pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KRISTEN BRUCE,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4264**
	:	
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:

> …[R]ecords concerning final disciplinary actions involving [PSP] personnel assigned to Troop H - Gettysburg Station during the period January 1, 2016 through August 22, 2026. I request records sufficient to identify instances in which a complaint, administrative review, Internal Affairs matter, supervisory investigation, or other personnel matter involving Gettysburg Station personnel resulted in:
>
> - demotion;
> - discharge/termination;
> - suspension;
> - final written disciplinary action;
> - resignation or retirement in lieu of or during final disciplinary proceedings, where maintained as such;
> - or another final disciplinary disposition that PSP considers publicly accessible under the Pennsylvania Right-to-Know Law.

> For responsive matters, I request the final disciplinary record, notice, determination, order, or other record documenting the final employment action, to the extent publicly accessible. This request does not seek the underlying Internal Affairs investigative file, witness statements, complainant identities, confidential investigative material, or other records protected by 65 P.S. § 67.708(b)(17). This request is intended to distinguish between exempt investigative material and records documenting final employment discipline, including records of demotion or discharge.

On September 30, 2206, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), PSP denied the Request, arguing that responsive records are exempt noncriminal investigation records and information regarding discipline, demotion or discharged contained in a personnel file. 65 P.S. §§ 67.708(b)(7)(viii); (b)(17). Further, PSP indicated that responsive records showing demotion, discharge or termination do not exist within its possession, custody or control. PSP also submitted a statement made under penalty of perjury[1] authored by Janiel Rhoden ("Rhoden Verification"), PSP's Deputy Agency Open Records Officer ("Deputy AORO").

On October 1, 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 PSP to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On October 15, 2026, PSP submitted a position statement reiterating its grounds for denial. In support of its position, PSP submitted a statement made under penalty of perjury[2] authored by William Rozier ("Rozier Verification"), PSP's Agency Open Records Officer ("AORO").

On October 15, 2026, the Requester submitted a response to the position statement, acknowledging that certain records would be exempt as set forth by PSP; however, the Requester asserts that PSP has failed to sufficiently show whether identified responsive Disciplinary Action

[1] 18 Pa C.S. § 4904.
[2] *Id.*

Reports are distinguished from separately maintained final-action notices, orders or determinations. The Requester also asserts that records should be redacted rather than withheld in their entirety.

LEGAL ANALYSIS

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, 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)).

1. The Request seeks exempt employee information

The Request seeks records reflecting the result of disciplinary investigations into PSP Troopers assigned to Troop H -Gettysburg, which PSP argues that certain responsive records are exempt from disclosure. Section 708(b)(7) of the RTKL exempts from disclosure certain records relating to an agency employee, including "[i]nformation regarding discipline, demotion or discharge contained in a personnel file." 65 P.S. § 67.708(b)(7)(viii). However, the exemption "shall not apply to the final action of an agency that results in demotion or discharge." *Id.*

While the RTKL does not define the term "discharge," under its common meaning, "discharge" means "[a]ny method by which a legal duty is extinguished." *Discharge*, BLACK'S LAW DICTIONARY (10th ed. 2014); *see also Wagaman v. Lehigh Cnty.*, OOR Dkt. AP 2020-

0447, 2020 PA O.O.R.D. LEXIS 1287 (acknowledging that final payroll records constituted the "final action," and that the resignation letters themselves were exempt); *Segelbaum v. York City Police Dep't*, OOR Dkt. AP 2019-1465, 2019 PA O.O.R.D. LEXIS 1139 (concluding that a resignation letter was exempt because it was not the final action of the agency).

In *Silver v. Borough of Wilkinsburg*, the Commonwealth Court held that the agency's final action for the purposes of the exception to the exemption was the termination of the employee, and the portion of the letter acknowledging that termination was the publicly accessible record of that final action. 58 A.3d 125, 128 (Pa. Commw. Ct. 2012); *see also Wellock v. Wyoming Borough*, OOR Dkt. AP 2018-2229, 2019 PA O.O.R.D. LEXIS 222 (denying access to a resignation letter and holding that the record reflecting the agency's final action were the meeting minutes memorializing the vote to accept the resignation).

Therefore, on its face, the Request seeks facially exempt information, including "final written disciplinary action, resignation or retirement in lieu of or during final disciplinary proceedings." Such records clearly constitute information that regards an agency employee's discipline and/or demotion, and if contained in the respective Troopers' personnel files, would be expressly exempt under Section 708(b)(viii) of the RTKL. 65 P.S. § 67.708(b)(7)(viii); *Pa. Game Comm'n v. Fennell*, 149 A.3d 101, 104-05 (Pa. Commw. Ct. 2016); *see also Office of the Governor v. Davis*, 122 A.3d 1185 (Pa. Commw. Ct. 2015) (*en banc*) (holding that an affidavit may be unnecessary when an exemption is clear from the face of the record).

Furthermore, ten investigation reports identified as responsive to this Request by PSP as DAR #17-58-IAD #2016-1020, DAR #17-61- IAD #2017-0146, DAR #17-62-IAD #2017-0146, DAR #18-27-IAD #2018- 0015, DAR #19-70-IAD#2019-0739, DAR #19-83-IAD #2019-0884, DAR #20-15-IAD #2019-1305, DAR #20-42-IAD #2020-0573, DAR #21-77-IAD #2021-1381

and DAR #22-25-IAD #2022-0045, relate to investigations of Troopers assigned at Troop H – Gettysburg Station. *Id.* ¶¶ 10-11. Records of complaints are investigated and maintained by the IAD while disciplinary records are investigated and maintained by the PSP Department of Discipline Office. *Id.* ¶¶ 9-10. AORO Rozier attests that these IAD and Department of Discipline Office investigations contain information regarding discipline, demotion or discharge contained in a personnel file. *Id.* ¶¶ 13.[3]

As noted above, however, Section 708(b)(7)(viii) does "not apply to the final action of an agency that results in demotion or discharge." 65 P.S. § 67.708(b)(7)(viii). Records of "the final action of an agency that results in demotion or discharge" are publicly accessible. 65 P.S. § 67.708(b)(7)(viii). AORO Rozier attests that upon receiving this Request, PSP forwarded the Request to the Bureau of Professional Responsibility ("Internal Affairs Division" or "IAD"), PSP Human Resources, and PSP Department of Discipline Office and PSP Troop H (Gettysburg) for responsive records. Rozier Verification ¶ 8. The search conducted resulted in ten investigation reports that were responsive to the Request. *Id.* ¶ 10. However, PSP Department of Discipline Office indicated that none of the final actions of PSP resulted in demotion, discharge, or termination. *Id.* ¶ 14.

Therefore, the ten identified Disciplinary Action Reports and any responsive records containing "final written disciplinary action, resignation or retirement in lieu of or during final disciplinary proceedings" are exempt employee information pursuant to 65 P.S. § 67.708(b)(7)(viii). The Requester asserts that exempt information may be redacted rather than

[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 PSP has acted in bad faith or that additional responsive records exist, "the averments in [the verifications] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. 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)).

withholding the responsive records in their entirety. Section 706 of the RTKL permits redaction where an agency determines that a public record "contains information which is subject to access as well as information which is not subject to access." 65 P.S. § 67.706. However, Section 706 of the RTKL only applies to "public records[,]" which are defined in Section 102 of the RTKL, in pertinent part, as "[a] record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708 ….65 P.S. § 67.102. Additionally, it is well-settled that an agency is not required to redact an otherwise exempt record. *Castillo v. Pa. State Police (Off. Of Open Recs.)*, 310 A.3d 831 (Pa. Commw. Ct. 2024) (holding that an agency is not required to redact a record if the record falls within an exemption under Section 708(b)). Furthermore, based upon the evidence presented, PSP has proven by a preponderance of the evidence that records reflecting the final action of an agency that resulted in demotion or discharge do not exist in PSP's possession, custody or control. *See* 65 P.S. § 67.708(a).[4]

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and PSP 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 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.[5] All documents or communications following the issuance of this Final

[4] There has been no sufficient evidence provided that otherwise contradicts the statements offered by PSP in the attestations submitted. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022).
[5] *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

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: November 2, 2026

/s/ Julie Sodl

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APPEALS OFFICER
JULIE SODL, ESQ.

Sent via E-File Portal to: Kristen Bruce
Colin L. Hitt, Esq.
William A. Rozier, AORO