



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
HOLLY WEIR,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-1164
	:	
SPRING GARDEN TOWNSHIP,	:	
Respondent	:	

On June 24, 2016, Holly Weir (“Requester”) submitted a request (“Request”) to the Spring Garden Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a specifically identified incident report completed by Officer Chris Hartinger. On June 29, 2016, the Township responded, granting the incident report, subject to redaction of information related to a criminal investigation, 65 P.S. § 67.708(b)(16), as well as personal identification information, 65 P.S. § 67.708(b)(6).

On July 7, 2016, the Requester filed a timely appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record. On July 12, 2016, the Township submitted a position statement, reiterating the same grounds as in its denial. On July 25, 2016, the Township submitted a sworn affidavit from Linda Keller, Open Records Officer, attesting that the Township provided, as a courtesy, a copy of the police report, but redacted information to protect witnesses, alleged defendant and victim. In addition, the Township confirms that it redacted additional information contained within Section 708(b)(6) of the RTKL, such as personal cellphone numbers and social security numbers.

Section 708 of the RTKL clearly places the burden of proof on the Township to demonstrate that a record is exempt. 65 P.S. § 67.708(a). In the present case, the Township has established that certain information is exempt under Section 708(b)(6) of the RTKL which exempts “personal identification information”, such as “a person’s Social Security number; driver’s license number...home, cellular or personal telephone numbers...” Based on the Township’s submission, it has met its burden that it may redact certain information pursuant to Section 708(b)(6) of the RTKL. *See* 65 P.S. § 67.708(a)(1).

The Township is a local law enforcement agency. *See* OOR Advisory Opinion issued Jan. 15, 2010, available at <http://www.openrecords.pa.gov/Using-the->

[RTKL/Documents/Separate ORO appointment for PD.pdf](#) (stating that a township police department is not a separate agency from a township). The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See* 65 P.S. § 67.503(d)(2). Instead, appeals involving records alleged to be criminal investigative records held by a local law enforcement agency are to be heard by an appeals officer designated by the local district attorney. *See id.* Accordingly, the appeal is hereby transferred to the Appeals Officer for the York County District Attorney's Office. A copy of this final order and the appeal filed by the Requester will be sent to Appeals Officer, York County District Attorney's Office.

For the foregoing reasons, Requester's appeal is **denied in part** and **transferred in part** to the Appeals Officer for the York County District Attorney's Office as to whether the redacted information is related to a criminal investigation. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the York County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to Section 1303 of the RTKL. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.¹ This Final Determination shall be placed on the OOR website at: <http://www.openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 16, 2016

/s/ Jill S. Wolfe

APPEALS OFFICER
JILL S. WOLFE, ESQ.

Sent to: Holly Weir (via e-mail only);
Steve Hovis, Esq. (via e-mail only);
Linda Keller;
Tom Kearney, Esq.

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).