

**DISTRICT ATTORNEY'S OFFICE
NORTHAMPTON COUNTY, PENNSYLVANIA**

**LEONARD DE ROCHE,
Requester,**

NO: 2-ORA-2023

v.

**LOWER SAUCON TOWNSHIP,
Respondent.**

FINAL DETERMINATION

AND NOW, the Northampton County District Attorney's Office respectfully submits its Final Determination as to Leonard DeRoche's ("Requester's") Right to Know Law ("RTKL") request.

Introduction

Upon information and belief, on May 22, 2023, Lower Saucon Township ("Respondent") received a request from Requester seeking a copy of a Lower Saucon Township Police Incident Report. *See* description within Exhibit B, *infra*. On May 23, 2023, Respondent denied the request as a record of an agency relating to or resulting in a criminal investigation (Section 708(b)(16) of the RTKL, 65 P.S. § 67.708(b)(16)) and The Criminal History Records Information Act (CHRIA, 18 Pa.C.S.A. §9106(c)(4)). *See* Exhibit "A."

On June 2, 2023, an appeal was received by the Northampton County District Attorney's Office Appeals Officer. *See* Exhibit "B." The appeal specifically requested all materials denied by Respondent. This document is the Appeals Officer's final determination regarding the items denied by the Respondent.

Discussion

In this case, Requester seeks information, which the undersigned believes relates to Docket No. : MJ-03204-TR-0001126-2023, and a Summary Trial scheduled before the Honorable Alan Mege. *See* Exhibit “C.” The Requester specifically alleges in Exhibit B that the records sought are believed necessary to prepare for Requester's defense in the above-referenced proceeding. Since Requester seeks materials relating to his criminal investigation, this Appeals Officer finds that the Respondent properly denied the request. *See Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 479 (Pa. Comwlth. Ct. 2010, holding that incident reports that contain investigative materials are exempt from public disclosure under the RTKL).

The records Requester seeks relate to a criminal investigation, and thus are exempt from access by the Requester under the RTKL. A public record is “[a] record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption shall not apply if (1) the record is exempt under section 708 . . .” 65 P.S. §67.305(a)(1). The burden is on the responding agency to show by a preponderance of the evidence that the record is exempt from public disclosure. 65 P.S. §67.708(a)(1).

The Northampton County District Attorney’s Office Appeals Officer retains authority to determine whether a request under the RTKL seeks records related to a criminal investigation. 65 P.S. §67.503(d)(2). Under section 708(b)(16), “[a] record of an agency relating to or resulting in a criminal investigation” is exempt from disclosure. 65 P.S. §67.708(b)(16). A criminal investigation “refers to an official inquiry into a possible crime.” *Pennsylvania State Police v. Grove*, 161 A.3d 877, 892-893 (Pa. 2017). This material typically includes “statements compiled by district attorneys, forensic reports, and reports of police, including notes of interviews with victims, suspects and witnesses assembled for the specific purpose of investigation.” *Id.* (*citing*

Barros v. Martin, 92 A.3d 1243, 1250 (Pa. Cmwlth. Ct. 2014), . . .).

Additionally, CHRIA prohibits the disclosure of the information requested. This information is “investigative information” which is defined by CHRIA 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.A. § 9102. Importantly, 18 Pa.C.S.A. § 9106(c)(4) specifies that: “Investigative and treatment information shall not be disseminated to any department, agency or individual unless the department, agency or individual requesting the information is a criminal justice agency which requests the information in connection with its duties, and the request is based upon a name, fingerprints, *modus operandi*, genetic typing, voice print or other identifying characteristic.” The Requester is not a “criminal justice agency” as defined by 18 Pa.C.S.A. § 9102. Therefore, the requested information cannot be disseminated to the Requester under CHRIA.

Here, the record at issue is, on its face, related to a police investigation and is exempt from disclosure under the RTKL and CHRIA.

Conclusion

For the foregoing reasons, Requester’s request is **DENIED**. This Final Determination is binding on the parties. Requester may file a petition for judicial review in the Northampton County Court of Common Pleas within 30 days. 65 P.S. § 67.1302.

De Roche v. Lower Saucon Township

2-ORA-2023

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Respectfully submitted,

Dated: 6/22/2023

By: 

Robert J. Duminiak, Deputy District Attorney
Appeals Officer
Northampton County District Attorney's Office
669 Washington Street
Easton, PA 18042

(610) 829-6672
rduminiak@norcopa.gov

cc: (via US First Class Mail)

Rev. Leonard De Roche D. Min.
804 High Street
Bethlehem, PA 18018-6104

Mark L. Hudson
Open Public Records Officer
Lower Saucon Township
3700 Old Philadelphia Pike
Bethlehem, PA 18015

Exhibit A



Lower Saucon Township

3700 Old Philadelphia Pike, Bethlehem, PA 18015 610-865-3291 Fax 610-867-3580

May 23, 2023

Leonard DeRoche
408 High Street
Bethlehem, PA 18018

Re: Right-To-Know Act Request #1708

Dear Mr. DeRoche:

This acknowledges your Right-To-Know Act request #1708, received on May 22, 2023 to Lower Saucon Township for the release of Police Incident Reports.

Please be advised that your request is being denied for the following reasons: the documents you requested are exempt from disclosure pursuant to Section 708(b)(16) of the Right-to-Know Act, as the item requested is a record of an agency relating to or resulting in a criminal investigation and Section 708(b)(17) of the Right-to-Know Act, as the item requested is a record of an agency relating to a noncriminal investigation. The Criminal History Records Information Act (CHRIA) prohibits Police Departments from disseminating its investigative information to any persons or entities, other than to criminal justice agents and agencies. 18 Pa. C.S.A. §9106(c)(4). The information requested is not contained in any police blotter. See 65P.S. 67.708(b)(16).

You have a right to appeal to the Northampton County District Attorney, Northampton County Courthouse, 669 Washington Street, Easton, PA 18042, under Section 503(d)(2). You also have the right to appeal this response in writing to the Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234

If you choose to file an appeal you must do so within fifteen (15) business days of the mailing date of the agency's response. (Section 1101.) If you have further questions, please contact me.

Sincerely,

Mark L. Hudson
Open Public Records Officer

MH/cs

cc: Chief Thomas Barndt

Exhibit B

Rev. Leonard De Roche D. Min.
408 High Street,
Bethlehem, PA 18018-6104

Northampton County District Attorney
Northampton County Courthouse
669 Washington St.
Easton, Pa 18042
30th May, 2023.

Dear D.A. Houck,

Attached is a letter I received denying my Right-to-Know Request #1708 for the release of a Lower Saucon Township Police Incident Report. I am writing to appeal this decision. I entered a plea of NOT GUILTY to Disregarding Traffic Lanes (single). I am currently scheduled to appear before the Honorable Alan Roger Mege (MDJ-03-2-04) on July 6th, 2023. I believe this Incident Report is necessary to prepare for my defense. Thank you for your consideration.

Sincerely,



Leonard R. De Roche

Attch: Letter of 23 May from Lower Saucon Township form Mark L. Hudson

DISTRICT ATTORNEY'S
OFFICE

2023 JUN -2 AM 11:52

Exhibit C

Magisterial District Judge 03-2-04

DOCKET

Docket Number: MJ-03204-TR-0001126-2023

Traffic Docket



Commonwealth of Pennsylvania
v.
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CASE INFORMATION

<u>Judge Assigned:</u>	Magisterial District Judge Alan Roger Mege	<u>Issue Date:</u>	
<u>OTN:</u>		<u>File Date:</u>	05/06/2023
<u>Arresting Agency:</u>	Lower Saucon Police Dept	<u>Arrest Date:</u>	
<u>Citation No.:</u>	E 0005738-5	<u>Incident No.:</u>	20230505M7623
<u>Disposition:</u>		<u>Disposition Date:</u>	
<u>County:</u>	Northampton	<u>Township:</u>	Lower Saucon Township
<u>Case Status:</u>	Active		

STATUS INFORMATION

<u>Case Status</u>	<u>Status Date</u>	<u>Processing Status</u>
Active	05/18/2023	Awaiting Summary Trial
	05/17/2023	Awaiting Scheduling
	05/06/2023	Awaiting Plea

CALENDAR EVENTS

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule</u>
<u>Event Type</u>	<u>Start Date</u>				<u>Status</u>
Summary Trial	07/06/2023	10:00 am	Courtroom: MDJ-03-2-04	Magisterial District Judge Alan Roger Mege	Continued
Summary Trial	07/24/2023	10:00 am	Courtroom: MDJ-03-2-04	Magisterial District Judge Alan Roger Mege	Scheduled

DEFENDANT INFORMATION

<u>Name:</u>	De Roche, Leonard	<u>Sex:</u>	Male
<u>Date of Birth:</u>	12/22/1946	<u>Race:</u>	White
<u>Address(es):</u>			
Home			
Bethlehem, PA 18018			

CASE PARTICIPANTS

<u>Participant Type</u>	<u>Participant Name</u>
Defendant	De Roche, Leonard
Arresting Officer	Kunigus, Stephen A.

CHARGES

<u># Charge</u>	<u>Grade</u>	<u>Description</u>	<u>Offense Dt.</u>	<u>Disposition</u>
1 75 § 3309 §§ 1	S	Disregard Traffic Lane (Single)	05/05/2023	

Magisterial District Judge 03-2-04

DOCKET

Docket Number: MJ-03204-TR-0001126-2023

Traffic Docket



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DOCKET ENTRY INFORMATION

<u>Filed Date</u>	<u>Entry</u>	<u>Filer</u>	<u>Applies To</u>
05/17/2023	Summons Cancelled	Magisterial District Court 03-2-04	Leonard De Roche, Defendant
05/17/2023	Not Guilty Plea Entered	Leonard De Roche	Leonard De Roche, Defendant
05/08/2023	Summons Issued	Magisterial District Court 03-2-04	Leonard De Roche, Defendant
05/08/2023	First Class Summons Issued	Magisterial District Court 03-2-04	Leonard De Roche, Defendant
05/08/2023	Certified Summons Issued	Magisterial District Court 03-2-04	Leonard De Roche, Defendant
05/06/2023	Traffic Citation Filed	Magisterial District Court 03-2-04	

CASE FINANCIAL INFORMATION

Case Balance: \$10.00

Next Payment Amt:

Last Payment Amt:

Next Payment Due Date:

	<u>Assessment Amt</u>	<u>Adjustment Amt</u>	<u>Non-Monetary Payment Amt</u>	<u>Payment Amt</u>	<u>Balance</u>
Postage - Case	\$10.00	\$0.00	\$0.00	\$0.00	\$10.00