pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
VINCENT SCIOLI,	:	
Requester	:	
	:	
v.	:	**Docket No.: AP 2026-4259**
	:	
MONTGOMERY COUNTY DISTRICT ATTORNEY'S OFFICE,	:	
Respondent	:	

On September 29, 2026, Vincent Scioli ("Requester") submitted a request ("Request") to the Montgomery County District Attorney's Office ("Office") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

1. Records of any lead, tip, or notice from the FBI or any other federal agency received between June 1 and August 31, 2019 concerning Requester or the address of [address omitted];

2. Records of the above being forwarded to Montgomery County Sheriff's Office; and

3. Records of any query run on Requester's name or address on August 10, 2019 or August 26, 2019.

On September 30, 2026, the Office denied the Request, asserting that responsive records do not exist.

On October 1, 2026, the Requester filed an appeal with the Office of Open Records ("OOR"), challenging the denial and stating grounds for disclosure.[1] The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

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).

[1] In the appeal, the Requester granted the OOR an additional thirty days to issue this Final Determination. *See* 65 P.S. § 67.1101(b)(1).

On October 15, 2026, in support of the Office's position, the Office submitted the attestation[2] of Gwendolyn Kull ("Kull Attestation"), the Office's Open Records Officer, who attests that:

> 6. Prior to the instant [R]equest in 2026, I have received and responded to multiple requests from Requester, one of which overlaps the instant [R]equest.
>
> 7. In [a prior request,] Requester sought 2019 search warrant execution records for the same address, surveillance records of Requester from 2005 to March 2026, interagency communications about Requester with the FBI, DHS, and SSA, and communications related to the August 2019 warrant with Montgomery County Sheriff's Office. Regarding those portions of that request, it was denied for no responsive records. See Exhibit A DAOR 26-29 Request & Response.
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> 8. During that search, I learned that we have no records of [the Requester] in [the Montgomery County Detective Bureau's (MCDB)] record management system or query systems and confirmed this with our lead criminal intelligence analyst.
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> 9. I also previously conducted an office-wide email search using Requester's name and variations of his name and his address during the relevant timeframe. I found no communications mentioning Requester or his address.
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> 10. Based on my prior searches, I was already familiar with the records in our possession and that we have no records of receiving any tips regarding Requester, forwarding anything about Requester to Montgomery County Sheriff, or records of any queries run regarding [R]equester in 2019.

Here, the Kull Attestation explains that the likely custodians were contacted, a search was conducted and that no records responsive to the Request exist. The Requester asserts, in part, that "an affidavit describing only searches made for a different request does not meet the [Office's] burden under Section 708(a)(1) as to this [R]equest…." However, the instant Request only seeks records from 2019. As such, searches conducted a year ago or a month ago would necessarily

[2] Under the RTKL, an attestation is generally competent evidence to sustain an agency's burden of proof. *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 competent evidence that the Office acted in bad faith, "the averments in [the attestation] should be accepted as true."

reveal the same results. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true). Therefore, based on the evidence provided, the Office has met its burden of proving that records responsive to the Request do not exist within its possession, custody or control. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the appeal is **denied**, and the Office 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 Montgomery 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 as per Section 1303 of the RTKL; 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.[3] 65 P.S. § 67.1303. 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: November 4, 2026

/s/ Magdalene C. Zeppos-Brown
MAGDALENE C. ZEPPOS-BROWN, ESQ.
DEPUTY CHIEF COUNSEL

Sent to: Vincent Scioli (via OOR e-file portal only); and
Gwendolyn Kull, AORO (via OOR e-file portal only)

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