



pennsylvania
OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
CRYSTAL POLYI,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2016-1684
	:	
POCONO MOUNTAIN REGIONAL	:	
POLICE DEPARTMENT,	:	
Respondent	:	

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 as premature** for the following reason:

On October 7, 2016, Crystal Polyi (“Requester”) submitted a RTKL request (“Request”) to the Pocono Mountain Regional Police Department (“Department”), seeking “complaints records against me 10/6/16 at Pocono Mountain Junior High School during a 2:15 pm meeting.” That same day, the Requester appealed to the OOR, alleging that the Request was denied because it was “throw[n] in the trash.”

The Requester did not include a copy of the Request with her appeal, and on October 11, 2016, the OOR ordered the Requester to provide a copy of the Request. On October 13, 2016, the Department submitted a copy of the Request, dated October 7, 2016, and marked received by its Open Records Officer on October 13, 2016.

Section 901 of the RTKL states that “[t]he time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency.” 65 P.S. § 67.901; *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. 2014). Here, even assuming that the Request was received on October 7, 2016, the Department had five

business days to issue a written response, or until October 17, 2016. As the appeal was filed on October 7, 2016, it is premature.¹

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 Monroe 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 court rules 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.² This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 27, 2016

/s/ Kyle Applegate

APPEALS OFFICER
KYLE APPLGATE, ESQ.

Sent to: Crystal Polyi (via e-mail only);
Susan Kopp (via e-mail only)

¹ Regardless, the Department also provided an attestation made under penalty of perjury from Susan Kopp, the Department's Open Records Officer, who attests that a search was conducted and that no responsive records exist.

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