pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
KARA SHUPP,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4262**
	:	
PENNSYLVANIA DEPARTMENT OF STATE,	:	
Respondent	:	

On September 2, 2026, Kara Shupp ("Requester") submitted a request ("Request") to the Pennsylvania Department of State ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking electronic copies of:

> All records reflecting the receipt, review, referral, assignment, disposition, or other action taken regarding a complaint submitted concerning David Heintzelman, Mayor of Hellertown Borough, Northampton County, relating to his residency, voter registration, and/or eligibility to hold municipal office. This request includes correspondence, emails, referral records, transmittal records, tracking or case-status records, and communications with the Northampton County Election Office/ Board of Elections or any other governmental agency concerning complaint.
>
> Time Period July 1 , 2026 through [September 2, 2026].

On September 28, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department denied the Request, stating that the records do not exist within the Department's possession, custody or control.

On October 1, 2026, the Requester filed an appeal with 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 Department 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, the Department provided a copy of a single complaint record, dated August 18, 2026, that was pulled from the Department's website complaint portal and which is responsive to the Request.[1]

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] The appeal is moot as to responsive records provided during the course of the appeal. *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 "the controversy has been mooted").

On October 15, 2026, the Department submitted a verified position statement and the attestation of Janelle Hawthorne, the Open Records Officer for the Department ("Hawthorne Attestation"), who attests that a search was conducted, the Department produced a copy of the only complaint record responsive to the Request, and that no additional responsive records exist in the Department's possession, custody or control.[2] *See* Hawthorne Attestation ¶¶ 8-11. The Hawthorne Attestation further clarifies that the individual counties manage election management duties, which include receiving, handling, and forwarding election complaints to the respective authorities for further investigation and that election complaints submitted to the Department are directly forwarded to the respective county election office. *Id*. at ¶ 5.Thus, the Department has demonstrated that it would not possess any additional records relating to investigating, tracking, or case status updates regarding specific election complaints that are referred to county election officials. Based on the evidence provided, the Department has met its burden of proof that it does not possess additional records responsive to the Request. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For the foregoing reasons, the appeal is **denied in part** and **dismissed as moot in part**, and the Department 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 or petition for review 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

[2] 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 Department has acted in bad faith or that additional responsive records exist, "the averments in [the statement] 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)).

adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.[3] 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: November 4, 2026

/s/ Catherine R. Hecker

CATHERINE R. HECKER
APPEALS OFFICER

Sent via the OOR Portal to: Kara Shupp
Janelle Hawthorne, AORO
Jason McMurry, Esq.

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