pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
BRENT CASTELLETTI,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4539**
	:	
LEHIGHTON BOROUGH POLICE DEPARTMENT,	:	
Respondent	:	

FACTUAL BACKGROUND

On September 16, 2026,[1] Brent Castelletti ("Requester") submitted a request ("Request") to the Lehighton Borough Police Department ("Department") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq*., seeking:

> 1. My complete personnel/employment file[.]
>
> 2. All documents concerning my termination[.]
>
> 3. All ethical/civil complaints[,] [including] findings, dispositions [and] allegations[.]
>
> 4. All [records] submitted or used in connection with the [Act] 57 sep[a]ration form[.]
> 5. All records supporting, explaining, or otherwise relating to the designation of "Civil or Ethical Complaints" on my Act 57 Separation Record, including the underlying complaint(s).

[1] While the Request is dated September 15, 2026, the Request was received by the Department on September 16, 2026. *See* Department final response; *see also* Requester appeal p. 16.

On September 22, 2026, the Department denied the Request, claiming that records responsive to Item 1 and 2 are not subject to disclosure pursuant to the Personnel Files Act, 43 P.S. §§ 1321 *et seq*., Item 3 is insufficiently specific, 65 P.S. § 67.703, any records responsive to Item 3 are exempt criminal and noncriminal investigative materials, 65 P.S. §§ 67.708(b)(16), (b)(17), and records responsive to Items 4 and 5 are confidential pursuant to Act 57 of 2020, 44 Pa.C.S. § 7301 *et seq*.

On October 13, 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 the Department to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On October 28, 2026, after receiving no submissions, the OOR extended the submission period from October 27, 2026 until November 3, 2026. To date, the Department has not responded or provided a submission.[2]

LEGAL ANALYSIS

The Department is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local 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, the Department 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*,

[2] The Department accessed the OOR's portal on October 19, 2026, thereby evidencing that the Department is aware of the appeal and the original submission deadline.

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. Item 3 is sufficiently specific

In its final response to the Request, the Department argues that Item 3 of the Request is insufficiently specific. Section 703 of the RTKL states that "[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested." 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015).

First, "[t]he subject matter of the request must identify the 'transaction or activity' of the agency for which the record is sought." *Id.* at 1125 (quoting 65 P.S. § 67.102). Second, "[t]he scope of the request must identify 'a discrete group of documents, either by type … or by recipient.'" *Id.* (quoting *Carey v. Pa. Dep't of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, "[t]he timeframe of the request should identify a finite period of time for which records are sought." *Id*. at 1126 (citing *Carey*, *supra*). "The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request's timeframe is narrow enough is generally dependent upon the specificity of the request's subject matter and scope." *Id.*

The above factors are intended "to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested…. The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements." *Pa. Dep't of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are

insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting "the valid part of the request was included in a laundry list of requested materials").

In the instant matter, the Item 3 seeks ethical and civil complaints and the findings contained therein. While Item 3 as written appears to contain a broad scope and lack a timeframe, when read in conjunction with the Request as a whole, it is clear that Item 3 seeks any complaints related to the Requester's separation from employment with the Department—of which the Department would have knowledge. Thus, the timeframe is implicit because the Department is aware of the separation of employment and, given the Department's lack of participation during the appeal, the evidentiary record is devoid of any evidence to the contrary. *See Brown v. Receiver for the City of Chester*, OOR Dkt. AP 2021-1218, 2021 PA O.O.R.D. LEXIS 1709 (finding a timeframe can be implied based upon the context of the request). Accordingly, the test enunciated in *Pa. Dep't of Educ*. supports a finding that Item 3 of the Request is sufficiently specific under Section 703 of the RTKL. The Request provides enough information in subject matter, scope and implied timeframe to meet the specificity requirements of Section 703 of the RTKL. 65 P.S. § 67.703. As such, the Department must conduct a good faith search for responsive records and provide all records located to the Requester.

2. The Department did not demonstrate that the requested records are exempt criminal or noncriminal investigative materials

The Department alternatively denies Item 3 of the Request claiming that responsive records relate to a criminal and/or noncriminal investigation. 65 P.S. §§ 67.708(b)(16), (b)(17). Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Department did not participate on appeal by submitting legal argument or evidence in support of withholding records. Further, while the OOR does not have jurisdiction to hear appeals

related to criminal investigative records held by local law enforcement agencies, 65 P.S. § 67.503(d)(2), here the OOR cannot discern, from the face of Item 3, that responsive records would necessarily relate to a criminal investigation, given the Item lists "ethical" and "civil" complaints. Additionally, there is no indication whatsoever that the Department actually performed an investigation, whether it be criminal or noncriminal. Accordingly, the Department did not meet its burden of proof under the RTKL and must provide responsive records, to the extent those records exist. 65 P.S. § 67.305. *See Leuba v. Eastern Pike Regional Police Department*, OOR Dkt. AP 2026-2477, 2026 PA O.O.R.D. LEXIS 2357 (finding, in relevant part, that the agency failed to prove that the records contain information related to a noncriminal investigation).[3]

3. Records responsive to Items 1 and 2 are not confidential under the Personnel Files Act

The Department argues that records responsive to Items 1 and 2 are exempt under the Personnel Files Act, which limits inspection of an employee's personnel file to the employee or his or her agent. 43 P.S. §§ 1321-22. However, the Requester is not seeking to *inspect* the employee files. The Personnel Files Act only serves to limit the inspection of an employee's personnel files, but does not render confidential the information contained therein. Accordingly, the Personnel Files Act does not apply.[4]

[3] To the extent responsive records exist, the Department may make redactions pursuant to Section 708(b)(6), including "all or part of a person's Social Security number, driver's license number, personal financial information, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number." 65 P.S. § 67.708(b)(6)(i)(A). Additionally, the RTKL defines "personal financial information" as "[a]n individual's personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual's personal finances." 65 P.S. § 67.102. Further, the Department may redact home addresses and the names of private citizens pursuant to the constitutional right to privacy. *See, e.g., Zimmerman v. Cumberland Cnty. Redev. Auth.*, OOR Dkt. AP 2024-0263, 2024 PA O.O.R.D. LEXIS 441 (finding it proper for the agency to withhold residential home addresses of private citizens).

[4] *Id.*

4. Separation records are confidential

In its final response, the Department indicates that Act 57 of 2020 prevents the disclosure of records responsive to Items 4 and 5 of the Request. Section 7309 of Act 57 specifically states that the "information provided to a law enforcement agency" relating to "separation records" is not subject to public disclosure under the RTKL. *See* 44 Pa.C.S. § 7309(c).

Section 7312 of Act 57 states that the Municipal Police Officers' Education and Training Commission is to enact regulations for the prompt implementation of Act 57. The regulations enacted contain a confidentiality provision, which states:

> Information furnished under this chapter by an applicant, law enforcement agency, or collected by the Commission under this chapter, is confidential and not subject to public disclosure, with the exception of information expressly identified within the act as eligible under the Right-to-Know Law…[s]econdary dissemination of confidential information is strictly prohibited.

See 37 Pa. Code § 241.3. Thus, because Act 57 only expressly identifies the "hiring report"[5] as information eligible for public disclosure under the RTKL, any records relating to the Requester's separation record or "Act 57 sep[a]ration form" are expressly exempt from public disclosure under Act 57 and its regulations.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and within thirty days, the Department is required to provide records responsive to Items 1 through 3, with limited redactions, as discussed above. This Final Determination is binding on all parties. Within thirty days of the mailing date of the Final Determination, any party may appeal to the Carbon 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

[5] *See* 44 Pa.C.S. § 7311(c).

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.[6] 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 10, 2026

/s/ Bandy L. Jarosz

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BANDY L. JAROSZ, ESQ.
APPEALS OFFICER

Sent via portal only to: Brent Castelletti; Joshua Mazin, Esq.; Karen Shaffer

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