

LUKEHART, LUNDY & LUNDY

ATTORNEYS AT LAW

219 East Union Street, P.O. Box 74
Punxsutawney, PA 15767

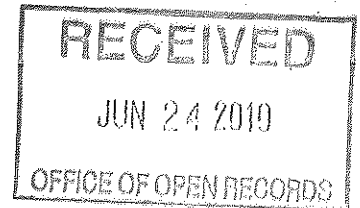


J. Kipp Lukehart, Esquire
Jeffrey Lundy, Esquire
Jay P. Lundy, Esquire

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June 18, 2010

The Office of Open Records
Advisory Opinion
400 North Fourth Street, Plaza Level
Harrisburg, PA 17120-0225



Re:

To Whom It May Concern:

This office is the Solicitor for Oliver Township Board of Supervisors and has been retained by them to address the Right-to-Know Denial by the Punxsutawney Police Department. Oliver Township Supervisors have requested the Punxsutawney Borough Police Department the Department's vehicle response policy. The Police Department, through the Borough Manager/Open Records Officer denied the request in a June 7, 2010, letter, citing the Right-to-Know Law 65 P.S. 708(16)(iv). Specifically, that the response policy is confidential by law via 75 Pa. C.S.A. §6342(e). See attached letter.

This request was initiated by Oliver Township Supervisors following a high-speed pursuit that began in the Punxsutawney Borough with a Punxsutawney Borough Police Officer and ended in a crash in Oliver Township, with injuries.

No litigation is currently pending between the two municipalities.

The contact person for this inquiry is the undersigned counsel.

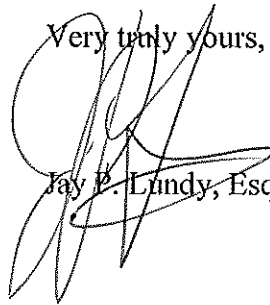
Other than the obvious question of whether or not the Borough's denial letter is correct in its statement of law, one other issues are raised for which I have been unable to locate answers to. In 75 Pa. C.S.A. §6342(e), it sets forth that police pursuit of vehicles policies "shall be confidential and shall not be made available to the general public". There is no definition or case law found that gives the definition of "general public". Oliver Township Supervisors are not the general public and are in fact another political subdivision and municipality. Oliver Township is an interested party and has legitimate claim to see the police department's pursuit policy as it

apparently permits the police to pursue vehicles into the jurisdiction of Oliver Township which results in personal property and personal injuries that places the properties and citizens of Oliver Township at risk, further, Oliver Township emergencies services are required to respond such accidents.

Summary of Questions to be answered: Are the Punxsutawney Area Police Department vehicle response policies protected by the exceptions of the Right-to-Know Law of §65 P.S. 708(16)(iv) as being confidential by law via 75 Pa.C.S.A. §6342(e), and further, whether the Supervisors of Oliver Township or Oliver Township itself is considered to be "the general public" under 75 Pa.C.S.A. §6342(e).

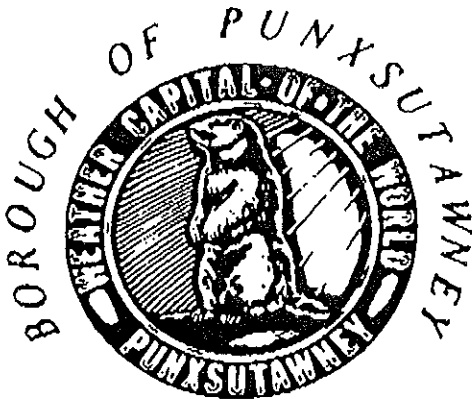
If anything further is needed regarding this request for advisory opinion, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jay P. Lundy". The signature is stylized and somewhat illegible due to the cursive nature of the writing.

Jay P. Lundy, Esquire

JPL/eni
Enclosure
Cc: Oliver Township Supervisors



MAHONING EAST CIVIC CENTER
101 EAST MAHONING ST., SUITE 1
PUNXSUTAWNEY, PA 15767

(814) 938-4480
FAX (814) 938-6265

June 7, 2010

Oliver Township Board of Supervisors
Mr. Dale Anthony, Supervisor
767 Coolspring Road
Worthville PA 15784

RE: Right to Know Request for Punxsutawney Police Department Vehicle Response Policy

Dear Mr. Anthony,

Pursuant to the provisions of the Pennsylvania Right-to-Know Law, (65 P.S. § 67.101, et seq.) your request for the vehicle response policy of the Punxsutawney Police Department is denied. Your request falls under an exception to the Right-to-Know Law, specifically 65 P.S. 708(16)(iv).

The Pennsylvania Motor Vehicle Code (75Pa C.S.A § 6342(e)) states: "Policy Confidential. - A policy adopted under this section shall be confidential and shall not be made available to the general public."

You have the right to appeal this denial to the Pennsylvania Office of Open Records within fifteen (15) days of the date of this denial. Your appeal should be sent to:

The Commonwealth Office of Open Records
400 North Fourth Street, Plaza Level
Harrisburg PA 17120-0225
Phone: (717) 346-9903

An appeal form and additional information may be found at the Office of Open Records website <http://openrecords.state.pa.us>. If you file an appeal, a copy must be sent to me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben White".

Ben White
Borough Manager
Punxsutawney Open Records Officer



OFFICE OF COUNTY COMMISSIONERS JEFFERSON COUNTY

COMMISSIONERS
Paul Corbin, Chairman
James R. McIntyre
Jeffrey E. Pisarcik

CHIEF CLERK
Karen L. Lupone

SOLICITOR
James D. Denison

Right-To-Know Response Form

June 7, 2010

Mr. Dale Anthony, Chairman
Oliver Township Supervisor
767 Coolspring Road
Worthville, PA 15784

Dear Mr. Anthony, *Dale*

Thank you for writing to the Office of Jefferson County Commissioners with your request for information pursuant to the Pennsylvania Right-To-Know law.

On June 7, 2010 you requested a copy of the 911 tapes relating to the high speed chase of June 3, 2010 which resulted in a crash on Route 36 at Laurel Ridge Road. Your request is denied for the following reason, as permitted by Section 708 of the Act.

The Office of Jefferson County Commissioners has denied your request because records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. This paragraph shall not apply to a 911 recording, or a transcript of a 911 recording, if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure.

You have a right to appeal this denial of information in writing to Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120.

If you choose to file an appeal you must do so within 15 business days of the mailing date of the agency's response. Section 1101. If you have further questions, please call Karen Lupone, Right to Know Officer at (814)849-1653. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

Karen

RIGHT-TO-KNOW OFFICER NAME *Karen Lupone*

TITLE *Right to Know Officer*

BUSINESS ADDRESS *155 Main Street, Brookville, PA 15825*

BUSINESS TELEPHONE *(814)849-1653*



July 12, 2010

Jay Lundy
Lukehart, Lundy & Lundy
219 East Union Street
PO Box 74
Punxsutawney, PA 15767

Re: Advisory Opinion request

Dear Mr. Lundy:

On June 24, 2010, the Office of Open Records received your request for an advisory opinion. You asked for an advisory opinion on whether a police department's vehicle response policy is exempt under 65 P.S. § 67.708(b)(16) and whether Township supervisors or the Township itself is considered to be the "general public" under 75 Pa.C.S. § 6342(e). The OOR declines to issue an advisory opinion.

The request seeks response to general legal questions without presenting sufficiently specific facts to which the law may be applied. Further, the issues you raise are properly addressed within the RTKL appeal process that permits a full examination of all the facts surrounding a specific request or type of request. In addition, the appeal process allows for the government agency to present its position on the retention of such information/records, as well as address any applicable exemptions that may exist.

If you have any additional questions, please do not hesitate to contact our office.

Respectfully,

A handwritten signature in black ink, appearing to read "Terry Mutchler", is written over a thin horizontal line.

Terry Mutchler
Executive Director