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ATTORNEY FOR APPELLEE

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL**

PHILADELPHIA	:	
DISTRICT ATTORNEY’S OFFICE,	:	Special Docket Program
Appellant,	:	
	:	
v.	:	
	:	
CAITLIN THOMPSON,	:	No. 241202797
Appellee.	:	

BRIEF OF APPELLEE

I. MATTER BEFORE THE COURT

The matter before the Court is an appeal by the Philadelphia District Attorney’s Office from a December 2, 2024 Final Determination of the Office of Open Records (“OOR”). Appellee Caitlin Thompson requests that this Court affirm the OOR’s carefully considered final determination requiring the Philadelphia District Attorney’s Office (“DA” or “DA’s Office”) to provide “all responsive Population Summary JJSC.pdf, State.pdf, Private.pdf, Releasable from JJSC to CUA or DHS.pdf and Residents Over 60 days.pdf documents that exist within the DAO’s possession,” along with documents that explain the contents of tables and fields in these documents, under Pennsylvania’s Right to Know Law, 65 P.S. §§ 67.101 *et seq.* Certified Record (“CR”) at 87. In addition, Appellee requests that this Court award appropriate fees and costs pursuant to 65 P.S. § 67.1304 as well as a civil penalty pursuant to 65 P.S. § 67.1305.

II. STATEMENT OF THE QUESTION INVOLVED

Should the OOR's Final Determination be affirmed insofar as it requires the DA to disclose non-exempt public records responsive to the Request (with some redactions permitted)?

Suggested answer: Yes.

Should this Court award fees, costs and mandate a civil penalty pursuant to 65 P.S. § 67.1304 and 1305?

Suggested answer: Yes.

III. FACTS

On September 20, 2024, journalist Caitlin Thompson submitted a Right to Know Law ("RTKL") request to the Philadelphia District Attorney's Office pursuant to 65 P.S. §§ 67.101 *et seq.* CR at 13. Her request sought, in part, "PDF documents that are attached to a daily email sent from Philadelphia Family Court Juvenile Probation to various juvenile justice stakeholders, including the City of Philadelphia Office of the District Attorney." *Id.* After detailing the types of data and records she sought, Ms. Thompson stated "**I am not asking for information that would identify children. Please redact or remove columns that include youth's names.**" CR at 15 (emphasis in original). The DA did not respond to Ms. Thompson's RTKL request in a timely fashion, and as a result she appealed the matter as being "deemed denied" to the OOR. CR at 10.

After Ms. Thompson appealed to the OOR, the DA argued that her appeal should be dismissed in its entirety, and the records request should be denied pursuant to Sections 708(b)(30), 708(b)(16)(iv), and 305(a) of the RTKL. CR at 26–28. The DA also invoked the Juvenile Act as a reason for withholding the records and urging the OOR to dismiss Ms. Thompson's appeal. The DA's initial submission to the OOR, filed on October 28, 2024, included an attestation by Assistant

District Attorney Zchagiel Monroe. CR at 39–40. After the DA’s initial submission, the OOR appeals officer sought clarification from the DA’s Office, writing to the DA that it was “unclear what specific types or categories of information are contained in each of the PDFs identified in the Request.” CR at 42. Specifically, on October 30, 2024, the OOR appeals officer noted that the record did not show:

1. How the responsive records constitute “law enforcement records and files concerning a child” under the Juvenile Act;
2. Whether any of the responsive records fall under 42 Pa.C.S. § 6308(b), which outlines certain crimes in which a juvenile’s name, age and address, the offenses charged and the disposition of the case can be subject to public disclosure[;]
3. How the exemption at 65 P.S. § 67.708(b)(16)(iv) applies to the responsive records.

Id.

The OOR appeals officer asked the DA to supplement the record with evidence addressing those issues by November 4, 2024. Accordingly, the DA on November 4, 2024 submitted the attestation of the DA’s open records officer, Daniel Margolskee. CR at 45–55. Mr. Margolskee’s attestation said that the sought-after records were not records “of” the DA’s Office, but instead were created by “an outside entity—the Juvenile Justice Services Center (“JJSC”)” which he said was “supervised by or in some way affiliated with the Department of Human Services.” CR at 45. According to Mr. Margolskee’s attestation, he and Mr. Monroe had consulted “multiple times with a knowledgeable person at JJSC” before making the DA’s first submission to the OOR. *Id.* In attempting to provide more evidence to the OOR appeals officer, Mr. Margolskee’s attestation stated that he relied on an “exemplar” Combined Daily Report (“CDR”) in the possession of the DA’s Office. CR at 46. He described what kinds of information were contained within the exemplar, such as “Releaseable [sic] from PJJSC to DHS/CUA-GPS ordered.” CR at 47.

After reviewing the DA's initial submission as well as Mr. Margolskee's November 4, 2024 attestation, the OOR appeals officer on November 5, 2024 again sought additional information from the DA's Office. Specifically, the OOR appeals officer said that the following items were unclear:

1. Whether a specific individual from the DAO's office receives the emails and PDFs identified in the RTKL Request; and
2. Why such records are received or retained by the DAO (i.e. does the DAO receive the records pursuant to a specific agreement or statute, what is the purpose of the DAO receiving these records, etc.).

CR at 59. The OOR appeals officer asked the DA's Office to supplement the record by November 8, 2024 "with evidence clarifying the aforementioned issues." *Id.* Following a brief extension in the OOR's deadline, the DA on November 14, 2024 provided a supplemental attestation of Mr. Monroe. CR at 67–68. Mr. Monroe's supplemental attestation stated, in part:

6. The Combined Daily Report ("CDR," PDFs, etc.) are circulated to prosecutors and staff of the Charging Unit and the Juvenile Unit via email.
7. Prosecutors assigned to the Juvenile and Charging Units use information in the CDR to inform their judgment when handling and managing juvenile cases. There are many situations where the CDR can inform prosecutorial judgment in the management of juvenile cases. For example, the CDR contains information about population capacity: when the Juvenile Justice Services Center ("JJSC") custodial population nears capacity, rather than recommend a "hold" (situation in which the youth remains at the JJSC) DAO prosecutors may recommend in-home detention or alternative forms of supervision. As another example, the CDR provides information regarding a juvenile's dependency status: if a youth is awaiting dependent placement, instead of remaining at the JJSC, they may be eligible for a non-secure community-based detention center when one becomes available, and that may inform prosecutorial decision-making in the management of the case. I've spoken to both the Chief and Assistant Chief of the Juvenile Unit and they are not aware of any agreement or statute that governs the dissemination of the CDR to the DAO.

CR at 68. The November 14, 2024 attestation was the final submission in the OOR record, and on December 2, 2024 the OOR issued its Final Determination. CR at 88. Taking the DA's arguments in turn, the OOR first determined that, contrary to the arguments advanced by the DA, the records were "of the agency" and within the possession of the DA, because they documented an activity of the agency—"prosecutorial function or participation in the juvenile justice system." CR at 75–78. Next, the OOR found the DA failed to demonstrate that the requested records constituted criminal investigative records. CR at 78. Third, the OOR found that the DA "failed to demonstrate that the requested records are protected by Section 6308 of the Juvenile Act or that they are exempt in their entirety under Section 708(b)(30) of the RTKL." CR at 81. In reviewing the DA's Juvenile Act argument, the OOR noted that the DA's "circular interpretation would mean that any document the agency possesses concerning a child subject to the juvenile justice system constitutes a law enforcement record." CR at 84. The OOR's determination was based upon its determination that the DA failed to demonstrate by a preponderance of the evidence that the requested PDF Documents were the types of records protected by Section 6308(a) of the Juvenile Act. Finally, the OOR allowed for redaction of the names, dates of birth and home addresses of individuals under the age of 17 from the Population Summary JJSC.pdf, State.pdf, Private.pdf, Releasable from JJSC to CUA or DHS.pdf and Residents Over 60 days.pdf documents. CR at 86. The OOR appeals officer also stated "[n]othing in this Final Determination should be interpreted to require

the disclosure of information that is explicitly exempt from disclosure pursuant to 65 P.S. § 67.708(b)(5)¹, (b)(6)², (b)(19)³.” CR at 86–87.

The DA filed the instant appeal on December 23, 2024, seeking a reversal of the OOR’s decision. This Court issued a briefing schedule on January 31, 2025. On May 4, 2025, the DA filed with this Court its opening brief, to which Appellee now responds.

IV. ARGUMENT

The OOR correctly determined that the records requested by Ms. Thompson should be released. Although a trial court may exercise plenary review and apply a *de novo* standard of review, there is “nothing in the RTKL that would prevent a Chapter 13 court from simply adopting the findings of fact and conclusions of law of an appeals officer when appropriate, thus, in the proper case, effectively achieving the result sought by the OOR.” *Bowling v. Office of Open Records*, 75 A.3d 453, 473 (Pa. 2013). This Court should therefore adopt the well-reasoned and detailed legal conclusions and factual findings of the OOR and affirm its final determination. In addition, Appellee requests that this Court award appropriate fees and costs pursuant to 65 P.S. § 67.1304 as well as a civil penalty pursuant to 65 P.S. § 67.1305.

¹ “A record of an individual's medical, psychiatric or psychological history or disability status, including an evaluation, consultation, prescription, diagnosis or treatment; results of tests, including drug tests; enrollment in a health care program or program designed for participation by persons with disabilities, including vocation rehabilitation, workers' compensation and unemployment compensation; or related information that would disclose individually identifiable health information.” 65 P.S. § 67.708(b)(5).

² “The following personal identification information: (A) A record containing 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. (B) A spouse’s name, marital status or beneficiary or dependent information. (C) The home address of a law enforcement officer or judge.” 65 P.S. § 67.708(b)(6)(i).

³ “DNA and RNA records.” 65 P.S. § 67.708(b)(19).

A. The OOR correctly determined that the requested records can be redacted and released pursuant to Section 706 of the RTKL.

In its brief, Appellant argues the OOR erred by ordering the District Attorney “to produce redacted copies of records that are exempt from public access in their entirety.” Opening Br. at 4. Appellant’s faulty reasoning appears to hinge on a fundamental misunderstanding of the RTKL; the DA seems to be relying on the definition of “public record” in Section 102⁴ of the RTKL without also considering the later Section 706 of the RTKL, which also defines the scope of the term “public record”:

If an agency determines that a **public record**, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the agency’s response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the agency shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. **The agency may not deny access to the record if the information which is not subject to access is able to be redacted.** Information which an agency redacts in accordance with this subsection shall be deemed a denial under Chapter 9.

65 P.S. § 67.706 (emphasis added).

In the DA’s reasoning, agencies are permitted to withhold any “public records” in their entirety if those records contain some exempt material under Section 708 of the RTKL, are exempt under a state or federal law, or are exempt based on another privilege. The DA’s view of Section 706 is flatly wrong and contradicted by settled law. More than thirteen years ago, the Commonwealth Court considered the interplay between Sections 706 and 705 (creation of a

⁴ “A record, including a financial 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 (defining “public record”).

record) of the RTKL, recognizing the tension between two sections of the law and attempting to determine how to redact information which is not subject to access, but grant access to the remainder. Mem. Op. at 3–4, *Fort Cherry Sch. Dist. v. Acton*, No. 842 C.D. 2011 (Pa. Commw. Ct. Feb. 8, 2012), available at https://www.pacourts.us/assets/opinions/Commonwealth/out/842CD11_2-8-12.pdf?cb=1. The redactions in *Fort Cherry* included information protected by the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), as well as employees’ Social Security numbers, home addresses, bank account and bank routing numbers, and home address/date of birth information of minors. *Id.* at 2 n.3. The Commonwealth Court concluded that the trial court judge had properly conducted a “highly fact-sensitive balancing” of the need to redact electronically stored information and allowed for disclosure of non-exempt information pursuant to Section 706. *Id.* at 4.

Several years after *Fort Cherry*, the Commonwealth Court again rejected an agency argument based on segregation of redacted and non-redacted data. In a case cited in Appellant’s opening brief—*Department of Corrections v. St. Hilaire*—an ABC news reporter sought all records of inmate and employee injury and death between 2009 and 2014. *See St. Hilaire*, 128 A.3d 859, 860 (Pa. Commw. Ct. 2015). The court ruled in the reporter’s favor, noting that the possibility the documents sought may contain some medical information “does not transform the reports into exempt medical records.” *Id.* at 866. Given the requester sought “non-identifiable injury information” rather than medical records, inmate identities, or identifiable health information, the information could be disclosed and records that did contain such information could be released with redactions. *Id.*

The Commonwealth Court again rejected a similar redaction argument when the School District of Philadelphia argued that student attendance data could be withheld wholesale because of a federal student privacy law, the Family Educational Rights and Privacy Act (FERPA). *Sch. Dist. of Phila. v. Calefati*, No. 1285 C.D. 2020, 2022 WL 108455, at *4 (Pa. Commw. Ct. Jan. 12, 2022). The trial court rejected the school district’s argument that it was unable to release redacted reports with individual student information obscured, a decision upheld by the Commonwealth Court. The court further found “without merit” the school district’s arguments that redacting identifying information required it to create a new record in contravention of the RTKL. *Id.*

The same year that the Commonwealth Court rejected the Philadelphia school district’s redaction argument, the Pennsylvania Supreme Court, considering the RTKL’s presumption of access and its remedial purpose, rejected the same type of argument being advanced by the DA’s Office in the instant case. In *Central Dauphin School District v. Hawkins*, the school district argued “the redaction provision set forth in RTKL Section 706 is inapplicable to records that fall within a statutory exemption; that is, if a record is not a ‘public record’ by definition under Section 102, or likewise ‘presumed to be a public record’ under Section 305, then it is not subject to redaction under Section 706.” 286 A.3d 726, 736 (Pa. 2022). In rejecting the school district’s DA-type argument, the Court ruled that the district was obligated to redact students’ images in a video and then to provide access to the redacted video. *Id.* at 741–42 (citing *Easton Area Sch. Dist. v. Miller*, 232 A.3d 716, 731 (Pa. 2020)). The Court focused on the plain language of Section 706 of the RTKL: “The agency may not deny access to the record **if the information which is not subject to access is able to be redacted.**” *Id.* at 736 n.8, 738, 742, 746 (emphasis added) (quoting 65 P.S. § 67.706).

In other words, if a requested record contains some information subject to exemptions, as the DA argues here, and the agency is able to redact such exempted information, the agency **must** provide the requested record with those redactions.

The OOR carefully examined the affidavits and the categories of information in the subject records to ensure that individually identifiable minors' names would not be revealed. For instance, the OOR reasoned:

Here, Items 1 and 2 of the Request state that the requested Population Summary JJSC.pdf documents are daily memorandums with a title that includes the phrase “Juvenile Justice Service Center (JJSC) population summary.” These documents contain summary level information “derived from the other documents in the CDR” and include specific “metrics across the population of juveniles held by JJSC[,]” such as the following data fields: the JJSC House Count, State Committed Youth awaiting transfers, Private Committed Youth awaiting transfers, JJRA, Act 96 Juveniles, and Alternative Detention, which includes data regarding GPS devices available, ISP program slots, Pre-ERC program slots available and Post-ERC program slots available. *See* Margolskee Attestation, ¶ 16(i). As such, it appears that these documents do not pertain to specific juveniles or juvenile cases, but instead include data about the population of the JJSC as a whole.

CR at 84.

The attestations submitted by the DA do not argue that the office *cannot* redact individual juvenile information; rather, they argue that “no redaction is required.” Opening Br. at 10. The record is silent as to what difficulties the DA’s Office has in conducting redaction, be it a lack of software, finances, or a technician to apply redaction. Even if the DA had argued such deficiencies before the OOR—which it did not—the Supreme Court has already rejected such arguments related to redaction. “In any event, it is clear Section 706 of the RTKL mandates agencies . . . to redact information exempt from disclosure and does not give them discretion in this regard; they are simply required to comply with the law.” *Cent. Dauphin Sch. Dist.*, 286 A.3d at 743 n.12.

Given the Supreme Court’s endorsement of the importance of redaction and release of the remainder of a record—even in sensitive situations involving juveniles—as well as the plain language of the RTKL, the DA’s argument is unavailing and must be rejected.

B. Neither Section 708(b)(30) of the RTKL nor the Juvenile Act bars access to the redacted records.

In addition to its erroneous proposition that the requested records simply are not subject to release even in redacted form, the DA’s opening brief asserts that the Juvenile Act as well as Section 708(b)(30) of the RTKL preclude disclosure in the instant case.⁵ To successfully withhold a public record under either of these exemptions, the DA must prove the exemption applies by a preponderance of the evidence. 65 P.S. § 67.708(a)(1); *Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 809 (Pa. Commw. Ct. 2010). The OOR correctly concluded that the DA’s Office had not proven these exemptions apply by a preponderance of the evidence.

Section 6308(a) of the Juvenile Act provides that law enforcement records involving children are to be “kept separate” from files involving adults and that except for narrow circumstances, “the records and files shall not be open to public inspection or their contents disclosed to the public.” 42 Pa.C.S. § 6308(a). Section 6302 (Definitions) of the Juvenile Act does not define “law enforcement records” but the emphasis in Section 6308(a) is clearly aimed at protection of individualized minors charged with crimes.

The OOR correctly determined that records that do not pertain to identifiable children—but rather are capturing populations and facility data—are subject to release. For instance, in analyzing Items 1 and 2 of the Request, the OOR appeals officer found “these documents do not pertain to specific juveniles or juvenile cases, but instead include data about the population of the

⁵ Although the DA argued before the OOR that the records were exempt under 65 P.S. § 67.708(b)(16)(iv), the DA’s opening brief on this appeal does not make the same claim, instead focusing on Section 708(b)(30) and the Juvenile Act.

JJSC as a whole.” CR at 84. This type of data has particular significance in the context of a RTKL case. Section 102 of the RTKL defines “aggregated data” as “[a] tabulation of data which relate to broad classes, groups or categories so that it is not possible to distinguish the properties of individuals within those classes, groups or categories.” 65 P.S. § 67.102. Section 708(d) of the RTKL spells out that its exceptions “shall not apply to aggregated data maintained or received by an agency.” 65 P.S. § 67.708(d). The legislature’s clear demarcation of aggregated data as a special category of records highlights the critical nature of this type of information, which can show trends of placements of juveniles or situations such as overcrowding, an issue of particular import at the Juvenile Justice Services Center⁶. The RTKL only allows an agency to withhold aggregated data if its disclosure can clearly be shown to put at risk public safety, the loss of state funds, computer safety, or if its disclosure would release individually identifiable medical information. 65 P.S. § 67.708(d). In this case, the DA’s attestations do not meet the burden to show that disclosure of records would trigger any of these exemptions within Section 708(d).

Similarly, although Section 708(b)(30) of the RTKL exempts “[a] record identifying the name, home address or date of birth of a child 17 years of age or younger,” this section does not mean that all records held by Commonwealth or local agencies that mention minors are inaccessible via a RTKL request. Indeed, as discussed above, RTKL requests are routinely granted in cases involving information about minors; the minors’ identifying information is simply redacted pursuant to Section 706 of the RTKL. *See Calefati*, 2022 WL 108455, at *4; *Cent. Dauphin Sch. Dist.*, 286 A.3d at 741–42. Furthermore, the RTKL is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public

⁶ *Philadelphia’s Juvenile Justice Problem*, WHYY (May 21, 2025), <https://whyy.org/episodes/philadelphias-juvenile-justice-problem/>; Ellie Rushing & Samantha Melamed, *Disturbing new photos inside Philly’s juvenile jail show kids sleeping on floors in crowded, filthy cells*, Phila. Inquirer (Oct. 29, 2023) <https://www.inquirer.com/news/philadelphia/philadelphia-juvenile-justice-services-center-dhs-20231029.html>.

officials, and make public officials accountable for their actions.” *Pa. State Educ. Ass’n v. Commonwealth*, 148 A.3d 142, 155 (Pa. 2016). “[T]he objective of the Right-to-Know Law . . . is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees LLC v. Wintermantel*, 45 A.3d 1029, 1042 (Pa. 2012). This right of access applies just as strongly, if not more so, to the press, which relies on access to such documents to fulfill its role as “the information-gathering agent of the public.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 609 (1978).

As the Pennsylvania Supreme Court has noted, “the right[s] of the press and public [a]re synonymous, since the media effectively functions as surrogates for the public.” *Commonwealth v. Long*, 922 A.2d 892, 899 (Pa. 2007) (citing *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980)). The RTKL “replaced the Right to Know Act and significantly expanded public access to governmental records . . . with the goal of promoting government transparency.” *Levy v. Senate of Pa.*, 65 A.3d 361, 368 (Pa. 2013). It is “remedial legislation” that must be interpreted “liberally to effect its object and promote justice.” *Id.* at 380 (citing 1 Pa.C.S. § 1928(c)).

That principle of construing the RTKL in favor of release bears directly upon this case. The DA’s gambit here—insisting that records in its possession are entirely exempt and may not be released even with redactions, despite a clear statutory mandate to do so—if endorsed by this Court, would invite all sorts of mischief in the future. To rule in favor of the DA would be to disregard the holdings of the Supreme and Commonwealth Courts and allow the Office to ignore the clear language of Section 706: “The agency may not deny access to the record if the information which is not subject to access is able to be redacted.” 65 P.S. § 67.706. This Court should reject the DA’s assertion out of hand.

C. The Court should award attorney fees, costs and a civil penalty for the DA's arguments that are not based upon a reasonable interpretation of law.

This Court may award Appellee the fees and costs of this litigation “if the court finds that the legal challenge under this chapter was frivolous,” 65 P.S. § 67.1304(b), or if the court “grants access to a record after a request for access was deemed denied . . . if the court finds either” (1) the agency responding to the request “willfully or with wanton disregard deprived the requester of access to a public record subject to access or otherwise acted in bad faith,” or (2) if the legal arguments denying production “were not based on a reasonable interpretation of law,” *id.* § 67.1304(a)(1)–(2); *see Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 243 A.3d 19, 34 (Pa. 2020) (*Uniontown II*).

This Court should award Ms. Thompson fees due to arguments that were not based on a reasonable interpretation of law. In *Uniontown I*, this Court found bad faith based on the agency’s denial without conducting a good faith search, its decision to contest the requester’s appeal to the OOR and claim that records were exempt without having reviewed them, and its failure to comply with the OOR’s disclosure order. *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 185 A.3d 1161, 1172–73 (Pa. Commw. Ct. 2018) (*Uniontown I*). It is difficult to construe the DA’s Office acting in “good faith” when the arguments it cites in support of withholding records have been repeatedly rejected by the Pennsylvania Commonwealth and Supreme Courts. The DA’s appeal to this Court, based on previously rejected arguments, “forced [Ms. Thompson] to expend time and resources” to continue to assert her rightful access to the records requested; therefore, the DA’s “persistent denial of access constitutes bad faith.” *Uniontown I*, 185 A.3d at 1174. Before this Court, the DA continues to press the same arguments that proved unsuccessful at the OOR, flouting settled case law and the plain, mandatory language of Section 706’s redaction requirement. That

the DA's Office contests disclosure despite settled case law and the plain language of the law supports a finding of bad faith. *See* 65 P.S. § 67.1304(a)(2).

Denying fees when it is the agency, not the requester, pursuing an appeal from an unfavorable OOR decision incentivizes agencies to drag out these bouts with limited risk of financial disincentive, while punishing a requester who has already prevailed and, rather than capitulate, who continues to advocate in favor of the OOR's rightful adjudication. . Accordingly, this Court may freely affirm the OOR's Final Determination, award Ms. Thompson fees and costs, and finalize Ms. Thompson's RTKL request with a strong message extolling access and accountability.

CONCLUSION AND RELIEF REQUESTED

For the foregoing reasons, Appellee respectfully requests that this Court deny the instant appeal and affirm the OOR's decision below insofar as it orders the DA to provide the records specified with redactions. In addition, Appellee requests that this Court award appropriate fees and costs pursuant to 65 P.S. § 67.1304 as well as a civil penalty pursuant to 65 P.S. § 67.1305. In the alternative, if this Court does not order immediate release of the requested records, it should conduct an *in camera* review of the disputed records, or otherwise remand this matter to the OOR for an *in camera* review. *See Bowling v. Office of Open Records*, 990 A.2d 813, 821–22 (Pa. Commw. Ct. 2010) (holding that common pleas courts have authority to conduct *in camera* review of public records sought under the RTKL).

Dated: June 2, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2025, a true and correct copy of the foregoing in the above-captioned matter was filed by sending this paper to the Court's electronic filing system (EFS) website pursuant to Pa.R.C.P. 205.4(g) and Phila. Civil Rule *205.4(f), and by virtue of automatic electronic service by the Court to all parties, who have entered their appearance on the Court's electronic docket, and by email to:

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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Date: June 2, 2025

Submitted by: Paula Knudsen Burke
Signature: /s/*Paula Knudsen Burke*
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