

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Shakia Perry,	:
	:
Petitioner	:
	:
v.	: No. 764 C.D. 2025
	: Submitted: July 24, 2026
Pennsylvania State Police (Office	:
of Open Records),	:
Respondent	:

BEFORE: HONORABLE ANNE E. COVEY, Judge
HONORABLE LORI A. DUMAS, Judge
HONORABLE STACY WALLACE, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE WALLACE

FILED: October 19, 2026

Shakia Perry (Requester), who represented herself in the proceedings below and continues to represent herself in this Court, petitions for review of the June 12, 2025 Final Determination (Final Determination) of the Pennsylvania Office of Open Records (OOR) that denied her appeal from the Pennsylvania State Police's (PSP) denial of her request (Request) under the Right-to-Know Law (RTKL).¹ Requester argues OOR erred in its determination that the requested records were exempt from disclosure. Upon review, we affirm.

¹ Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104.

BACKGROUND

On April 4, 2025, Requester submitted the Request to PSP seeking “a complete and unredacted copy of the investigative report identified as PA 2024-476258, prepared by Trooper Karl Kulpak of [PSP]. This report concerns a title investigation involving [Requester], regarding a vehicle previously titled in New Jersey and reissued a clean title in Pennsylvania without record of a lien.” Reproduced Record (R.R.) at 6a. Requester specifically sought “all internal reports, communications, officer notes, correspondence with PennDOT, and any final determinations or flags.” *Id.*

In response, on April 11, 2025, PSP mailed Requester an extension letter (Extension Letter), notifying Requester that PSP received her Request, and needed up to an additional 30 days for processing, pursuant to Section 902(b)(2) of the RTKL, 65 P.S. § 67.902(b)(2). *Id.* at 8a-10a. On May 12, 2025, PSP, by its Deputy Agency Open Records Officer Janiel Rhoden (Agency Officer Rhoden), denied the Request under the RTKL’s criminal investigation exemption,² personal-identification exemption,³ and the Criminal History Record Information Act (CHRIA).⁴ R.R. at 22a-28a. In support of the denial, Agency Officer Rhoden

² Section 708(b)(16) of the RTKL exempts from disclosure “[a] record of an agency relating to or resulting in a criminal investigation.” 65 P.S. § 67.708(b)(16). Throughout this opinion, we refer to this as the “criminal investigation” exemption, the “criminal investigative” exemption, and the “investigative” exemption; however, all terms are intended to reference Section 708(b)(16).

³ Section 708(b)(6)(i)(A) of the RTKL exempts from disclosure records containing “confidential personal identification number[s],” including “home, cellular or personal telephone numbers[.]” 65 P.S. § 67.708(b)(6)(i)(A).

⁴ 18 Pa.C.S. §§ 9101–9183. CHRIA prohibits the dissemination of “investigative information” to individuals other than criminal justice agencies. 18 Pa.C.S. § 9106(c)(4). Under CHRIA, a “criminal justice agency” is defined as:

(Footnote continued on next page...)

verified he searched through PSP records and found the following responsive PSP record: PSP General Offense Report N[o.] PA 2024-476258 (Criminal Incident Report). *Id.* at 26a. Agency Officer Rhoden indicated, “I personally examined the [Criminal Incident Report] and found it to be manifestly related to a criminal investigation.” *Id.* Agency Officer Rhoden explained the Criminal Incident Report “and its components including email, is a multiple page record assembled by Trooper Alicea on or after April 12, 2024, as a result of an investigation into a criminal incident or an allegation of criminal wrongdoing.” *Id.*

On May 19, 2025, Requester appealed PSP’s response denying the release of the Criminal Incident Report to the OOR. Appeal, 5/19/25, Certified Record (C.R.) at 8.⁵ Requester argued “PSP broadly cites the ‘criminal investigative’ exemption and CHRIA but fails to meet its RTKL obligations---offering no redactions, no privilege log, and no evidence of a public-interest consideration[.]” *Id.* at 19 (emphasis and statutory citations omitted). Requester further contended PSP’s “supporting ‘verification’ . . . simply restates legal conclusions without factual

Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards, the facilities and administrative offices of the Department of Public Welfare that provide care, guidance and control to adjudicated delinquents, and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions or both.

18 Pa. C.S. § 9102 (internal footnote omitted).

⁵ We have assigned page numbers to the certified record for ease of citation. The assigned page numbers correlate to our electronic record.

breakdown or page-level redaction analysis. Meanwhile, PSP disclosed the same record to [Requester's] adversary in civil litigation." *Id.* (emphasis omitted).

Thereafter, OOR invited both parties to supplement the record, on or before May 30, 2025. OOR corresp., C.R. at 65. Requester submitted several timely position statements. Requester's Pos. Stmts., C.R. at 74, 80, 84. Requester disputed receiving PSP's Extension Letter, and further asserted PSP's proof of timely issuance of that Extension Letter did not appear in the record. *Id.* at 75. On May 30, 2025, PSP submitted a position statement, which included a verification of its Agency Open Records Officer William A. Rozier (Agency Officer Rozier), indicating the Criminal Incident Report is "manifestly related to an investigation of potential criminal conduct." PSP Pos. Stmt., C.R. at 86-91. Agency Officer Rozier described the Criminal Incident Report "including its attachments . . . [as] a 58 page report compiled on or after April 12, 2024 by Trooper Alicea and Trooper Kulpak describing and documenting an investigation into an incident of potential criminal activity." *Id.* at 90. Agency Officer Rozier further specified PSP was "requested by the Pennsylvania Department of Transportation to investigate a possible fraudulent titling of a 2019 Mercedes sedan." *Id.*

On June 2, 2025, OOR requested PSP to provide a copy of its Extension Letter. OOR corresp., 6/2/25, C.R. at 93. PSP did so the next day. PSP corresp., 6/3/25, C.R. at 95. Also on June 3, 2025, because the record had closed, OOR wrote to the parties to inquire, among other things, if Requester wanted an extension of time for the consideration of her additional submission. OOR corresp., 6/3/25, C.R. at 102. On the same date, the Requester objected to an extension, indicating "I agree the current record is sufficient for review." Requester corresp., 6/3/25, C.R. at 104.

On June 12, 2025, OOR issued its Final Determination, which denied Requester’s appeal. Final Determination, C.R. at 106-12. OOR concluded PSP established the withheld Criminal Incident Report and its attachments related to a criminal investigation and, thus, were exempt from disclosure under the RTKL. *Id.* at 110.

Requester now petitions this Court for review.⁶ First, Requester asserts procedural due process errors and unequal treatment by OOR, including improperly “credit[ing] PSP’s late [Extension L]etter[;]” “permitting PSP to supplement the record after closure while denying [Requester] reciprocal participation” and opportunity to rebut; and “declining *in camera* review.” Requester’s Br. at 6, ¶¶ 1,

⁶ For clarity, we reframed Requester’s issues on appeal. In her brief, she presented the following issues:

1. Did PSP prove timely §902(b) **written** notice sent?
2. Did PSP’s third-party disclosure violate § 305?
3. Did §§ 706/708(a)(1) permit withholding **58** [pages]?
4. Did PSP carry its burden under § 708(a)(1)/CHRIA through affidavits?
5. Did PSP exercise discretion under § 506(c)?
6. Did the record support §§ 1304-05 bad faith?
7. Did OOR follow § 1102(b)(3) by admitting post-closure filings without reply?
8. Did OOR comply with § 1102(b)(3) on PSP time?
9. Did PSP’s denial meet § 903(2) specificity?
10. Did OOR abuse its discretion by declining *in camera* review under § 1102?

See Requester’s Br. at 6.

7, 8, 10; 12, 37. Second, Requester asserts by disclosing the Criminal Incident Report to her “civil adversary,” PSP “waives any confidentiality claim unless a statute independently and specifically bars further release.” *Id.* at 6, ¶2; 15-16. Third, Requester argues OOR erred in determining, from PSP’s evidence, the entire Criminal Incident Report is exempted under the RTKL’s criminal investigation exemption, 65 P.S. § 67.708(b)(16), or under CHRIA. *Id.* ¶¶ 4, 9. Alternatively, Requester contends PSP should have either provided a redacted record, 65 P.S. § 67.706, or considered discretionary release pursuant to Section 67.506(c), 65 P.S. § 67.506(c). *Id.* ¶¶ 3, 5. Finally, Requester argues OOR erred “in dismissing [her] request for a bad[] faith finding.” *Id.* at 6, ¶ 6; 32.

In response, PSP argues OOR correctly determined the Criminal Incident Report is exempt from public disclosure under the RTKL. PSP Br. at 7. Specifically, PSP contends it has proven, by a preponderance of the evidence, the requested record relates to a criminal investigation pursuant to 65 P.S. § 67.708(16) and contains investigative information under Section 9106(c)(4) of CHRIA. *Id.* Additionally, PSP denies any obligation to release a redacted version of the record, as well as “Requester’s allegations [that] prior disclosure have any bearing on the public accessibility of the [Criminal Incident R]eport.” *Id.* Procedurally, PSP argues it complied with the RTKL by timely mailing an Extension Letter, and providing Requester a “denial letter citing specific exemptions from access.” *Id.* PSP asserts OOR likewise complied with the RTKL by “properly exercis[ing] control over the proceedings by permitting . . . PSP to submit a copy of the Extension Letter, declining to consider cumulative evidence, and declining to order [*in camera*] review. *Id.* Lastly, PSP contends the record does not support a finding of bad faith. *Id.*

DISCUSSION

When reviewing determinations made by appeals officers under the RTKL, our standard of review is *de novo*, which we have explained is “full consideration of a case at another time.” *Passel v. Dep’t of Transp., Bureau of Driver Licensing*, 928 A.2d 381, 383 (Pa. Cmwlth. 2007). Our scope of review is plenary, *Bowling v. Off. of Open Recs.*, 75 A.3d 453, 475-76 (Pa. 2013), meaning “we reassess the record with a fresh pair of eyes.” *Allegheny Cnty. Dep’t of Health v. Wilkerson*, 329 A.3d 111, 117 (Pa. Cmwlth. 2024). In short, our review includes consideration of the entire record. *Probst v. Dep’t. of Transp., Bureau of Driver Licensing*, 849 A.2d 1135, 1139 n.5 (Pa. 2004).

Due Process and Equal Protection

Before reaching the merits, we consider Requester’s due process and equal protection claims. Requester argues she was “denied . . . fair process and equal treatment” by “OOR[’s] admitt[ance of] PSP’s late [Extension Letter], exclu[sion of her] responses, and impos[ition of] unequal deadlines.” Requester’s Br. at 9. Additionally, Requester asserts “OOR’s refusal to conduct [an *in camera*] review amid categorical affidavits and blanket withholding deprived [her] of meaningful review and procedural fairness.” *Id.* at 52.’

In the RTKL context, due process requires the parties be provided with notice and an opportunity to present evidence to the factfinder. *Wishnefsky v. Dep’t of Corr.*, 144 A.3d 290, 295 (Pa. Cmwlth. 2016). It is well established that OOR is not required to hold a hearing. *United Healthcare of Pa., Inc. v. Baron*, 171 A.3d 943, 952 (Pa. Cmwlth. 2017) (citation omitted). “Under the RTKL, OOR is charged with developing an evidentiary record before its appeals officers to ensure meaningful appellate review.” *Twp. of Worcester v. Off. of Open Recs.*, 129 A.3d 44, 57 (Pa.

Cmwlth. 2016) (citation omitted). “In so doing, ‘the RTKL grants appeals officers wide discretion with respect to procedure’” *Id.* (quoting *Bowling*, 75 A.3d at 467). Further, “the appeals officer shall rule on procedural matters on the basis of justice, fairness and the expeditious resolution of the dispute.” 65 P.S. § 67.1102(b)(3). Here, OOR, the factfinder in these proceedings, provided Requester an opportunity to submit evidence, and Requester submitted several position statements to OOR. She was able to respond to PSP’s arguments and develop a record as to her allegations regarding the requested record. Thus, we discern no due process violation.

Additionally, when Requester raised the issue of not having received PSP’s Extension Letter, OOR requested PSP to provide a copy, which PSP submitted the following day. C.R. at 93, 95. At that time, and because the record had closed, OOR afforded the parties the opportunity to provide additional submissions, specifically noting a pending proposed submission by Requester. *Id.* at 102. However, Requester **objected** to an extension, and acquiesced “the current record is sufficient for review.” *Id.* at 104. Requester now contends OOR should have considered her additional position statements. This certainly conflicts with Requester’s admission at that time regarding the sufficiency of the record. Moreover, the RTKL endows an appeals officer with great discretion to exclude cumulative evidence and non-probative evidence. *See* 65 P.S. § 67.1102(a)(2) (an appeals officer “may limit the nature and extent of evidence found to be cumulative”). Further, it is well settled a “[r]equester is not entitled to rebuttal for the sake of having the last word.” *United Healthcare*, 171 A.3d at 952. Thus, we conclude there was no error in OOR’s decision to exclude Requester’s untimely position statements as cumulative and not probative. Moreover, because Requester conceded the sufficiency of the record

before OOR, and fully participated in the process by having submitted several timely position statements, we likewise discern no due process violation on this basis.

Regarding Requester's contention that OOR improperly admitted PSP's untimely Extension Letter, the record shows PSP received the Request on April 4, 2025. R.R. at 5a. PSP mailed an Extension Letter to Requester on April 11, 2025. C.R. at 95. Because this mailing date is within five business days of PSP's receipt of the Request, PSP properly claimed an extension. *See* 65 P.S. § 67.902(b), which permits an agency to claim a 30-day extension on responding to a request, provided the agency sends "written notice to the requester within five business days of receipt of the request." Requester's claim of a due process violation based on PSP's untimely Extension Letter is without merit.

Finally, Requester argues "OOR's refusal to conduct [*in camera*] review amid categorical affidavits and blanket withholding deprived [her] of meaningful review and procedural fairness." Requester's Br. at 52. Under Pennsylvania law, OOR has discretion whether to review requested documents *in camera*, particularly for purposes of ascertaining a claim of privilege. *Off. of Open Recs. v. Ctr. Twp.*, 95 A.3d 354, 369-70 (Pa. Cmwlth. 2014). However, OOR cannot compel an agency to produce investigative information protected by CHRIA. *Commonwealth v. Pa. State Police*, 146 A.3d 814, 818 (Pa. Cmwlth. 2016). Here, PSP has never invoked a claim of privilege. Instead, PSP has relied upon the criminal investigation exemption to the RTKL, 65 P.S. § 67.708(b)(16), and CHRIA's exemption for the confidentiality of investigative information, 18 Pa.C.S. § 9106(c)(4). Thus, given that privilege is not at issue in this matter, OOR has no authority to conduct an *in camera* review. Overall, discerning no due process violations, we turn to the merits of Requester's arguments.

The RTKL

The RTKL requires Commonwealth agencies, like PSP, to provide access to public records upon request. 65 P.S. § 67.301(a) (“A Commonwealth agency shall provide public records in accordance with this act.”). A “public record” is defined under the RTKL as a “record . . . of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege.” 65 P.S. § 67.102 (footnote omitted). A “record” is further defined as:

Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

65 P.S. § 67.102.

Turning to the relevant exemptions, the “burden of proving that a record of a Commonwealth agency . . . is exempt from public access shall be on the Commonwealth agency . . . by a preponderance of the evidence.” 65 P.S. § 67.708(a)(1). An agency can meet its burden of proof through affidavits. *Moore v. Off. of Open Recs.*, 992 A.2d 907, 909 (Pa. Cmwlth. 2010). This Court has approved of OOR’s use of testimonial affidavits in rendering decisions, *see Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520 (Pa. Cmwlth. 2011), and has specifically held that the credible testimonial affidavit of a deputy open records officer at PSP is sufficient to support a claimed exemption. *Mitchell v. Off. of Open Recs.*, 997 A.2d 1262, 1264 (Pa. Cmwlth. 2010). We interpret the

RTKL’s exemptions in a manner consistent with the statute’s objective, “which is to empower citizens by affording them access to information concerning the activities of their government.” *Pa. State Police v. Grove*, 161 A.3d 877, 892 (Pa. 2017) (quoting *SWB Yankees LLC v. Wintermantel*, 45 A.3d 1029, 1042 (Pa. 2012)).

Relevant to this appeal, the RTKL exempts the following records from disclosure:

A record of an agency relating to or resulting in a criminal investigation, including:

(i) Complaints of potential criminal conduct other than a private criminal complaint.

(ii) Investigative materials, notes, correspondence, videos and reports.

. . . [and]

(vi) A record that, if disclosed, would . . .

(A) [r]eveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

65 P.S. § 67.708(b)(16)(i)-(ii), (vi)(A).

We have previously held that police incident reports, as criminal investigative reports, are investigative materials and fall within the RTKL’s investigative exemption at Section 708(b)(16)(ii). *Pa. State Police v. Off. of Open Recs.*, 5 A.3d 473, 479 (Pa. Cmwlth.), *appeal denied*, 76 A.3d 540 (Pa. 2010). Because investigative materials fall within the exemption, investigative materials are not public records and, therefore, are not subject to disclosure. *Id.* Further, we have specified that where the exemption applies, the entire investigative report falls within the RTKL’s investigative exemption and is not subject to public

disclosure. 65 P.S. § 67.706(b)(16); *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Cmwlth. 2014).

Here, Requester sought “a complete and unredacted copy of the investigative report identified as PA 2024-476258, prepared by Trooper Karl Kulpak of the [PSP],” specifically including “all internal reports, communications, officer notes, correspondence with PennDOT, and any final determinations or flags.” R.R. at 6a. According to Agency Officer Rhoden and the affidavit of Agency Officer Rozier, the Criminal Incident Report is a multi-page report, including email, assembled by Trooper Alicea and Trooper Kulpak on or after April 12, 2024, as a result of an investigation into a possible criminal incident or allegation of criminal wrongdoing. R.R. at 26a, C.R. at 90. Agency Officer Rozier specified PSP was “requested by the Pennsylvania Department of Transportation to investigate a possible fraudulent titling of a 2019 Mercedes sedan.” C.R. at 90. The Criminal Incident Report, including email records, reflects the findings and conclusions, as well as the actions, observations, and notes of investigating troopers. R.R. at 26a, C.R. at 90. Both agency officers attested the Criminal Incident Report, if disclosed, would reveal the institution, progress, and result of a criminal investigation. R.R. at 27a, C.R. at 90. Both affirmed the Criminal Incident Report does not contain original records of entry, a chronology of arrest, or other information contained in a police blotter. R.R. at 27a, C.R. at 90-91.

Nevertheless, Requester contends the Criminal Incident Report should not be exempt under the RTKL’s investigative exemption for several reasons. First, Requester makes a “selective disclosure” argument, contending that by voluntarily disclosing the contents of the Criminal Incident Report to her adversary, PSP “cannot now withhold the same record from [her] absent a specific statutory

prohibition[.]”⁷ Requester’s Br. at 18. However, Section 305(a) presumes agency records are public, unless exempted under Section 708. 65 P.S. § 67.305(a). Nothing within Section 305 conditions exemption on prior nondisclosure. Rather, the RTKL endows an agency with discretion to disclose exempt records so long as the records are not privileged and other requirements are satisfied. 65 P.S. § 67.506(c). Thus, allegations of past disclosure by PSP do not constitute waiver for RTKL exemption purposes.

Second, Requester asserts PSP should have exercised discretion pursuant to Section 506(c) of the RTKL to release the Criminal Incident Report to her.⁸ Requester’s Br. at 29. However, Section 506(c) allows but does not require an agency to waive RTKL exemptions. *Dep’t of Health v. Off. of Open Recs.*, 4 A.3d 803, 815 (Pa. Cmwlth. 2010) (“Although Section 506(c) grants an agency the *discretion* to release an otherwise exempt record under certain circumstances, it does not *require* an agency to do so.”) (emphasis in original). PSP chose not to exercise its discretion. Under the law of this Commonwealth, neither Requester, nor this Court, can compel it to do so.

Third, Requester asserts “PSP’s conclusory affidavits failed to meet its burden under [Section] 708(a)(1), offering neither page-specific justification nor any effort to segregate factual material.” Requester’s Br. at 22. Requester further contends “OOR erred as a matter of law in excusing PSP’s statutory obligation to redact under

⁷ Requester cites *Silberstein v. Pa. Dep’t of Educ.*, 11 A.3d 629, 634 (Pa. Cmwlth. 2011), to support her waiver argument. However, this citation actually pairs with the case of *In re Silberstein*, which addressed whether personal computer records were subject to disclosure under the RTKL, and does not apply to the matter at hand.

⁸ Requester cites *Bradford Area School District v. Everett*, 162 A.3d 464, 472 (Pa. Cmwlth. 2017), in support of this assertion. However, neither the accompanying citation nor the proposed point of law are on point. See Requester’s Br. at 29.

[Section] 706 and in declaring that agencies are categorically exempt from redacting exempt records.” *Id.* However, absent bad faith, “the averments in the [verification by Agency Officer Rozier] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’t Prot.*, 103 A.3d 374, 382-83 (Pa. Cmwlth. 2014). Here, Requester alleges bad faith because “PSP withheld all 58 pages of the [Criminal Incident Report] based only on categorical affidavits.” Requester’s Br. at 33. However, she does not question the veracity of the sworn verifications, made subject to penalty of perjury, by either Agency Officer Rhoden or Agency Officer Rozier. Thus, we must follow the law of this Commonwealth that the credible testimonial affidavit of a deputy open records officer at PSP is sufficient to support a claimed exemption. *Mitchell*, 997 A.2d 1262. Accordingly, PSP need not redact the Criminal Incident Report. *See Castillo v. Pa. State Police*, 310 A.3d 831, 835-36 (Pa. Cmwlth. 2024) (holding PSP need not redact a police incident report exempt from disclosure under the RTKL).

Fourth, Requester criticizes PSP’s denial as insufficiently specific to satisfy the requirements of Section 903(2) of the RTKL, 65 P.S. § 67.903(2). Requester contends PSP “offer[ed] no attempt at redaction or page-level explanation.” Requester’s Br. at 46. Pursuant to Section 903(2), an agency’s denial letter must contain “specific reasons for denial, including a citation of supporting legal authority.” 65 P.S. § 67.903(2). We have deemed a denial sufficient if it merely “specifies exemptions and cites supporting legal authority,” recognizing the purpose of a denial is simply to “put [the r]equester on notice of the exemptions at issue.” *Carey v. Dep’t of Corr.*, 61 A.3d 367, 373 (Pa. Cmwlth. 2013). Given this standard, PSP’s denial complies with Section 903(2). The letter cites the criminal investigation and personal identification exemptions, and the accompanying

verification by Agency Officer Rhoden also sets forth numerous exemptions. R.R. at 22a-28a. The law does not require the “redaction” or “page-level” analysis sought by Requester, and Requester offers no authoritative contrary legal authority. *See Castillo*, 310 A.3d at 835-36.

CHRIA

Requester also argues the requested records are not prohibited from disclosure under CHRIA.⁹ Generally, CHRIA governs the collection, maintenance, dissemination, and receipt of criminal history record information. *Mitchell*, 997 A.2d at 1265-66. CHRIA specifically prohibits the dissemination of “investigative information” to any person or entity other than a criminal justice agent or agency. 18 Pa. C.S. § 9106(c)(4). CHRIA defines “investigative information” as “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information.” 18 Pa. C.S. § 9102. Because we have concluded the Criminal Incident Report contains PSP investigative materials that document PSP’s investigation of a possible fraudulent titling of a 2019 Mercedes sedan, the Criminal Incident Report is “investigative information” and CHRIA prohibits PSP from disseminating it to any non-criminal justice agent or agency.

Bad Faith

Finally, Requester contends OOR “erred in dismissing [her] request for a bad[] faith finding.” Requester’s Br. at 32. Specifically, Requester asserts PSP’s “[w]ithholding without justification, disregarding statutory mandates, [and] engaging in selective disclosure supports a finding of bad faith.” *Id.* Additionally,

⁹ We acknowledge that OOR did not address PSP’s argument regarding CHRIA in its Final Determination and, instead, decided the records were exempt based on the RTKL’s investigative exemption. *See* OOR’s Final Determination, *generally*.

Requester argues OOR erred by refusing to address bad faith, instead deferring any sanctions to the Court, and by incorrectly “misidentif[ying the Criminal Incident Report] as PA-2024-1555557” as opposed to Pa-2024-476258.” *Id.* at 34.

A requester bears the burden of producing evidence an agency committed bad faith. *Uniontown Newspapers, Inc. v. Dep’t of Corr.*, 185 A.3d 1161, 1170-71 (Pa. Cmwlth. 2018). “The RTKL requires an agency to make a good faith effort to find and obtain responsive records before denying access.” *Id.* at 1170 (citation omitted). Bad faith also includes a failure to comply with a final determination of the OOR. *Off. of Dist. Att’y of Philadelphia v. Bagwell*, 155 A.3d 1119, 1141 (Pa. Cmwlth. 2017). Given this standard, and consistent with the foregoing analysis, Requester has not satisfied her burden. Upon receiving the Request, PSP timely sent Requester an Extension Letter, and thereafter, a timely denial with specified exemptions. R.R. at 8a-10a, 22a-28a. Additionally, PSP provided evidence to OOR in the form of a verification by Agency Officer Rozier that PSP conducted a good faith search, located a responsive record, and the record was exempt from access. C.R. at 86-91. Further, PSP timely responded to OOR’s request for a copy of the Extension Letter. *Id.* at 95. Thus, Requester has not proven PSP acted in bad faith.

Similarly, we find no merit in Requester’s assertions that **OOR** acted in bad faith. This Court has previously explained “[b]efore imposing costs, fees, or penalties under either Section 1304 or Section 1305, **we** must make findings of fact that an agency has acted in bad faith.” *Southeastern Pa. Transp. Auth. v. Anderson*, 337 A.3d 575, 597-98 (Pa. Cmwlth. 2025) (emphasis added and citation omitted). Thus, the RTKL clearly gives the reviewing court, and not OOR, authority to impose penalties for bad faith. As for Requester’s second contention regarding a

“misidentification” of the Criminal Incident Report, while factually correct,¹⁰ Requester presented no evidence that OOR’s inclusion of the second erroneous number was anything beyond a mere typographical error. Moreover, Requester did not offer evidence to demonstrate the incorrect number misled her about the record, or had any effect on the disposition of her RTKL Request. Accordingly, we conclude Requester has not satisfied the burden of proving bad faith.

CONCLUSION

As discussed above, PSP met its burden in proving the Criminal Incident Report relates to a criminal investigation, and it was assembled in conducting a criminal investigation. As a result, the Criminal Incident Report is exempt under the RTKL’s investigative exemption under Section 708(b)(16), and also prohibited from disclosure under CHRIA. Accordingly, we affirm OOR’s Final Determination.

STACY WALLACE, Judge

¹⁰ On the first page of the Final Determination, OOR referenced the Criminal Incident Report as both PA 2024-476258 and PA 2024-1555557. *See* C.R. at 106.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Shakia Perry,	:
	:
Petitioner	:
	:
v.	: No. 764 C.D. 2025
	:
Pennsylvania State Police (Office	:
of Open Records),	:
Respondent	:

ORDER

AND NOW, this 19th day of October 2026, the June 12, 2025 Final Determination of the Office of Open Records is **AFFIRMED**.

STACY WALLACE, Judge