pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
ELIZABETH MCNAMARA,	:	
Requester	:	
	:	
v.	:	**Docket No: AP 2026-4534**
	:	
CITY OF PHILADELPHIA LAW DEPARTMENT,	:	
Respondent	:	

As the Appeals Officer assigned to this matter by the Office of Open Records ("OOR"), I have reviewed the appeal filed with the OOR, as well as the City of Philadelphia Law Department's ("City") position statement and attestation,[1] which was authored by Margot B. Smith, Esq. ("Smith Attestation"), the City's Chief Deputy Solicitor and Agency Open Records Officer ("AORO"), and the Requester's October 29, 2026 position statement. 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 roll call records, assignment patrol records and supervisor reports no longer exist. The Smith Attestation demonstrates that the retention period on such responsive records is ten years, and the requested records are from 24 years ago. As such, no responsive records exist. *See* Smith Attestation ¶¶ 39-40. The Requester has not

[1] The Smith Attestation was made subject to the penalties set forth in 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

submitted sufficient, credible evidence to rebut the Smith Attestation, or to demonstrate that responsive records exist.

- The City met its burden of proving that 911 calls, CAD records, calls for service logs and time response logs are exempt from disclosure. Section 708(b)(18) of the RTKL protects from disclosure "[r]ecords or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings." 65 P.S. § 67.708(b)(18)(i). Section 708(b)(18)(i) expressly exempts 911 calls and indicates the discretion to release 911 recordings lies with the agency itself and the court system. Therefore, the OOR may not disturb the City's decision to withhold the requested 911 call recordings rather than exercising its discretion to release them consistent with Section 708(b)(18)(ii). While time response information is expressly required to be released under the RTKL, the City has proven that this information is protected in this case under the Emergency Communications Services Act ("ECSA") 35 Pa.C.S. § 5399, Section 708(b)(6)(i)(C) of the RTKL, and the Pennsylvania Constitution because the release of this information would inevitably expose the residential address of a sitting judge, victim, witness, or 911 caller, as the search parameter given was a residential address. Smith Attestation ¶¶ 6-30.
- The City has met its burden of proving incident and offence reports associated with the residential address may relate to a criminal investigation. The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See* 65 P.S. § 67.503(d)(2). Instead, such appeals are to be heard by an appeals officer designated by the local district attorney. *See id*. While the Requester seeks an analysis as to whether each record relates to a criminal investigation, the OOR is without

jurisdiction to provide such an analysis. Accordingly, for the incident reports withheld under Section 708(b)(16) of the RTKL, the appeal is hereby transferred to the Appeals Officer for the Philadelphia County District Attorney's Office.[2] A copy of this final order and the appeal filed by the Requester will be sent to the Appeals Officer for the Philadelphia County District Attorney's Office.[3]

For the foregoing reasons, the appeal is **denied in part** and **transferred in part** to the Appeals Officer for the Philadelphia County District Attorney's Office. 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 Philadelphia 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.[4] 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 12, 2026

/s/ Julie Sodl

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JULIE SODL, ESQ.
APPEALS OFFICER

[2] The City's alternative argument that records are exempt under the Criminal History Record Information Act (CHRIA), 18 Pa. C.S. § 9191, *et seq.*, need not be addressed, as the City has already established the records may relate to a criminal investigation.

[3] The Commonwealth Court has noted that the OOR has the authority to transfer an appeal to "where [a requester] should have initially appealed." *See Phila. Dist. Attorney's Office v. Williams*, 204 A.3d 1062, *4 n.5 (Pa. Commw. Ct. 2019) ("... [A]lthough the onus for appealing from an RTKL denial to the proper appeals officer is on the requester, the OOR did not violate the law or any procedure in redirecting the appeal in this case").

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

Sent via e-file portal to:	Elizabeth McNamara; Margot B. Smith, Esq. Gianna McDevitt, Esq.
Sent via email to:	Philadelphia County District Attorney's Office Appeals Officer