



DISTRICT ATTORNEY'S OFFICE OF CHESTER COUNTY

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IN THE MATTER OF	:	DISTRICT ATTORNEY'S OFFICE
	:	
Louise Houck,	:	CHESTER COUNTY, PENNSYLVANIA
Requester	:	
	:	RIGHT TO KNOW APPEAL
v.	:	
	:	FINAL DETERMINATION
East Whiteland Township	:	
POLICE DEPARTMENT,	:	DA-RTKL-A NO. 2022-0007
Respondent	:	

INTRODUCTION

On February 24, 2022, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et. seq.*. Due to the failure of Respondent to issue a final response, the Request was deemed denied on April 4, 2022. 65 P.S. § 67.902(b). On March 18, 2022, March 30, 2022, and April 5, 2022, the Requester submitted three additional requests to the Respondent. Respondent did not respond to these requests within five business days of receipt so all three requests were deemed denied. 65 P.S. § 67.901. On

April 21, 2022, Requestor appealed to the Office of Open Records (hereinafter “OOR”). On May 19, 2022, the OOR issued a decision which dismissed the appeal in part and transferred the appeal in part to the Chester County District Attorney’s Office [AP 2022-0964], which was received on May 31, 2022.

For the reasons set forth in this Final Determination, the appeal is **DENIED** and the Respondent is not required to take any further action.

FACTUAL BACKGROUND

On February 24, 2022, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law (“RTKL”), 65 P.S. §67.101, *et seq.*, requesting:

AP 2022-0964

Original Request:

- 1) All records or known instances of evidence collected or handled by Officer Patricia Doyle, whereby she specifically, temporarily lost, permanently lost, accidentally destroyed, or intentionally destroyed any evidence, anytime during her employment with the EWPD (not including any active or open case), including but not limited to: audio, electronic, written, printed, or other evidence related to an investigation she was involved with, including her own working product evidence produced in the course of an investigation.

- 2) All records or known instances of evidence being lost or destroyed by any police officer of the EWPD, during the last 5 years (not including any active or open case), whereby they specifically, temporarily lost, permanently lost, accidentally destroyed, or intentionally destroyed evidence, including but not limited to: audio, electronic, written, printed, or other evidence related to an investigation officers

were involved with, including their own working product evidence produced in the course of an investigation.

Addendum 1 to request¹:

- 1) For all cases/instances matching the request, please include any associated incidence reports or affidavits of probable cause, and outcome of the cases.
- 2) Please change the time frame for this request from five years to all records since December 1, 2010.

Addendum 2 to request²:

Please provide all records which:

- a) May address or explain any and all circumstances of how and why the LG initial interview recording went missing (see case Miles v. Commonwealth).
- b) May address or explain any and all circumstances of how and why the LG initial interview recording was not found earlier (see case Miles v. Commonwealth).
- c) May address or explain any and all circumstances of how and why the LG initial interview recording was found ten months after it went missing, which happened to be four days before a hearing on the matter (see case Miles v. Commonwealth). This request was subsequently amended to two days.

Addendum 3 to request³:

Please provide all records (including e-mail between the DA's office and the EWPD and notes) which may address or explain any and all circumstances whereby EWPD may have been involved with the following aspects of the case Miles v. Commonwealth: (quotations indicate a paraphrasing)

¹ Per Chief Yeager's affidavit, this addendum request was received March 18, 2022.

² Per Chief Yeager's affidavit, this addendum request was received March 30, 2022.

³ Per Chief Yeager's affidavit, this addendum request was received April 5, 2022.

- a) Notifying defense counsel that the tape “may have been recovered” rather than stating it had been recovered
- b) Notifying defense counsel that “the tape may be able to be delivered before the hearing in two days, but we can’t be sure.”
- c) Failing to deliver the tape before a hearing on the matter, two days later on March 29th, 2019.
- d) Waiting approximately two weeks to finally deliver the tape, after defense counsel was forced to cancel the hearing regarding the lost, and suddenly found, evidence.

Chief Yeager’s May 2, 2022 and May 12, 2022 Affidavits. As a result of East Whiteland Police Department’s failure to issue a final response, the Request was deemed denied.

On April 21, 2022, Requester appealed to the Office of Open Records (hereinafter “OOR”). On May 19, 2022, the OOR issued a decision which dismissed the appeal in part and transferred the appeal in part to the Chester County District Attorney’s Office [AP 2022-0964], which was received on May 31, 2022. The OOR decision stated in part:

1. The appeal as to the March 18, 2022 Request is untimely⁴

On appeal, the Requester challenges the denial of her March 18, 2022 Request, which was denied on March 25, 2022. 65 P.S. § 67.901. As such, the Requester had fifteen business days from that date, or until April 15, 2022, to file an appeal. *See* 65 P.S. § 67.1101(a)(1). Because the Requester did not file the appeal

⁴ Requester’s first addendum.

until April 21, 2022, the appeal as to the March 18, 2022 Request is dismissed as untimely.

2. The OOR lacks jurisdiction over certain records

...

Here, the February 24, 2022, March 30, 2022, and April 5, 2022 Requests themselves seek information including evidence, affidavits of probable cause, and records regarding specific criminal case. *See Pa. Game Comm'n v. Fennell*, 148 A.3d 101 (Pa. Commw. Ct. 2016) (explaining that the OOR must consider uncontradicted statements contained in the appeal as evidence). Additionally, the Department argues that the requested records “deal directly with an active criminal prosecution....”[] In support of the Department’s position, Chief Yeager attests that the Requests seek records related to an active criminal prosecution.[] *See* Chief Yeager Attestation paragraphs 26-29. Under the RTKL, an attestation may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.* 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011). **In the instant matter, based on the evidence submitted, as the Department has made a threshold showing that the requested records may relate to a criminal investigation, this portion of the appeal is hereby transferred to the Appeals Officer for the Chester County District Attorney’s Office to determine if the records relate to a criminal investigation.** *See Pennsylvanians for Union Reform v. Centre Cnty. Dist. Attorney’s Office*, 139 A.3d 354 (Pa. Commw. Ct. 2016) (citing 42 Pa.C.S. § 5103(a) (relating to the process for handling improperly filed appeals); 65 P.S. § 67.503(d).

CONCLUSION

For the foregoing reasons, the appeal is **dismissed in part**, and the Department is not required to take any further action at this time. This Final Determination is binding on all parties. Within thirty days of the mailing of this Final Determination, any party may appeal to the Chester County Court of Common Pleas. 65 P.S. § 67.1302(a). ...

Louise Houck v. East Whiteland Township Police Department, Docket No. AP 2022-0964 (internal footnotes omitted) (emphasis added) at 2-5.

On May 31, 2022, this Appeals Officer for the Chester County District Attorney's Office gave Notice to the parties of the following:

On February 24, 2022, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et. seq.*. On March 1, 2022, Respondent requested a thirty-day extension of time to respond to this request. 65 P.S. § 67.902(b). Respondent did not issue a final response. The Request was deemed denied on April 4, 2022. 65 P.S. § 67.902(b).

On March 18, 2022, March 30, 2022, and April 5, 2022, the Requester submitted three additional requests to the Respondent. Because Respondent did not respond to any of these requests within five business days of receipt, all three requests were deemed denied. 65 P.S. § 67.901.

On April 21, 2022, Requester appealed to the Office of Open Records (hereinafter "OOR"). On May 19, 2022, the OOR issued a decision which dismissed the appeal in part and transferred the appeal in part to the Chester County District Attorney's Office [AP 2022-0964], which was received on May 31, 2022. The Final Determination of the OOR was that Requestor's appeal as to the March 18, 2022 Request was dismissed as untimely. The issues on appeal that the OOR transferred to the Chester County District Attorney's Office for determination are those listed in Requester's February 24, 2022, March 30, 2022, and April 5, 2022 Requests.

Unless the Requester agrees otherwise, as the appeals officer, I shall make a final determination, which shall be mailed to the Requester and the Respondent, **within 30 days of May 31, 2022, which is June 30, 2022.** 65 P.S. § 67.1101(b)(1). If a final determination is not made within 30 days, the appeal is

deemed denied by operation of law. 65 P.S. § 67.1101(b)(2). Prior to issuing a final determination, a hearing may be conducted. However, a hearing is generally not needed to make a final determination. The final determination shall be a final appealable order and shall include a written explanation of the reason for the decision. 65 P.S. § 67.1101(b)(3).

The Respondent should submit any response on or before June 10, 2022.

The Respondent should note: The Supreme Court has held that a Respondent is permitted to assert exemptions on appeal, even if the agency did not assert them when the request was originally denied. Levy v. Senate of Pennsylvania, 619 Pa. 586, 65 A.3d 361 (2013). **Merely citing exceptions to the required disclosure of public records or conclusory statements are not sufficient to justify the exemption of public records.** Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Cmwlth. 2013).

The Requester should submit any response on or before June 17, 2022.

The Requester should note: The Commonwealth Court has held that, pursuant to 65 P.S. § 67.1101(a), the appeal shall state the grounds upon which the Requester asserts that the record is a public record and shall address any grounds stated by the agency for denying the request. **When a Requester fails to state the records sought are public, or fails to address an agency's grounds for denial, the appeal may be dismissed.** Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013); Saunders v. Department of Correction, 48 A. 3d 540 (Pa. Cmwlth. 2012); Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011).

Any statements of fact must be supported by an Affidavit made under penalty of perjury by a person with actual knowledge. However, legal arguments and citation to authority do not require Affidavits.

May 31, 2022, Letter of Assistant District Attorney Leslie Pike, Appeals Officer.

On June 10, 2022 Respondent filed a response with this Appeals Officer. The Requester filed an untimely response on June 21, 2022.⁵ This decision is based on the responses from both parties.

LEGAL ANALYSIS

The Chester County District Attorney's Office is authorized to hear appeals relating to access to criminal investigative records in the possession of a local agency located within Chester County. 65 P.S. §67.503(d)(2) ("The district attorney of a county shall designate one or more appeals officers to hear appeals under Chapter 11 relating to access to criminal investigative records in possession of a local agency of that county. The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record.").

The East Whiteland Police Department ("Respondent") is a local agency subject to the RTKL that is required to disclose public documents. 65 P.S. §67.302. Records of a local agency are presumed "public" unless the record: (1) is exempt under 65 P.S. §67.708(b); (2) is protected by privilege; or (3) is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. §67.305. "Nothing in this act shall supersede or modify the public

⁵ Requester's response was due June 17, 2022.

or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree.” 65 P.S. §67.306.

The Respondent bears the burden of proving, by a preponderance of the evidence, that the document requested is exempt from public access. 65 P.S. §67.708(a)(1). A preponderance of the evidence standard is the lowest evidentiary standard. The preponderance of evidence standard is defined as the greater weight of the evidence, *i.e.*, to tip a scale slightly is the criteria or requirement for preponderance of the evidence. Commonwealth v. Brown, 567 Pa. 272, 284, 786 A.2d 961, 968 (2001), *cert. denied*, 537 U.S. 1187, 123 S.Ct. 1351, 154 L.Ed.2d 1018 (2003). “A ‘preponderance of the evidence’ is defined as ‘the greater weight of the evidence ... evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other....’ Black’s Law Dictionary 1301 (9th ed. 2009).” Mitchell v. Office of Open Records, 997 A.2d 1262, 1264 n.3 (Pa. Cmwlth. 2010); See also Commonwealth v. Williams, 532 Pa. 265, 284-286, 615 A.2d 716, 726 (1992) (preponderance of the evidence in essence is proof that something is more likely than not).

On June 10, 2022, the Respondent submitted a response which included an affidavit from Chief Christian Yeager, dated June 7, 2022, who serves as the Open Records Officer for the East Whiteland Police Department. The affidavit stated:

1. I currently serve as the Open Records Officer for East Whiteland Township Police Department (“Agency”).
2. In my position, I am responsible for responding to a Right-to-Know request filed with the Agency.
3. In my capacity as the Open Records Officer, I am familiar with the records of the Agency.
4. Upon receipt of the various requests from Ms. Houck, I conducted a thorough examination of files in possession, custody and control of the Agency for records responsive to the request underlying this appeal.
5. Additionally, I have inquired with relevant Agency personnel as to whether the requested records exist in their possession.
6. On or about May 19, 2022, the Office of Open Records denied Ms. Houck’s appeal in part as untimely and transferred the remainder to Chester County District Attorney’s Office (“DA’s Office”).
7. The specific requests transferred to the DA’s Office are as follows:

Original Request:

- a). All records or known instances of evidence collected or handled by Officer Patricia Doyle whereby she specifically, temporarily lost, permanently lost, accidentally destroyed, or intentionally destroyed any evidence, anytime during her employment with the EWDP (not including any active or open case), including but not limited to: audio, electronic, written, printed, or other evidence related to an investigation she was

involved with, including her own working product evidence produced in the course of an investigation.

b). All records or known instances of evidence being lost or destroyed by any police officer of the EWPD, during the last 5 years (not including any active or open case), whereby they specifically, temporarily lost, permanently lost, accidentally destroyed, or intentionally destroyed evidence, including but not limited to: audio, electronic, written, printed, or other evidence related to an investigation officers were involved with, including their own working product evidence produced in the course of an investigation.

Addendum 2 to Request

Please provide all records which:

a). May address or explain any and all circumstances of how and why the LG initial interview recording went missing (see case Miles v. Commonwealth).

b). May address or explain any and all circumstances of how and why the LG initial interview recording was not found earlier (see case Miles v. Commonwealth).

c). May address or explain any and all circumstances of how and why the LG initial interview recording was found ten months after it went missing, which happened to be four days before a hearing on the matter (see case Miles v. Commonwealth) (This was subsequently amended to two days).

Addendum 3 to Request:

Please provide all records (including e-mail between the DA's office and the EWPD and notes) which may address or explain any and all circumstances whereby EWPD may have been involved with the following aspects of the case Miles v. Commonwealth: (quotations indicate a paraphrasing)

a). Notifying defense counsel that the tape "may have been recovered" rather than stating it had been recovered.

b) Notifying defense counsel that “the tape may be able to be delivered before the hearing in two days, but we can’t be sure.”

c). Failing to deliver the tape before a hearing on the matter, two days later on March 29th, 2019.

d). Waiting approximately two weeks to finally deliver the tape, after defense counsel was forced to cancel the hearing regarding the lost, and suddenly found, evidence.

8. There are no records responsive to the original request.

9. To the extent any records exist pertaining to the second addendum, the request seeks records regarding evidence in an active criminal prosecution and the handling thereof.

10. It is my determination that the records requested pursuant to the second addendum are exempt on their face from disclosure pursuant to 708(b)(16) as criminal investigative records.

11. It is my determination that the records requested pursuant to the second addendum are criminal history record information pursuant to the Criminal History Record Information Act (“CHRIA”).

12. The CHRIA defines “investigative information” as “information 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.”

13. The handling of evidence in a matter is modus operandi.

14. To the extent any records exist pertaining to the third addendum, the requests seeks records regarding evidence in an active criminal prosecution, including correspondence between the DA’s Office and the EWPD.

15. It is my determination that the records requested are exempt on their face from disclosure pursuant to 708(b)(16) as criminal investigative records.

16. It is my determination that the records requested are criminal history record information pursuant to CHRIA.

I verify that the statements made in this Affidavit are true and correct and made subject to the penalties of 18 Pa.Cons.Stat. Ann. Section 4904 relating to unsworn falsification to authorities.

June 7, 2022, Affidavit of Open Records Officer Chief Christian Yeager, at 2-3 (emphasis added).

Under the RTKL, an affidavit may serve as sufficient evidence to support an appeals officer's decision. Office of Governor v. Davis, 122 A.3d 1185, 1194 (Pa.Cmwlt. 2015); Sherry v. Radnor Twp. Sch. Dist., 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); Moore v. Office of Open Records, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010) (affidavit suffices to establish nonexistence of records). In the absence of any evidence that a Respondent has acted in bad faith, the averments in an affidavit should be accepted as true. McGowan v. Pa. Dep't of Env'tl. Prot., 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014); Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013).

Based on the evidence provided, the Respondent has met its burden of proof as to what documents it possesses, and that they are criminal investigative records and exempt from disclosure.

The RTKL provides that records of an agency **(relating to)** or **(resulting in)** a criminal investigation, such as investigative materials, notes, correspondence, videos, reports, and records, may be withheld as exempt. 65 P.S. §67.708(b), titled, “Exceptions for public records”, provides in part as follows:

(b) Exceptions. -- Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

...

(16) 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.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b) (relating to accident prevention investigations).

65 P.S. §67.708(b). A 'Police Blotter' is defined as "A chronological listing of arrests, usually documented contemporaneous with the incident, which may include, but is not limited to, the name and address of the individual charged and the alleged offenses." 18 Pa. C.S.A. §9102 ("Police blotter"). 'Investigative Information' is defined as "Information 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 ("Investigative information").

In Pennsylvania State Police v. Office of Open Records, 5 A.3d 473 (Pa. Cmwlth. 2010), the *en banc* Commonwealth Court found an incident report exempt

from disclosure pursuant to 65 P.S. §67.708(b)(16). The Court held that the incident report was not a public record because the incident report was not the equivalent of a police blotter under the RTKL and the Criminal History Records Information Act (“CHRIA”).

In Pennsylvania State Police v. Grove, 640 Pa. 1, 161 A.3d 877 (2017), the Supreme Court discussed the definition of “criminal investigative records”, in part:

The RTKL requires Commonwealth agencies to provide access to public records upon request. 65 P.S. § 67.301 (“A Commonwealth agency shall provide public records in accordance with this act.”). Section 102 of the RTKL defines a “public record” as: “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. A “record” is further defined under the RTKL 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.

Id. There is no dispute that MVRs are public records of an agency as defined in the RTKL and thus subject to public disclosure unless some exemption applies. We consider whether MVRs generally, and the video portions of Trooper Vanorden and Trooper Thomas’s MVRs in this matter specifically, qualify under an enumerated exemption to disclosure described in Section 708(b)(16) of the RTKL

regarding “criminal investigative records.”

...

Under the Statutory Construction Act, where the words or phrases at issue are undefined by the statute itself, we must construe the words and phrases according to their plain meaning and common usage. 1 Pa.C.S. § 1903(a). The RTKL does not define the central phrase “criminal investigation” as used in Section 708(16)(b)(ii). *The plain meaning of a “criminal investigation” clearly and obviously refers to an official inquiry into a possible crime. See, e.g.,* <https://www.merriamwebster.com/dictionary/criminal> (last visited Jan. 17, 2017) (“*relating to crime or to the prosecution of suspects in a crime*”); <https://www.merriamwebster.com/dictionary/investigation> (last visited Jan. 17, 2017) (“*to investigate*” is “*to observe or study by close examination and systematic inquiry,*” “*to make a systematic examination,*” or “*to conduct an official inquiry*”).

The Commonwealth Court has previously opined that material exempt from disclosure as “criminal investigative information” under the RTKL 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. *See, e.g., Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Cmwlth. 2014) (criminal complaint file, forensic lab reports, polygraph reports and witness statements rise to level of criminal investigative information exempt from disclosure); *Coley*, 77 A.3d at 697 (witness statements compiled by District Attorney’s office are criminal investigative records exempt from disclosure); *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 478–79 (Pa. Cmwlth. 2010) (incident report prepared by police with notes of interviews of alleged victims and perpetrators assembled during investigation exempt as criminal investigative information); *Mitchell v. Office of Open Records*, 997 A.2d 1262, 1265–66 (Pa. Cmwlth. 2010) (record pertaining to PSP’s execution of search warrant was criminal investigation exempt from disclosure under Section 708 of the RTKL). With

regard to the MVRs requested by Grove in this case, we must determine whether the video aspects generally depict a systematic inquiry or examination into a potential crime.

Grove, 640 Pa. at 24-26, 161 A.3d at 891–893 (emphasis added).

In Grove, as the RTKL does not define “criminal investigation” as used in §708(16)(b)(ii), the Supreme Court held that the term “criminal investigation” refers to an official inquiry into a possible crime. Grove, 640 Pa. at 24-26, 161 A.3d at 891–893. In Grove, the Supreme Court agreed with the Commonwealth Court and reaffirmed that witness interviews, interrogations, testing and other investigative work, are investigative information exempt from disclosure by §708(b)(16) of the RTKL and CHRIA. The Supreme Court also cited Commonwealth Court cases as some examples of “criminal investigative information” under the RTKL, which included, but is not limited to: (1) statements compiled by district attorneys, (2) forensic reports, (3) police reports - including notes of interviews with victims, suspects, and witnesses assembled for the specific purpose of investigation, (4) criminal complaint file, (5) lab reports, (6) polygraph reports, (7) witness statements, and (8) records pertaining to execution of search warrant.⁶

⁶ See also 65 P.S. §67.708(b) (i)-(vi) [A record of an agency relating to or resulting in a criminal investigation, includes: (i) Complaints of potential criminal conduct other than a private criminal complaint; (ii) Investigative materials, notes, correspondence, videos and reports; (iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an

Pursuant to 65 P.S. §67.708(b)(16), records of an agency are exempt from access by a requester if the records relate to or result in a criminal investigation. When a party seeks to challenge an agency's refusal to release information by appealing that party must address any grounds stated by the agency for denying the request. Department of Corrections v. Office of Open Records, 18 A.3d 429, 434 (Pa. Cmwlth. 2011); Padgett v. Pennsylvania State Police, 73 A.3d 644, 647-648 (Pa. Cmwlth. 2013).

In Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011), the Commonwealth Court stated in part:

Consequently, we agree with DOC that when a party seeks to challenge an agency's refusal to release information by appealing to Open Records, that party must "address any grounds stated by the agency for ... denying the request." This is a typical requirement in any process that aims to provide a forum for error correction. We do not see it as a particularly onerous requirement, whether the requester has the benefit of legal counsel or is *pro se*.

DOC v. OOR, 18 A.3d at 434.

offense to whom confidentiality has been promised; **(iv)** A record that includes information made confidential by law or court order; **(v)** Victim information, including any information that would jeopardize the safety of the victim; **(vi)** A record that, if disclosed, would do any of the following - (A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges, (B) Deprive a person of the right to a fair trial or an impartial adjudication, (C) Impair the ability to locate a defendant or codefendant, (D) Hinder an agency's ability to secure an arrest, prosecution or conviction, (E) Endanger the life or physical safety of an individual.].

When a party seeks to challenge an agency's refusal to release information by appealing that party must address any grounds stated by the agency for denying the request. The Requester raises the following challenges to the denial:

I initiated this records request to improve police accountability and transparency within our local government. Requester filed this Right to Know (RTK) request in good faith for valid public documents that are in existence and should be provided in accordance with RTK Law. Requester is not seeking these records to impede or harm an active criminal investigation. Requester is seeking these records to discover the severity and intentionality of potential civil rights violations committed by the East Whiteland Police Department ("EWPD" or "Agency" or "Department") that have not yet been investigated.

On April 22nd, 2018, Officer Doyle of the EWPD taped an interview with a witness at the East Whiteland Police station. On April March 27th, 2019, eleven months after the interview tape was "lost", and two days before a hearing on the matter with a motion to dismiss for spoliation, the "lost" tape was somehow "recovered." Finally on April 10th, 2019 a working audio recording of the initial police interview was received, fifty weeks after it was originally produced.

...

III. General justification for the initial request and this appeal

I contend that all requests for records contained in AP 2022-0964 qualify as "public records"[] and do not fall under the thirty exemptions outlined in [65 P.S. § 67.708]. The justifications contained within the original RTK requests stand as worthy justifications for all records requested under Dkt 2022-0964, in accordance with RTK Law. Requester filed the appeal timely, requests are sufficiently specific, not overly burdensome, are existing records, and meet the filing requirements under 1101(a), in that requester completed the OOR's standard form asserting the records are public records,

do not qualify for any exemption under § 708 of the RTKL, are not protected by privilege, and are not exempted under any Federal or State law or regulation.

...

IV. Rebuttal to the Department's Appeal submissions

In evaluating the denial, I received on April 28th from Chief Yeager[], EWPD's AORO, and the submission by Counsel on May 3rd, 2022, there is no specificity to what records may exist or what specific requests may be related to an "active criminal prosecution." In fact, the Department argues at the same time that the records do not exist, and that they might exist.[] The claim "the EWPD was in the process of making a good faith effort" to timely respond to my request before and after the deemed denial, rings hollow and was motivated by my appeal itself. Contrary to the EWPD's AORO response[] to my RTK request, clearly requests #1 and #2 state the records sought should specifically "not including any active or open case" and therefore cannot relate to an active criminal investigation. Therefore, at best only part of the records might related to "an active criminal prosecution.[]" Specifically, the EWPD has not demonstrated that the responsive records relate to either a criminal or noncriminal investigations, and exempt from disclosure under Sections 65 P.S. §§ 67.708(b)(16) and/or (17).

Next, the Department argues that the responsive records are criminal history records, and therefore, are protected by CHRIA. Under the RTKL, an affidavit made under the penalty of perjury may serve as sufficient evidentiary support. See *Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). Here, the Agency fails to provide a relevant, logical rational as to why the records requested fall under the protection by CHRIA. See *Scolforo v. Office of the Governor*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013) ("[A] generic determination or conclusory statements are not sufficient to justify the exemption of public records"). The EWPD has failed to satisfy its burden of proof that the information requested is "criminal history record information,"

which CHRIA defines as [i]nformation collected by criminal justice agencies concerning individuals, and arising from initiation of criminal proceeding, consisting of identifiable descriptions, dates and notations of arrests, indictments, information or other formal criminal charges and any dispositions arising therefrom. The term does not include intelligence information, investigative information or treatment information, including medical and psychological information, ...18 Pa.C.S. § 9102. Accordingly, the EWPD has not met its burden of proving that the responsive records are protected by CHRIA, See 65 P.S. § 67.708(a).

Finally, contrary to the AORO's denial submission and Counsel's justification submission, this RTK request does not request any actual audio recordings, but rather evidence (records) of previous lost evidence, which may have been lost recordings, but not the actual recordings, making the arguments regarding Act 22 moot. When any RTK request is made, it for "records", which is assumed to be in all forms in accordance with section 65 P.S. § 67.102.

Records sought do not fall under Commonwealth RTK exemption statute for "criminal investigative exception" [65 P.S. § 67.708 (16)].

In their recent justification, the EWPD has not met the burden of proof to show records are except under rule 708(b)(16). At worst this request should be partially denied, partially approved, and at best this request should be fully approved. It is not clear whether the records requested relate to a "criminal matter", and if so whether ALL the records relate to a criminal matter, and if so whether the criminal matter met the definition of "investigated." RTK statue, 65 P.S. § 67.708(b)(16), was not intended to protect records hidden from the public due to an Agency's own misconduct, involving a criminal matter which it apparently committed and failed to investigate. Certainly, if the Department is somehow able to meet its burden of proof that the records are not "public," then it certainly can voluntarily release the records requested based on the interest of public interest and the public's right to know.

Requester's response via email dated June 21, 2022 (internal footnotes omitted) (emphasis in the original). Additionally, Requester' requested that OOR retain jurisdiction in this matter. However, the OOR has already determined that this appeal relates to a criminal investigation and because of that they do not have jurisdiction in this matter. Louise Houck v. East Whiteland Township Police Department, Docket No. AP 2022-0964, at 4. Additionally, Respondent is not claiming exemption under 65 P.S. § 67.708(b)(17) so this Appeal's Officer will not address that argument.

Requester has not provided anything that shows the records do not relate to or have resulted in a criminal investigation. Requester mistakenly asserts that “[i]t is not clear whether the records requested relate to a ‘criminal matter.’” Requester's Response, at 6. However, Requester specifically refers in her requests to “evidence” collected by Officer Doyle (Original Request), “evidence” collected by any other officer (Original Request), and references a criminal case, Commonwealth v. Miles in Addenda 2 and 3. All of these references pertain to criminal investigations and the requests related to them are exempt pursuant to 65 P.S. §67.708(b)(16).

As previously stated, pursuant to 65 P.S. §67.708(b)(16), records of an agency are exempt from access by a requester if the records relate to or result in a criminal investigation. When a party seeks to challenge an agency's refusal to

release information by appealing that party must address any grounds stated by the agency for denying the request. Department of Corrections v. Office of Open Records, 18 A.3d 429, 434 (Pa. Cmwlth. 2011); Padgett v. Pennsylvania State Police, 73 A.3d 644, 647-648 (Pa. Cmwlth. 2013).

It is important to note that a requester's identity and motivation for making a request is not relevant, and his or her intended use for the information may not be grounds for granting or denying a request. See 65 P.S. §67.301(b), 65 P.S. §67.703. For example, although a criminal defendant may be entitled to receive certain criminal investigative records in discovery, he or she would not be entitled to receive the same criminal investigative record by a RTKL request. Moreover, civil and criminal discovery law is not relevant to RTKL requests. The rights afforded a requester under the RTKL are constrained by the presumption and exemptions contained in the law itself. See 65 P.S. §67.305, 67.708. Discovery conducted in a civil or criminal case and a request made under the RTKL are wholly separate processes. Office of the Dist. Attorney of Philadelphia v. Bagwell, 155 A.3d 1119, 1139 (Pa. Cmwlth. 2017).

Civil and criminal discovery law provides their own procedures and safeguards for the acquisition and use of potential evidence. However, once something is ruled available pursuant to a RTKL request, it is available to everyone, not just the current requesting party. Under the RTKL, the question is

whether or not the requested documents are criminal investigative records. The requester and purpose for the request are irrelevant under the RTKL.

In DiMartino v. Pennsylvania State Police, 2011 WL 10841570 (Pa. Cmwlth. 2011), the Commonwealth Court, in a memorandum opinion,⁷ stated in part:

As a final point, we note that, the requester's status as representative of Decedent's family has no bearing on whether the requested records are accessible through a RTKL request. We agree with the OOR that the RTKL must be construed without regard to the requester's identity. *See, e.g.*, Section 301(b) of the RTKL, 65 P.S. § 67.301(b) (stating that an agency "may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law"); Weaver v. Dep't of Corr., 702 A.2d 370 (Pa. Cmwlth. 1997) (under the former Right-to-Know Act, the right to examine a public record is not based on whether the person requesting the disclosure is affected by the records or if her motives are pure in seeking them, but whether any person's rights are fixed); Furin v. Pittsburgh Sch. Dist., OOR Dkt. No. AP 2010-0181, 2010 PA OORD LEXIS 212 (Pa. OOR 2010) (finding records exempt under Section 708(b) regardless of status of person requesting them); Wheelock v. Dep't of Corr., OOR Dkt. No. AP 2009-0997, 2009 PA OORD LEXIS 725 (Pa. OOR 2009) (stating the only information available under the RTKL is a "public record" available to all citizens regardless of personal status or stake in requested information).

⁷ DiMartino v. Pennsylvania State Police, 340 C.D. 2011, 2011 WL 10841570 (Pa. Cmwlth. 2011) is an unreported panel decision of the Commonwealth Court. As such, it may be cited for its persuasive value, but not as binding precedent. *See* Section 414 of the Commonwealth Court's Internal Operating Procedures.

DiMartino at *6 (footnote omitted). See also Mahoney v. Pennsylvania State Police, 339 C.D. 2011, 2011 WL 10841247 (Pa. Cmwlth. 2011).

In Hunsicker v. Pennsylvania State Police, 93 A.3d 911 (Pa. Cmwlth. 2014), Requester (Hunsicker) appealed a Determination of the Office of Open Records denying her request under the RTKL for access to Pennsylvania State Police records regarding an investigation surrounding her brother's death, which involved a State Trooper. In affirming the denial, the Commonwealth Court stated in part:

Requestor appealed the PSP's denial to the OOR contending that she lived with her brother for 35 years, that she was not a member of the general public but his sister, and that she should have special access to the information. The OOR denied her appeal because it failed to address agency grounds for denial of access and the appeal did not challenge the confidentiality of the records under CHRIA. This appeal followed.

On appeal, Requestor first contends that the materials she is requesting are referred to as an "incident" report, not an "investigative" report, implying that those records fall outside of the investigative exemption. An incident report normally refers to a report filed by the responding officers, not the entire investigative file, although, here, it appears that the investigative report was filed at the incident report number. In any event, no matter what is contained in an incident report, incident reports are considered investigative materials and are covered by that exemption. Pennsylvania State Police v. Office of Open Records, 5 A.3d 473, 479 (Pa. Cmwlth. 2010), *appeal denied*, [621] Pa. [685], 76 A.3d 540 (2013).

Even if the requested records fall within the investigative exception, Requestor contends that she is entitled to those records because she has a special need for them because, as Mr. Rotkewicz's sister, she needs to know what her brother did to cause a PSP Trooper to shoot him and to investigate a possible

PSP “cover up.” While we are sympathetic to Requestor’s desire to understand her brother’s death, her status as his sister and her reasons for requesting the records do not render records that fall within the investigative exemption accessible. Under the RTKL, whether the document is accessible is based only on whether a document is a public record, and, if so, whether it falls within an exemption that allows that it not be disclosed. The status of the individual requesting the record and the reason for the request, good or bad, are irrelevant as to whether a document must be made accessible under Section 301(b). *See* 65 P.S. § 67.301(b) (stating that an agency “may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.”).

As a corollary to this argument, Requestor contends that the investigative file should be made accessible because portions of the withheld documents are already known to her, and that if any of the record contains information that falls within an exemption to disclosure, that information should be redacted and the records then be given to her. Again, for the reasons stated above, just because she purportedly knows some of the information contained in the documents is irrelevant as to whether a document must be made accessible. Moreover, her request that the documents be redacted to the extent the records contain exempt information is based on a premise that only certain information is exempt from disclosure when, under the investigative exemption, the entire investigative report falls within the investigative exemption. 65 P.S. § 67.706(b)(16); *see also* Pennsylvania State Police.

Finally Requestor contends that the PSP Trooper who investigated the incident assured her that she would receive that information. Even assuming that the assertion is true, an individual State Trooper does not have the authority to authorize the release of documents or make PSP RTKL determinations pursuant to Section 1102, 65 P.S. § 67.1102.

Hunsicker v. Pennsylvania State Police, 93 A.3d at 913-914 (footnote omitted).

A criminal investigative record is anything that contains information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing. The size, scope, or formality, of police inquiries are not relevant in determining if something is a criminal investigative record. **Whether an arrest has occurred or whether a criminal investigation is ongoing or closed, are not relevant factors in determining if something is a criminal investigative record. Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed.** Also, a record is not considered a public record if it is exempt under any other State or Federal Law, including the Criminal History Records Information Act. Moreover, the release of the requested documents also violates CHRIA. CHRIA prohibits “investigative information” “assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident” from disclosure. 18 Pa. C.S.A. § 9102; see also Pennsylvania State Police v. Kim, 150 A.3d 155, 160 (Pa. Cmwlth. 2016).

Based on the information from Requester’s various RTK Law requests the records requested are criminal investigative records. 18 Pa.C.S.A. § 9102 (relating to definitions) states in part: **“Investigative information.”** Information 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.”

In Barros v. Martin, 92 A.3d 1243 (Pa. Cmwlth. 2014), *appeal denied*, 626 Pa. 701, 97 A.3d 745 (2014), the Commonwealth Court stated in part:

Thus, if a record, on its face, relates to a criminal investigation, it is exempt under the RTKL pursuant to Section 708(b)(16)(ii). *See Coley v. Philadelphia Dist. Attorney’s Office*, 77 A.3d 694, 697 (Pa. Cmwlth. 2013); Mitchell v. Office of Open Records, 997 A.2d 1262, 1264 (Pa. Cmwlth. 2010). ***Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed.*** Sullivan v. City of Pittsburgh, Dep’t of Pub. Safety, 127 Pa. Cmwlth. 339, 561 A.2d 863, 865 (1989).

Also, a record is not considered a public record under Section 102 of the RTKL if it is “exempt under any other State or Federal Law,” including the CHRIA. See Coley, 77 A.3d at 697. Section 9106(c)(4) of the CHRIA, 18 Pa.C.S. § 9106(c)(4), provides 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.” The CHRIA defines “investigative information” as “information 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.” Section 9102 of the CHRIA, 18 Pa.C.S. § 9102.

Thus, the records requested by Barros - *i.e.*, the criminal complaint file, forensic lab reports, any confession and record of polygraph of Quinones, the “Communication Center Incident Review,” the “Internal Police Wanted Notice,” “Reports on individual mistakenly apprehended,” and three signed witness statements - are protected from disclosure under both the RTKL and the CHRIA as records “relating to ... a criminal investigation” and “investigative information,” respectively.

Barros v. Martin, 92 A.3d at 1250 (emphasis added).

In Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013), the Commonwealth Court stated in part:

Pursuant to Section 1101(a) of the RTKL, “[t]he appeal shall state the grounds upon which the requester asserts that the record is a public record ... and shall address any grounds stated by the agency for delaying or denying the request.” 65 P.S. § 67.1101(a). When a requester fails to state the records sought are public, or fails to address an agency’s grounds for denial, the OOR properly dismisses the appeal. *See Saunders v. Dep’t of Corr.*, 48 A. 3d 540 (Pa. Cmwlth. 2012) (affirming OOR dismissal); *Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Cmwlth. 2011) (holding an appeal that fails to sufficiently specify the reasons for appeal should be dismissed rather than addressed by OOR).

In Department of Corrections, we outlined the sufficiency requirements for an appeal under Section 1101(a) of the RTKL. At a minimum, a requester’s appeal “must address any grounds stated by the agency ... for denying the request.” *Dep’t of Corr.*, 18 A.3d at 434. We reasoned a minimally sufficient appeal is a condition precedent for OOR to consider a requester’s challenge to an agency denial.

More recently, in Saunders, we explained Section 1101(a) of the RTKL requires a requester “to state why the records did not fall under the asserted exemptions and, thus, were public records subject to access.” *Id.* at 543 (agency’s citation to various subsections of the RTKL, without explanation or application of exceptions, triggers requester’s burden to address exemption). Because Saunders failed to address the exemptions, we affirmed OOR’s dismissal of the appeal.

In this case, Requester did not state the records are public, or address the exemptions PSP cited in its response and verification. Requester stated merely that the RTKL exceptions

do not apply without further explication. That does not satisfy the requirements of Section 1101(a) as we interpret that provision. Id.

Requester also did not address the agency's cited exemptions pertaining to the police report. Most notably, Requester did not discuss CHRIA, which pertains to criminal records. In fact, when he explained the reason he sought the records, Requester described them as criminal investigation records.

Requester emphasized he is entitled to the records as a party involved in the criminal investigation to which his Request relates. However, a requester's motivation for making a request is not relevant, and his intended use for the information may not be grounds for denial. *See* Section 301(b) of the RTKL, 65 P.S. § 67.301(b); Section 703 of the RTKL, 65 P.S. § 67.703. An explanation of why a requester believes an agency should disclose records to him does not satisfy the requirement in Section 1101(a) to explain why the requested records are public and available to everyone. To the contrary, Requester's explanation underscores PSP's criminal investigative defenses here.

We make no decision regarding Requester's alleged entitlement to the records under an alternate legal mechanism. Entitlement does not arise under the RTKL through which citizens have a right to access public records "open to the entire public at large." *See, e.g., Coulter v. Pa. Bd. of Prob. & Parole*, 48 A.3d 516, 519 (Pa. Cmwlth. 2012) ("home plans" of parolee requester are not accessible to her under RTKL though she is subject of records; to be accessible under the RTKL, identity of the requester is irrelevant).

Padgett, 73 A.3d at 647-648 (footnote omitted).

Where a record falls within an exemption under 67.708(b), it is not a public record as defined by the RTKL, and an agency is not required to redact the record

and provide the remainder. 65 P.S. § 67.706, titled, “Redaction”, provides as follows:

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. § 67.901 *et seq.*]

65 P.S. § 67.706.

In Saunders v. Pennsylvania Department of Corrections, 48 A.3d 540 (Pa.

Cmwlth. 2012), the Commonwealth Court stated in part:

Petitioner’s first argument addresses the sufficiency of the Department’s denial of his request. Petitioner contends that because the Department’s denial merely parroted the statutory language he was unable to properly respond to the Department’s assertion of exemption from disclosure. Section 903 of the RTKL, 65 P.S. § 67.903, states that a denial of access shall include, *inter alia*, a description of the record requested and the specific reasons for the denial, including a citation of the supporting legal authority. Correspondingly, Section 1101 of the RTKL, 65 P.S. § 67.1101, requires that a party appealing a denial shall “state the grounds upon which the requester asserts that the record is a public record ... and shall address any grounds stated by the agency for ... denying the

request.” See Dep’t of Corr. v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011).

The Department asserted that the requested records were exempt from disclosure under five different subsections of Section 708. Petitioner is correct in noting that the Department merely parroted the statutory language. However, the Department’s citations to the various subsections of Section 708 were sufficient to give him notice of the grounds for denial. Once the Department asserted that the requested records were exempt from disclosure under Section 708, Petitioner was required by Section 1101 to state why the records did not fall under the asserted exemptions and, thus, were public records subject to access. Petitioner failed to do so.

Petitioner’s argument that the Department was required to produce the requested records subject to redaction of the exempt information is without merit. Section 706 provides that if an agency determines that a public record contains information that is both subject to disclosure and exempt from the disclosure, the agency shall grant access and redact from the record the information which is subject to disclosure. Pursuant to Section 706, the redaction requirement only applies to records that are determined to be “public records.” A “public record” is defined in part as “a record, including a financial record, of a Commonwealth ... agency that: (1) is not exempt under section 708.” Section 102, 65 P.S. § 67.102 (emphasis added). Thus, a record that falls within one of the exemptions set forth in Section 708 does not constitute a “public record.” Dept. of Health v. Office of Open Records, 4 A.3d 803 (Pa. Cmwlth. 2010).

Saunders, 48 A.3d at 542-543 (footnote omitted).

In Heavens v. Pennsylvania Department of Environmental Protection, 65

A.3d 1069 (Pa. Cmwlth. 2013), the Commonwealth Court stated in part:

Furthermore, under the RTKL, records that are exempt under Section 708 or privileged are not considered public records and

are therefore not subject to the redaction requirement contained in Section 706, which applies only to records that are public and contain information that is not subject to access. 65 P.S. § 67.706; Saunders v. Pennsylvania Department of Corrections, 48 A.3d 540, 543 (Pa. Cmwlth. 2012).

Heavens, 65 A.3d at 1077.

The RTKL provides that records of an agency relating to or resulting in a criminal investigation may be withheld as exempt. 65 P.S. §67.708(b). The Respondent bears the burden of proving, by a preponderance of the evidence, that the documents requested are exempt from public access. 65 P.S. §67.708(a)(1). A criminal investigative record is anything that contains information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing. 18 Pa. C.S.A. §9102. Whether an arrest has occurred or whether a criminal investigation is ongoing or closed, are not relevant factors in determining if something is a criminal investigative record. Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed. There is sufficient evidence to support the determination that the documents requested are criminal investigative records and exempt from disclosure.

The release of the requested documents also violates CHRIA, which prohibits “investigative information” “assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident” from disclosure. 18 Pa.

C.S.A. §9102; see also Pennsylvania State Police v. Kim, 150 A.3d 155, 160 (Pa.Cmwlth. 2016).

There is sufficient evidence to support the determination that the documents requested are criminal investigative records and exempt from disclosure.

CONCLUSION

For the foregoing reasons, the appeal is **DENIED**, and the Respondent is not required to take any further action. This Final Determination is binding on all parties. Within thirty (30) days of the mailing date of this Final Determination, any party may petition for review, to the Chester County Court of Common Pleas, pursuant to 65 P.S. §67.1302(a). All parties must be served with a copy of the petition. The Chester County District Attorney's Office shall also be served with a copy of the petition, pursuant to 65 P.S. §67.1303(a), for the purpose of transmitting the record to the reviewing court. See East Stroudsburg University Foundation v. Office of Open Records, 995 A.2d 496, 507 (Pa. Cmwlth. 2010).

FINAL DETERMINATION ISSUED AND EMAILED ON: June 27, 2022.

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APPENDIX “C” June 10, 2022, Response of Respondent

APPENDIX “D” June 21, 2022, Response of Requestor