not meet the categories identified by the exemption); *but see Watt v. State College Borough*, OOR Dkt. AP 2020-0113, 2020 PA O.O.R.D. LEXIS 1777 (finding that a draft zoning ordinance was exempt). The Lastimosa-Schwartz Attestation and the City’s position statement demonstrate that a draft of the City’s Artificial Intelligence policy is preliminary and in its developmental stages. *See* Lastimosa-Schwartz Supplemental Attestation ¶¶ 4, 5; *see also* City position statement p. 3.³

- The City has not met its burden of proving that the additional records responsive to Item 4--the preliminary, advisory, and deliberative materials generated in the course of developing the draft AI policy--are exempt from disclosure. In order for an agency to claim the exemption found at 65 P.S. § 67.708(b)(10)(i)(A), the agency must prove that the records reflect internal, predecisional deliberations. While the records here may be predecisional and deliberative, the City’s evidence is silent regarding the internal nature of the documents. *See Chester Water Auth. v. Pa. Dep’t of Cmty. & Econ. Dev.*, 249 A.3d 1106, 1114 (Pa. 2021) (finding that the exemption “does not serve to insulate communications exchanged between a Commonwealth agency and a private consultant from the Law’s general requirement for openness”). Thus, without this evidence, the OOR is unable to hold that said records are exempt pursuant to Section 708(b)(10) of the RTKL.

³ While the City’s position statement implies that this is no longer at issue in the appeal, this was not confirmed by the Requester. *See* City position statement p. 3. Additionally, at the request of the OOR, the City clarified that the City is claiming the draft AI policy is exempt pursuant to Section 708(b)(9), even though its submissions do not specifically cite to this exemption. *See* Lastimosa-Schwartz Supplemental Attestation ¶ 4.

- The City has not met its burden of proving that the additional records responsive to Item 4, as outlined above, are exempt notes and working papers of a City employee. Section 708(b)(12) exempts from disclosure “[n]otes and working papers prepared by or for a public official or agency employee used solely for that official’s or employee’s own personal use, including telephone message slips, routing slips and other materials that do not have an official purpose.” 65 P.S. 67.708(b)(12). This exemption protects “notes and working papers created by a . . . public official or employee regarding agency-related business, but not for an official function.” *Escalera v. Adams Cnty.*, OOR Dkt. AP 2011-0184, 2011 PA O.O.R.D. LEXIS 176. The records must be for the specific employee’s own personal use and not distributed outside of their office, *Glunk v. Pa. Dep’t of State*, 102 A.3d 605 (Pa. Commw. Ct. 2014), and must be used to carry out the employee’s official duties. *Pa. Dep’t of Labor & Indus. v. Tabor*, 2016 Pa. Commw. Ct. Unpub. LEXIS 251 (Pa. Commw. Ct. 2016). Here, the Lastimosas-Schwartz Attestations are silent as to who created the records or how the records were specific for the employees’ own personal use. As such, the records withheld are subject to disclosure.
- The appeal is moot as to Item 1 of the Request, as the City provided the executed partial contract and the Pricing Proposal from the City’s cybersecurity provider, CrowdStrike, to the Requester during the course of the appeal.⁴ 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”).

For the foregoing reasons, the appeal is **granted in part, denied in part** and **dismissed as moot in part**, and the City is directed to provide the additional records responsive to Item 4 as outlined herein within thirty days. This Final Determination is binding on all parties. Within thirty

⁴ See Lastimosas-Schwartz Attestation ¶ 10.

days of the mailing date of this Final Determination, any party may appeal or petition for review to the Dauphin 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.⁵ 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 28, 2026

/s/ Bandy L. Jarosz

BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via e-file portal to: Juliette Rihl; Pamela Lastimosa-Schwartz

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