



**pennsylvania**  
OFFICE OF OPEN RECORDS

**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>MICHAEL WOJCIK,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No.: AP 2016-1633</b>
	:	
<b>UPPER PROVIDENCE TOWNSHIP</b>	:	
<b>POLICE DEPARTMENT,</b>	:	
<b>Respondent</b>	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* Upon review of the file, the appeal is **dismissed** for the following reason:

On September 12, 2016, Michael Wojcik (“Requester”) filed a request (“Request”) with the Upper Providence Township Police Department (“Department”) seeking a police report concerning his brother. On September 12, 2016, the Department partially granted the Request, providing an incident report, redacting personal identification information, 65 P.S. § 67.708(b)(6)(i)(A), while denying an investigative report, asserting that the report is exempt from disclosure as a record related to a noncriminal investigation conducted by the Department, 65 P.S. § 67.708(b)(17), and contains individually identifiable health information, 65 P.S. § 67.708(b)(5).

On September 26, 2016, the Requester appealed to the OOR. On September 27, 2016, the OOR issued an Order notifying the Requester that the appeal was deficient because it failed to include a copy of the Request. The OOR informed the Requester that he was required to cure the deficiency and directed him to file a copy of the Request pursuant to 65 P.S. § 67.1303(b). On September 29, 2016, the Department submitted a copy of the Request.

Section 1101(a)(1) of the RTKL states that an “appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.” 65 P.S. § 67.1101(a)(1); *see also Pa. Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429, 434 (Pa. Commw. Ct. 2011) (“[I]t is appropriate and, indeed, statutorily required that a requester specify

in its appeal to Open Records the particular defects in an agency's stated reasons for denying a RTKL request"). The Commonwealth Court has held that a requester must "state why the records [do] not fall under the asserted exemptions and, thus, [are] public records subject to access." *Saunders v. Pa. Dep't of Corr.*, 48 A.3d 540, 543 (Pa. Commw. Ct. 2012).

In his appeal, the Requester does not address the Department's claims that the police report is exempt from disclosure under Sections 708(b)(5), 708(b)(6), and 708(b)(17) of the RTKL. Instead, the Requester states that he is appealing his Request for the incident report and video of his late brother. This language is insufficient to address the Department's reasons for denying access to the police report.<sup>1</sup> Accordingly, the appeal is **dismissed** pursuant to Section 1101(a)(1) of the RTKL. However, the Requester is not prohibited from filing a new appeal pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For the foregoing reasons, the Department is not required to take any further action. This Final Determination is binding on the parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Montgomery 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 as per 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.<sup>2</sup> This Final Determination shall be placed on the OOR website at: <http://www.openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: October 24, 2016**

/s/ Kathleen A. Higgins

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APPEALS OFFICER  
KATHLEEN A. HIGGINS, ESQ.

Sent to: Michael Wojcik (via e-mail only);  
Eric Schmitz (via e-mail only)

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<sup>1</sup> Additionally, the identity of the requester is not relevant to the determination of the public status of a record. *See DiMartino v. Pa. State Police*, No. 340 C.D. 2011, 2011 Pa. Commw. Unpub. LEXIS 787, at \*18-9 (Pa. Commw. Ct. 2011); *Wheelock v. Pa. Dep't of Corr.*, OOR Dkt. AP 2009-0997, 2009 PA O.O.R.D. LEXIS 725 (stating that the only information available under the RTKL is a "public record" available to all citizens regardless of personal status or stake in the requested information).

<sup>2</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).