

November 9, 2022

FILED VIA PACFILE

Michael Krimmel, Esq.
Prothonotary
Commonwealth Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 2100
Harrisburg, PA 17106-2575

RE: Submission of Record in:
Deree Norman v. City of Philadelphia, No. 951 CD 2022

Dear Mr. Krimmel:

We hereby submit the record in the above-referenced matter. Section 1303 of the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.*, (“RTKL”), defines the Record on Appeal as: “the record before a court shall consist of the request, the agency’s response, the appeal filed under section 1101, the hearing transcript, if any, and the final written determination of the appeals officer.” Pursuant to *Department of Transportation v. Office of Open Records*, 7 A.3d 329 (Pa. Commw. Ct. 2010), this record includes all “evidence and documents admitted into evidence by the appeals officer pursuant to Section 1102(a)(2).” The record in this matter consists of the following:

Office of Open Records Docket No. AP 2022-1629:

1. The appeal filed by Deree Norman (“Requester”) to the Office of Open Records (“OOR”), received July 11, 2022.
2. Official Notice of Appeal dated July 12, 2022, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. OOR Order – Notice of Filing Deficiency dated July 12, 2022.
4. Requester submission received July 12, 2022, curing the filing deficiency.
5. OOR’s email dated July 14, 2022, noting the Requester had cured the filing deficiency and establishing submission deadlines.

6. Email chain dated July 26, 2022 through July 27, 2022, wherein the OOR grants the City of Philadelphia (“City”) additional time to make a submission.
7. Email chain dated August 2, 2022 through August 3, 2022, wherein the OOR grants the City additional time to make a submission.
8. Requester submission dated August 3, 2022.
9. City submission dated August 3, 2022.
10. The Final Determination dated August 5, 2022, issued by the OOR.

The OOR has discretion to hold a hearing on appeals filed but chose not to do so in this matter. Therefore, there is no transcript to transmit. Certification of the record in this case is attached to this letter. Please feel free to contact us for any reason in connection with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Applegate". The signature is fluid and cursive, with the first name "Kyle" written in a larger, more prominent script than the last name "Applegate".

Kyle Applegate
Chief Counsel

Attachments

cc: See certificate of service

Commonwealth of Pennsylvania

Agency Docket Number: AP 2022-1629

Appellate Court Docket Number: 951 CD 2022

I, Elizabeth Wagenseller, certify that the accompanying electronically transmitted materials are true and correct copies of all materials filed in the Office of Open Records and constitute the record for :

Deree Norman,
Petitioner

v.

City of Philadelphia (Office of Open
Records),
Respondent

/s/ Elizabeth Wagenseller

11/09/2022

Executive Director

Volumes:

Agency Record (2)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

DEREE NORMAN,
Petitioner,

v.

CITY OF PHILADELPHIA,
Respondent.

:
:
: No. 951 CD 2022
:
:
:
:

CERTIFIED RECORD

Kyle Applegate
Chief Counsel
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
Email: Kyapplegat@pa.gov

November 9, 2022

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

DEREE NORMAN,
Petitioner,

v.

CITY OF PHILADELPHIA,
Respondent.

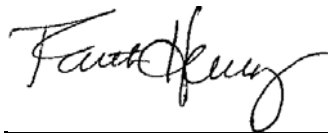
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: No. 951 CD 2022
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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Certified Record
upon the following persons via the manner designated below:

Deree Norman
5367 Thomas Avenue
Philadelphia, PA 19143
dereenorman@yahoo.com
(via email only)

Feige Grundman, Esq.
City Of Philadelphia
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
Feige.grundman@phila.gov
RightToKnowLaw@phila.gov
(via email only)



Faith Henry, Administrative Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
Email: fahenry@pa.gov

Dated: November 9, 2022

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

DEREE NORMAN,
Petitioner,

v.

CITY OF PHILADELPHIA,
Respondent.

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: No. 951 CD 2022
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Deree Norman v. City of Philadelphia, OOR Dkt. AP 2022-1629

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10. The Final Determination dated August 5, 2022, issued by the OOR.

00R Exhibit 1

From: no-reply@openrecordspennsylvania.com
To: dereenorman@yahoo.com
Subject: [External] PA Office of Open Records - Appeal Confirmation
Date: Monday, July 11, 2022 2:25:13 PM
Attachments: [oor_logo_email.png](#)

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).*



You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name:	Deree Norman
Company:	
Address 1:	5367 Thomas Ave
Address 2:	
City:	PHILADELPHIA
State:	Pennsylvania
Zip:	19143
Phone:	267-304-2162
Email:	dereenorman@yahoo.com
Email2:	
Agency (typed):	Divisional Deputy City Solicitor - Right to Know Legislative Unit
Agency Address 1:	One Parkway Building, 17th Floor 1515 Arch Street
Agency Address 2:	
Agency City:	Philadelphia
Agency State:	Pennsylvania

Agency Zip:	19102
Agency Phone:	
Agency Email:	righttoknow@phila.gov
Records at Issue in this Appeal:	Pursuant to the Pennsylvania Right-To-Know Law (RTKL), 65 P.S. § 67.101 et seq. On July 1, 2022, the City received my request for: A 911 call made from my cell phone on April 8, 2022 and the 911 call made by the the Ryan Veterinary Hospital relating to Univ of Penn Div of Public Safety case no. 22-01701.
Request Submitted to Agency Via:	e-mail
Request Date:	07/01/2022
Response Date:	07/06/2022
Deemed Denied:	No
Agency Open Records Officer:	Feige M. Grundman
Attached a copy of my request for records:	Yes
Attached a copy of all responses from the Agency regarding my request:	Yes
Attached any letters or notices extending the Agency's time to respond to my request:	No
Agree to permit the OOR additional time to issue a final determination:	30 Days

**Interested in
resolving this issue
through OOR
mediation:**

Yes

Attachments:

- Right to Know Request City of Philadelphia Law Department.pdf

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

333 Market Street, 16th Floor | Harrisburg, PA 17101-2234 | 717.346.9903 | F 717.425.5343 | openrecords.pa.gov

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Philadelphia Department of Records (Attn: AORO)

Date of Request: June 9, 2022 Submitted via: ☒ Email ☐ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: Deree J. Norman Company (if applicable): _____

Mailing Address: 5367 Thomas Avenue

City: Philadelphia State: PA Zip: 19143 Email: dereenorman@yahoo.com

Telephone: 267-304-2162 Fax: _____

How do you prefer to be contacted if the agency has questions? ☐ Telephone ☒ Email ☐ U.S. Mail

RECORDS REQUESTED: *Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.*

On April 8, 2022 I arrived at the Ryan Vet Hospital for a scheduled appointment. I was immediately approached by a Univ of Penn law enforcement officer, in response to a complaint of trespassing. I subsequently called 911 from my cell phone to report the violation of Title 18 of the Pennsylvania Crimes Code Pursuant to §4906(a) and §4906(b)(1)(2). I am requesting a copy (recording) of the 911 call I made and the call made by the the Ryan Hospital relating to Univ of Penn Div of Public Safety case no. 22-1701

DO YOU WANT COPIES? ☐ Yes, printed copies (*default if none are checked*)
☒ Yes, electronic copies preferred if available
☐ No, in-person inspection of records preferred (*may request copies later*)

Do you want certified copies? ☐ Yes (*may be subject to additional costs*) ☐ No
RTKL requests may require payment or prepayment of fees. See the [Official RTKL Fee Schedule](#) for more details.

Please notify me if fees associated with this request will be more than ☐ \$100 (or) ☐ \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____
30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____
Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$ _____
☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

*NOTE: In most cases, a completed RTKL request form is a public recoRd
More information about the RTKL is available at <https://www.openrecords.pa.gov>*

Form updated Feb. 3, 2020

OOR Exhibit 2

NOTICE OF DEADLINES

The appeal has been docketed by the OOR and it has been assigned to an Appeals Officer. The docket number and the Appeals Officer's contact information are included in the attachments you received along with this notice.

The timeline for this RTKL appeal may be extended by the OOR during the appeal. This extension will allow the OOR the flexibility it requires to protect due process and to ensure that the agency and requester, along with any third parties, have a full and fair opportunity to meaningfully participate in the appeal.

The appeal is currently deficient, and a Final Determination deadline has not yet been set by the Appeals Officer. If the deadline to perfect the appeal lapses, the OOR will issue a Final Determination within thirty (30) days after that date. *Note: The deadline to perfect the appeal can be found in the final paragraph of the Deficiency Order located in the OOR's Notice of Appeal packet.*

After you have been notified that the appeal has been perfected, any evidence, legal argument and general information to support your position must be submitted within seven (7) business days of that date, unless otherwise informed by the Appeals Officer.

If you are unable to meaningfully participate in this appeal under the above deadlines, please notify the Appeals Officer as soon as possible.

Due to delays in U.S. mail, we urge agencies and requesters to use email for all communications with the OOR to the extent possible.

Presently, the OOR is receiving postal mail on a limited basis. Accordingly, we urge agencies and requesters to use email for all communication with the OOR to the extent possible.

If you have any questions about this notice or the underlying appeal, please contact the Appeals Officer. The OOR is committed to working with agencies and requesters to ensure that the RTKL appeal process proceeds as fairly and as smoothly as possible.

July 12, 2022

Via Email Only:

Deree Norman
5367 Thomas Ave
Philadelphia, PA 19143
dereenorman@yahoo.com

Via Email Only:

Feige Grundman
Agency Open Records Officer
City of Philadelphia Law Department
1515 Arch Street, 17th Floor
Philadelphia, PA 19102
feige.grundman@phila.gov
RightToKnowLaw@phila.gov

----- **RE: OFFICIAL NOTICE OF APPEAL - Norman v. City of Philadelphia Law Department OOR**
Dkt. AP 2022-1629 -----

Dear Parties:

Review this information and all enclosures carefully as they affect your legal rights.

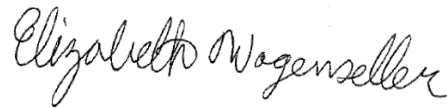
The Office of Open Records (“OOR”) received this appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. on July 11, 2022. A binding Final Determination (“FD”) will be issued pursuant to the timeline required by the RTKL, **please see the attached information for more information about deadlines.**

Notes for both parties (more information in the enclosed documents):

- The docket number above must be included on all submissions related to this appeal.
- Any information provided to the OOR must be provided to all parties involved in this appeal. Information that is not shared with all parties will not be considered.
- All submissions to the OOR, other than *in camera* records, will be public records. Do not include any sensitive information- such as Social Security numbers.

----- If you have questions about this appeal, please contact the assigned Appeals Officer (contact information enclosed), providing a copy of any correspondence to all parties involved in this appeal. -----

Sincerely,



Elizabeth Wagenseller
Executive Director

Enc.: Description of RTKL appeal process
Assigned Appeals Officer contact information
Entire appeal as filed with OOR

The Right-to-Know Law Appeal Process

Please review this information carefully as it affects your legal rights.

The Office of Open Records (“OOR”) has received the enclosed appeal, which was filed under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. A binding Final Determination will be issued by the OOR pursuant to the statutory timeline, subject to the notice of deadlines enclosed herein. If you have any questions, please contact the Appeals Officer assigned to this case. Contact information is included on the enclosed documents.

Submissions to the OOR

Both parties may submit evidence, legal argument, and general information to support their positions to the assigned Appeals Officer. Please contact the Appeals Officer as soon as possible.

Any information provided to the OOR must be provided to all parties involved in this appeal. Information submitted to the OOR will not be considered unless it is also shared with all parties.

Include the docket number on all submissions.

The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Generally, submissions to the OOR — other than *in camera* records — will be public records. Do not include sensitive or personal information, such as Social Security numbers, on any submissions.

Agency Must Notify Third Parties

If records affect a legal or security interest of a third party; contain confidential, proprietary or trademarked records; **or** are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above.**

Such notice must be made by: (1) Providing a copy of all documents included with this letter; **and** (2) Advising relevant third parties that interested persons may request to participate in this appeal by contacting the Appeals Officer assigned to this case (see 65 P.S. § 67.1101(c)).

The Commonwealth Court has held that “the burden [is] on third-party contractors... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)).

A third party's failure to participate in a RTKL appeal before the OOR may be construed as a waiver of objections regarding release of requested records.

NOTE TO AGENCIES: If you have questions about this requirement, please contact the Appeals Officer immediately.

Statements of Fact & Burden of Proof

Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Statements of fact or allegations submitted without an affidavit may not be considered.

Under the RTKL, the agency has the burden of proving that records are exempt from public access (see 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.**

The law requires the agency position to be supported by sufficient facts and citation to all relevant sections of the RTKL, case law, and OOR Final Determinations.

An affidavit or attestation is required to prove that records do not exist.

Sample affidavits are on the OOR website, openrecords.pa.gov.

Any evidence or legal arguments not submitted or made to the OOR may be waived.

Preserving Responsive Records

The agency must preserve all potentially responsive records during the RTKL appeal process, including all proceedings before the OOR and any subsequent appeals to court.

Failure to properly preserve records may result in the agency being sanctioned by a court for acting in bad faith.

See *Lockwood v. City of Scranton*, 2019-CV-3668 (Lackawanna County Court of Common Pleas), holding that an agency had “a mandatory duty” to preserve records after receiving a RTKL request. Also see generally *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 185 A.3d 1161 (Pa. Commw. Ct. 2018), holding that “a fee award holds an agency accountable for its conduct during the RTKL process...”

Mediation

The OOR offers a mediation program as an alternative to the standard appeal process. To participate in the mediation program, both parties must agree in writing.

The agency must preserve all potentially responsive records during the RTKL appeal process. Mediation is a voluntary, informal process to help parties reach a mutually agreeable settlement. The OOR has had great success in mediating RTKL cases.

If mediation is successful, the requester will withdraw the appeal. This ensures that the case will not proceed to court — saving both sides time and money.

Either party can end mediation at any time.

If mediation is unsuccessful, both parties will be able to make submissions to the OOR as outlined on this document, and the OOR will have no less than 30 calendar days from the conclusion of the mediation process to issue a Final Determination.

Parties are encouraged to consider the OOR's mediation program as an alternative way to resolve disputes under the RTKL.



APPEALS OFFICER:

Lois Lara, Esq.

CONTACT INFORMATION:

**Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234**

FACSIMILE:

(717) 425-5343

EMAIL:

lolara@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

**Please direct submissions and correspondence related to this appeal to the above Appeals Officer.
Please include the case name and docket number on all submissions.**

**You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot
speak to parties individually without the participation of the other party.**

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review
prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff
are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Record at issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____ (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.



MEDIATION NOTICE

Appeals before the Office of Open Records (OOR) are stayed for seven business days pending the parties' decision to participate in the OOR's Informal Mediation Program.

The Parties may agree to mediation. To participate in mediation, the Parties must submit a completed copy of the attached Mediation Agreement. If both Parties agree to mediation, the appeal will be further stayed, and the Parties will be contacted by an OOR Mediator to begin the mediation process.

The Parties may decline mediation. If either Party declines to participate in mediation or fails to submit a signed Mediation Agreement within seven business days:

- The record will remain open for seven additional business days for the parties to submit evidence and argument in support of their positions; and
- The OOR will decide the appeal and issue a Final Determination by the date set forth in the attached Official Notice of Appeal.

Even if mediation is declined at this time, the Parties may agree to mediate the dispute at any time prior to a Final Determination being issued, and the appeal will be stayed pending mediation.

Questions. If the Parties have questions about mediation or what to expect during the mediation process, please email the assigned Appeals Officer or visit the OOR's website at <https://www.openrecords.pa.gov/Appeals/Mediation.cfm>.



OOB MEDIATION AGREEMENT

OOB Dkt. No. 2022-1629

Requester Name: Norman, Deree

Agency Name: City of Philadelphia Law Department

The Requester and Agency (collectively, the "Parties") agree to participate in the OOR's Informal Mediation Program to resolve the matters at issue in this appeal.

The Parties agree to participate in the mediation process in good faith. If the Parties agree, there may be more than one session if the Mediator determines that the appeal could be resolved. The Parties acknowledge that mediation sessions are not open to the public and the content of discussions during mediation is confidential and not admissible as evidence in this appeal.

The Parties agree to extend the Final Determination deadline in this appeal for 30 calendar days beyond the conclusion of the mediation process or, if the Requester agreed to grant the OOR a 30-day extension on the appeal form initiating this appeal, the Final Determination deadline will include that extension. If the Requester does not withdraw the appeal, the Mediator will indicate the conclusion of the mediation process in writing if further mediation sessions are not likely to result in a resolution of the dispute. The Parties acknowledge that this Mediation Agreement, the Requester's withdrawal, and the OOR's withdrawal acknowledgement will be included in the OOR's administrative appeal file and subject to public access.

Upon receipt of this completed Mediation Agreement, a Mediator will contact the Parties to establish a mutually convenient date, time and location to conduct a joint mediation session.

Requester Signature: _____ Date: _____

Agency Representative Signature: _____ Date: _____



IN THE MATTER OF

**DEREE NORMAN,
Requester**

v.

**CITY OF PHILADELPHIA LAW
DEPARTMENT,
Respondent**

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Docket No.: AP 2022-1629

This correspondence confirms the above-referenced Requester's agreement to an additional thirty (30) day extension of time to issue a Final Determination in this matter as indicated in the Requester's appeal form. Accordingly, pursuant to 65 P.S. § 67.1101(b)(1), the Office of Open Records will now issue a Final Determination in the above-captioned matter, on or before, an additional thirty (30) days from the date the deficiency is cured.

OOR Exhibit 3



July 12, 2022

Via Email Only:

Deree Norman
5367 Thomas Ave
Philadelphia, PA 19143
dereenorman@yahoo.com

**RE: Order: Notice of Filing Deficiency - Norman v. City of Philadelphia Law Department OOR
Dkt. AP 2022-1629**

Dear [[Requester Title]] Norman:

The Office of Open Records ("OOR") has received an appeal from you challenging the agency's denial of a Right-to-Know Law request. In order to review the agency's denial of your request for records, the record on appeal is required to include both the request and the agency's response. *See* 65 P.S. § 67.1303(b). A review of your appeal reveals that the required item(s) indicated below was/were not included with your correspondence:

☐ Request

☒ Complete Agency Response

In order to complete the appeal, you are required to file the above document(s) that was/were not included with the appeal by July 26, 2022. FAILURE TO FILE THE REQUIRED DOCUMENT(S) WILL RESULT IN YOUR APPEAL BEING DISMISSED.

The appeal will be stayed until the date you comply with this Order or July 26, 2022, whichever comes first. Upon receipt of the above document(s) or failure to comply with this Order, the OOR will proceed to issue its final determination in accordance with the timeframes set forth in 65 P.S. § 67.1101(b)(1), and, if necessary, establish a submission schedule for the parties. You are required to serve a copy of the document(s) upon the agency from which you requested the records.

Sincerely,

/s/ Lois Lara

Lois Lara

OOR Exhibit 4

From: [Deree Norman](#)
To: [Lara, Lois](#)
Cc: [Feige M. Grundman](#); righttoknowlaw@phila.gov
Subject: [External] RE: Norman v. City of Philadelphia Law Department OOR Dkt. AP 2022-1629
Date: Tuesday, July 12, 2022 3:55:50 PM
Attachments: [Agency Responce to RTK Request.pdf](#)
[Statement Explaining the Grounds that the Record is a Public Record.pdf](#)
[Statement Addressing grounds stated by the Agency for Denying the Request.pdf](#)

ATTENTION: *This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).*

Good afternoon,

I'm not sure why the documents I attached to the original filing of the Appeal were not included with the transmission. In compliance with the Notice of Filing Deficiency please find the following.

- 1) The Agency's Response
- 2) Statement Explaining the Grounds that the Record is a Public Record
- 3) Statement Addressing grounds stated by the Agency for Denying the Request

Thank you

Deree J. Norman
(267) 304-2162
dereenorman@yahoo.com

Re: Transcript of 911 call

From: Feige M. Grundman (righttoknow@phila.gov)

To: dereenorman@yahoo.com

Date: Wednesday, July 6, 2022, 03:25 PM EDT

Re: Transcript of 911 call
Request #: 17565

Dear Deree Norman:

Thank you for writing to the City of Philadelphia (City) with your request for information pursuant to the Pennsylvania Right-To-Know Law (RTKL), 65 P.S. § 67.101 et seq. On July 1, 2022, the City received your request for:

"On April 8, 2022 ... I subsequently called 911 from my cell phone ... I am requesting a copy (recording) of the 911 call I made and the call made by the the Ryan Hospital relating to Univ of Penn Div of Public Safety case no. 22-1701"

This correspondence constitutes the City's final response to your request.

Your request is denied.

The RTKL exempts from disclosure "[r]ecords or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings." 65 P.S. § 67.708(b)(18)(i). The Commonwealth Court has interpreted "time response logs" to consist of "the time of the request for service, the address or cross-street information, and when the responder arrived at the scene." *County of York v. Pa. Off. of Open Records*, 13 A.3d 594, 602 (Pa. Commw. 2011). Because the Philadelphia Police Department Computer Aided Dispatch Report consists entirely of information pertaining to the "audio recordings, telephone or radio transmissions received by emergency dispatch personnel," it is exempt from disclosure in its entirety.

Finally, although you appear to be seeking records concerning yourself, the City may not consider a requestor's identity when responding to a request. See *Dimartino v. Pa. State Police*, 2011 Pa. Commw. Unpub. LEXIS 787, 18-19 (Pa. Commw. 2011) ("[T]he RTKL must be construed without regard to the requester's identity."); accord 65 P.S. § 67.301(b). Therefore, the City must respond to your request for records as though the request had come from any other member of the public, and the City may not take the identity of the requester into account. In other words, although it appears from your request that you seek records related to you, the City must process the request as though the person making the request had no relationship to you. For a record to be public, it has to be public to everyone, not merely the requester. See *Coulter v. Pennsylvania Bd. of Probation and Parole*, 48 A.3d 516, 519 (Pa. Commw. Ct. 2012) (noting – in a case concerning the exemption of parolee's 'home plan' pursuant to the non-criminal investigatory exemption – that "while [Requester] is requesting her own Home Plans, if all Home Plans were considered public records, they would be open to the entire public at large which could have adverse effects on all parolees").

Appeals processing during the COVID-19 pandemic: If you wish to contest this determination, you may file an appeal with the Office of Open Records (OOR) as provided for in 65 P.S. § 67.1101. Please see <https://www.openrecords.pa.gov/Appeals/HowToFile.cfm> for instructions on the appeal process. In addition, please see the OOR's RTKL advisory regarding the COVID-19 pandemic, which contains additional information: <https://openrecordspennsylvania.com/2020/03/12/the-rtkl-and-covid-19/>. If you wish to appeal to the OOR, you must do so within 15 business days of the date of this correspondence.

This correspondence will close your request with our office as permitted by law.

Respectfully,

Feige M. Grundman
Pronouns: she/her

Divisional Deputy City Solicitor - Right to Know
Legislative Unit
City of Philadelphia Law Department
One Parkway Building, 17th Floor
1515 Arch Street
Philadelphia, PA 19102

On Fri, Jul 1 at 6:29 PM , City of Philadelphia Right to Know <righttoknow@phila.gov> wrote:
THE CITY OF PHILADELPHIA

Dear Deree Norman,

Thank you for your correspondence. This is an automatic response to let you know that the City will process your request and respond further within five business days of its receipt by an Open Records Officer. Please note that requests received after 5PM are deemed received the next business day.

Statement Explaining the Grounds that the Record is a Public Record

I Deree J. Norman, do hereby file this Statement Explaining the Grounds that the Record is a Public Record, and in support thereof aver the following:

The incident report (Case No. 22-01701) submitted by a University of Pennsylvania Police Officer (“UPPO”) is inconsistent with all documented and verifiable facts as well as the body camera video related to the incident. The incident report also does not include any reference to the Cross Complaint made by Deree J Norman initiated via a 911 call on the same day, despite the same law enforcement officer acknowledging that the Cross Complaint had been dispatched to him.

A failure to properly report any incident with impartiality is unequivocally critical to public interest. The mere semblance of bias and or the intentional misrepresentation of facts is prohibited by law and is a slap in the face to every legal process in this City, this Commonwealth, and this Country.

Therefore, the exemption applied to a 911 recording, or a transcript of a 911 recording, should be invalid in this matter because the Agency or Court should recognize that the public interest in disclosure outweighs the interest in nondisclosure. (*See: 65 P.S. § 67.708(b)(18)(ii)*)

I, Deree J. Norman, hereby declare that the facts set forth in the foregoing Statement Explaining the Grounds that the Record is a Public Record are true to the best of my knowledge, information and belief. I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

July 11, 2022,

Respectfully submitted,



By: Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162
dereenorman@yahoo.com

Statement Addressing Grounds Stated by the Agency for Denying the Request

I Deree J. Norman, do hereby file this Statement Addressing Grounds Stated by the Agency for Denying the Request, and in support thereof aver the following:

In is imperative that Judicial and Legislative branches of Government encourage and require law enforcement officers to provide the same level of service to all people regardless of race, creed, color, gender, religion, sexual orientation etc. Every person should know that when they are subjected to a perceived unlawful act of another, that a law enforcement officer will record their complaint without imposing judgement based on his personal association with either party (e.g. complainant or alleged offender). Although, the law has determined that pursuant to 65 P.S. §67.708(b)(18):

(i) 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.

The law has also clearly determined that pursuant to 65 P.S. §67.708(b)(18):

(ii) 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.

Therefore, where there is a clear and distinct inconstancy with a written incident report in relation to body camera footage as well as a documented account of factual events, the Agency or Court, in the interest of justice, must recognize that the public interest in disclosure outweighs the interest in nondisclosure.

I, Deree J. Norman, hereby declare that the facts set forth in the foregoing Statement Addressing Grounds Stated by the Agency for Denying the Request are true to the best of my knowledge, information and belief. I make this verification subject to the penalties of 18 Pa. C.S. §4904 pertaining to false statements to authorities.

July 11, 2022,

Respectfully submitted,



By: Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162
dereenorman@yahoo.com

00R Exhibit 5

From: [Lara, Lois](#)
To: dereenorman@yahoo.com; [Feige Grundman](#); RightToKnowLaw@phila.gov
Subject: Norman v. City of Philadelphia Law Department, 2022-1629
Date: Thursday, July 14, 2022 4:00:00 PM
Attachments: [2022-07-12_1555_Requester-ResponseDeficiencyOrder_2022-1629.pdf](#)

Dear Parties:

The Deficiency Order in the above matter has been cured. The Requester provided a complete copy of the City of Philadelphia's response to her RTKL Request. As such, both parties will have through July 25, 2022 to make submissions in this matter, and the Final Determination will be issued on or before August 8, 2022.

A copy of the Requester's response to the deficiency order is attached.

Regards,
Lois Lara



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
[\(717\) 346-9903](tel:(717)346-9903) | **Fax** [\(717\) 425-5343](tel:(717)425-5343)
<https://openrecords.pa.gov>
[@OpenRecordsPA](#)
[Open Records in Pennsylvania Blog](#)

From: [Deree Norman](#)
To: [Lara, Lois](#)
Cc: [Feige M. Grundman](#); righttoknowlaw@phila.gov
Subject: [External] RE: Norman v. City of Philadelphia Law Department OOR Dkt. AP 2022-1629
Date: Tuesday, July 12, 2022 3:55:50 PM
Attachments: [Agency Responce to RTK Request.pdf](#)
[Statement Explaining the Grounds that the Record is a Public Record.pdf](#)
[Statement Addressing grounds stated by the Agency for Denying the Request.pdf](#)

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).*

Good afternoon,

I'm not sure why the documents I attached to the original filing of the Appeal were not included with the transmission. In compliance with the Notice of Filing Deficiency please find the following.

- 1) The Agency's Response
- 2) Statement Explaining the Grounds that the Record is a Public Record
- 3) Statement Addressing grounds stated by the Agency for Denying the Request

Thank you

Deree J. Norman
(267) 304-2162
dereenorman@yahoo.com

OOOR Exhibit 6

From: [Lara, Lois](#)
To: [Feige Grundman](#); dereenorman@yahoo.com; [RightToKnowLaw](#)
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629
Date: Wednesday, July 27, 2022 1:16:00 PM

Dear Parties:

The City's request for an extension is granted. Both parties have through August 2, 2022 to make submissions in the above matter. Please let me know if you have any questions. Thank you.



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
[\(717\) 346-9903](tel:(717)346-9903) | [Fax \(717\) 425-5343](tel:(717)425-5343)
<https://openrecords.pa.gov>
[@OpenRecordsPA](#)
[Open Records in Pennsylvania Blog](#)

From: Feige Grundman <Feige.Grundman@Phila.gov>
Sent: Tuesday, July 26, 2022 10:02 AM
To: Lara, Lois <lolara@pa.gov>; dereenorman@yahoo.com; [RightToKnowLaw](#)
<RightToKnowlaw@phila.gov>
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629

Dear Appeals Officer Lois:

I write to respectfully ask for a one-week extension of time to submit the City's response. The deadline has not been previously extended in this matter. The City intends to argue requester seeks records that are clearly and facially exempt under the RTKL, regardless of the requester's relationship to the records. Unfortunately, staffing issues have impacted our workload and response time.

While the City of Philadelphia Law Department in general has been facing staffing shortages, since the beginning of the COVID-19 pandemic, the RTK Division specifically has been operating with significant staffing challenges. The RTK Division has 4.5 full-time attorneys when fully staffed, however since April 2020, we have operated with a deficit of at least one attorney, and for a significant part of 2022 we have operated with a two-attorney deficit. In the past seven months, the RTK Division has had turnover of three attorneys. While operating with this staffing deficit, in the past six months, we have also experienced an unprecedented increase in requests seeking voluminous records.

These staffing challenges have impacted our ability to prepare the response to this appeal. To afford sufficient time to obtain the necessary affidavit for this appeal and manage our workload, the City respectfully requests this extension. We appreciate your consideration in this matter.

Respectfully submitted,

Feige Grundman
Pronouns: she/her

Divisional Deputy City Solicitor - Right to Know
Legislation and Legal Counsel Unit
City of Philadelphia Law Department
One Parkway Building, 17th Floor
1515 Arch Street
Philadelphia, PA 19102

From: Lara, Lois <lolara@pa.gov>

Sent: Thursday, July 14, 2022 4:01 PM

To: dereenorman@yahoo.com; Feige Grundman <Feige.Grundman@Phila.gov>; RightToKnowLaw <RightToKnowlaw@phila.gov>

Subject: Norman v. City of Philadelphia Law Department, 2022-1629

External Email Notice. This email comes from outside of City government. Do not click on links or open attachments unless you recognize the sender.

Dear Parties:

The Deficiency Order in the above matter has been cured. The Requester provided a complete copy of the City of Philadelphia's response to her RTKL Request. As such, both parties will have through July 25, 2022 to make submissions in this matter, and the Final Determination will be issued on or before August 8, 2022.

A copy of the Requester's response to the deficiency order is attached.

Regards,
Lois Lara



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | **Fax** (717) 425-5343
<https://openrecords.pa.gov>
[@OpenRecordsPA](#)
[Open Records in Pennsylvania Blog](#)

OOR Exhibit 7

From: [Lara, Lois](#)
To: [Feige Grundman](#); dereenorman@yahoo.com
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629
Date: Wednesday, August 3, 2022 9:04:00 AM

Dear Ms. Norman and Attorney Grundman,

I am granting the City's request for an extension to file submissions in this case. I acknowledge that Ms. Norman opposed the request, however, in order to ensure the record is developed to conduct a full review of this case, submissions may be filed by the end of the day today.

Submissions due August 3, 2022.

Regards,
Lois Lara



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
[\(717\) 346-9903](tel:(717)346-9903) | **Fax** [\(717\) 425-5343](tel:(717)425-5343)
<https://openrecords.pa.gov>
[@OpenRecordsPA](#)
[Open Records in Pennsylvania Blog](#)

From: Feige Grundman <Feige.Grundman@Phila.gov>
Sent: Tuesday, August 2, 2022 11:54 PM
To: Lara, Lois <lolara@pa.gov>; dereenorman@yahoo.com
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629

Dear Appeals Officer Lara and Ms. Norman:

My apologies, I had mistakenly calendared the due date for this appeal as 8/3. I am writing to request additional time for the City to file its response, which may require Ms. Norman to grant additional time to the OOR for its final determination. I believe we can finalize the affidavit on 8/3 and submit the response. Again, my apologies for this administrative error. Thank you for your consideration.

Respectfully,

Feige Grundman
Pronouns: she/her

Divisional Deputy City Solicitor - Right to Know
Legislation and Legal Counsel Unit
City of Philadelphia Law Department
One Parkway Building, 17th Floor
1515 Arch Street

00R Exhibit 8

From: [Deree Norman](#)
To: [Lara, Lois](#)
Cc: [Feige Grundman](#); [RightToKnowLaw](#)
Subject: [External] Right To Know Law Norman v. City of Philadelphia Law Department OOR Dkt. AP 2022-1629
Date: Wednesday, August 3, 2022 11:59:10 PM
Attachments: [Repy letter 2 to Lois P. Lara.pdf](#)

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Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162
dereenorman@yahoo.com

Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903
lolara@pa.gov

VIA Electronic Mailing

August 3, 2022

Re: Right To Know Law
Norman v. City of Philadelphia Law Department
OOR Dkt. AP 2022-1629

Dear Mrs. Lara,

Mrs. Grundman has merely reiterated her response to my request for information pursuant to the Pennsylvania Right-To-Know Law (RTKL). It is abundantly clear that Mrs. Grundman has either ignored my “Statement Explaining the Grounds that the Record is a Public Record” and my “Statement Addressing Grounds Stated by the Agency for Denying the Request” or she has not read either of them, as she has failed to address, in her response to my Appeal, the portion of the statute that would allow my request to be granted. (See: *65 P.S. § 67.708(b)(18)(ii)*).

Nevertheless, Lt. Jacobs, Open Records Officer for the Philadelphia Police Department knows or should have known that 911 calls received from the area encompassing the

University of Pennsylvania's campus do not result in the dispatching of Philadelphia Police Officers, they do however dispatch University of Pennsylvania Public Safety Officers as I clearly stated in my original request for information pursuant to the Pennsylvania Right-To-Know Law (RTKL) also (See: University of Pennsylvania Division of Public Safety case no. 22-1701). Moreover, these calls are kept in a separate data base within the City of Philadelphia's 911 Records to which it appears, Lt. Jacobs has not checked.

Finally, considering that no Officer from the Philadelphia Police Department was dispatched all requests for audio, visual, or bodycam footage were made to the designated open records officer for the appropriate law enforcement agency pursuant to 42 Pa. C.S.A. § 67A03 and 231 Pa. Code §4009.22. (See Attached)

Thank you

Very truly yours,

/s/ Deree J. Norman

Deree J. Norman

cc: feige.grundman@phila.gov
RightToKnowLaw@phila.gov

SHERIFF'S OFFICE OF PHILADELPHIA COUNTY

Rochelle Bilal
Sheriff



Tariq El-Shabazz, Esq.
Undersheriff

Sean Thornton
Captain

DEREE J NORMAN

vs.

MICHAEL MCCALLUM AND, MATTHEW J. RYAN VETERINARY HOSPITAL OF THE
UNIVERSITY OF PENNSYLVANIA

Case Number
CP220400682
(257303)

IFP RECEIPT

Printed: 6/8/2022 12:43:10PM

Receipt No: N/A

Date: 06/08/2022
Type: Civil Action - Common Pleas
Filed By: PRO-SE DERE J NORMAN

Description: This IFP receipt certifies the advance filing fee(s) were waived. (reference #: 257303)

Mail To: PRO-SE DERE J NORMAN

Origin: Local

Received by: TM

City of Philadelphia Sheriff, Land Title Building, Philadelphia, Pennsylvania, 19110, (215) 686-3530, (215) 686-3979 (fax)

(c) CountySuite Sheriff, Teleosoft, Inc.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

DEREE J NORMAN

Petitioner

vs.

**MICHAEL MCCALLUM and,
MATTHEW J. RYAN VETERINARY
HOSPITAL OF THE UNIVERSITY OF
PENNSYLVANIA**

Respondent(s)

APRIL TERM 2022

No. 220400682

2022 MAY 17 AM 11:10

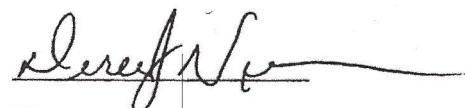
**CERTIFICATE PREREQUISITE TO SERVICE OF A SUBPOENA
PURSUANT TO RULE 4009.22**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22:

Petitioner Deree J. Norman certifies that:

- (1) A notice of intent to serve the subpoena with a copy of the subpoena attached thereto was delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served,
- (2) A copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) No objection to the subpoena has been received, and
- (4) The subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: May 17, 2022



Deree J. Norman

5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162

dereenorman@yahoo.com

CERTI-Norman Vs Mccullum Etal



22040068200015

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

DEREE J NORMAN

Petitioner

vs.

**MICHAEL MCCALLUM and,
MATTHEW J. RYAN VETERINARY
HOSPITAL OF THE UNIVERSITY OF
PENNSYLVANIA**

Respondent(s)

APRIL TERM 2022

No. 220400682

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE
DOCUMENTS AND THINGS PURSUANT TO RULE 4009.21**

Petitioner Deree J. Norman intends to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Date: May 17, 2022

/s/ Deree J. Norman
Deree J. Norman

5367 Thomas Ave
Philadelphia, PA 19143
dereenorman@yahoo.com

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

DEREE J NORMAN

Petitioner

vs.

**MICHAEL MCCALLUM and,
MATTHEW J. RYAN VETERINARY
HOSPITAL OF THE UNIVERSITY OF
PENNSYLVANIA**

Respondent(s)

APRIL TERM 2022

No. 220400682

**SUBPOENA TO PRODUCE DOCUMENT OR THINGS FOR DISCOVERY
PURSUANT TO RULE 4009.22**

To: University of Pennsylvania Division of Public Safety

Within twenty (20) days after service of this subpoena, you are Ordered by the Court to produce the following document and or things.

- 1) The April 8, 2022, incident report (Case No. 221701) filed by Respondents against Petitioner.
- 2) A digital copy of Officer Squadroni (No. 126) body camera footage in relation to the incident in question.

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

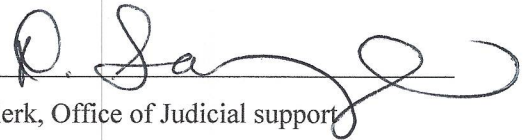
Deree J. Norman
5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162

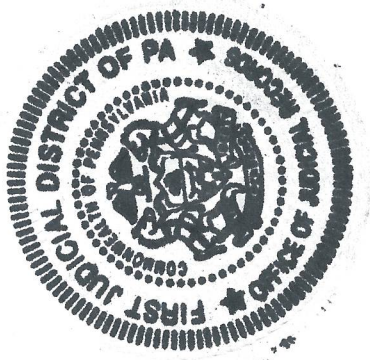
DATE:

5/17/22

By (Prothonotary) Seal of the Court

BY THE COURT:


Clerk, Office of Judicial support



**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

DEREE J NORMAN Petitioner vs. MICHAEL MCCALLUM and, MATTHEW J. RYAN VETERINARY HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA Respondent(s)	APRIL TERM 2022 No. 220400682
---	--

To: University of Pennsylvania Division of Public Safety

You are required to complete the following Certificate of Compliance when producing documents and or things pursuant to the Subpoena.

**CERTIFICATE OF COMPLIANCE
WITH SUBPOENA TO PRODUCE DOCUMENTS OR
THINGS PURSUANT TO RULE 4009.23**

I, _____ certify to the best of my knowledge, information and belief that all documents or things required to be produced pursuant to the subpoena issued on _____ have been produced.

Date:

Person served with subpoena

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

DEREE J NORMAN Petitioner vs. MICHAEL MCCALLUM and, MATTHEW J. RYAN VETERINARY HOSPITAL OF THE UNIVERSITY OF PENNSYLVANIA Respondent(s)	APRIL TERM 2022 No. 220400682
---	--

CERTIFICATE OF SERVICE

I, Deree J. Norman, do hereby certify that on this 16th day of May 2022, I served a true and correct copy of a Notice of Intent to Serve a Subpoena to Produce Documents and Things and a copy of the Subpoena intended to be filed in the above matter to the following via Certified Mail:

Fisher Phillips
Two Logan Square, 12th flr.
Suite1200
Philadelphia, PA 19102

Attorneys for Respondents

Date: May 17, 2022

By: /s/ Deree J. Norman
Deree J. Norman



Helen C. Logan
Sr. Administrator for Legal Services
Direct Dial: 215-746-5235
helen.logan@ogc.upenn.edu

June 14, 2022

Deree J. Norman
5367 Thomas Avenue
Philadelphia, PA 19142

Re: Incident Report

Dear Mr. Norman:

We are in receipt of your subpoena served on the University of Pennsylvania Police Department seeking an incident report and bodycam footage. At this time, bodycam footage is not available, but I have enclosed the requested incident report as well as preceding correspondence. I do not know on whom the subpoena was served or when, but I am the person who is responsible for response and I have executed the certification.

I have enclosed an invoice for file retrieval and copying. Please remit payment at your earliest convenience to the address on the invoice.

Sincerely,

Helen C. Logan
Sr. Admin of Legal Services

Office of the General Counsel
2929 Walnut Street, 4th Floor Philadelphia, PA 19104
Tel. 215.746.5200 Fax 215.746.5306

Helen C. Logan
Sr. Administrator for Legal Services
Office of General Counsel
2929 Walnut Street, 4th Floor
Philadelphia, PA 19104
(215)746-5235
Helen.logan@ogc.upenn.edu

VIA Electronic Mailing

July 13, 2022

Re: Incident Report (Case No. 01701) and Body Camera Footage

Dear Mrs. Logan,

The incident report (Case No. 22-01701) submitted by a University of Pennsylvania Police Officer (“UPPO”) is vastly inconsistent with the verifiable facts as well as the body camera video related to the incident. For instance, the incident report clearly does not include any reference to the Cross Complaint made by Deree J. Norman initiated via a 911 call on the same day, despite the same UPPO stating that the Cross Complaint had been dispatched to him.

Any person should feel comfortable that when they are subjected to a alleged unlawful act of another, that a law enforcement officer will record their complaint without imposing judgement based on his personal association with either party (e.g., complainant or alleged offender)

A failure to properly report any incident with impartiality is unequivocally a failure within our justice system. Moreover, the mere semblance of bias and or the intentional misrepresentation of facts is a slap in the face to every legal process in this City, this Commonwealth, and this Country.

At this time, I would ask that you please review the body camera footage in relation to the aforementioned incident and have an amended incident report created which depicts the allegations from both parties or provide me with a copy of the body camera footage.

Thank you

Very truly yours,

/s/ Deree J. Norman
Deree J. Norman

5367 Thomas Ave
Philadelphia, PA 19143
(267) 304-2162
dereenorman@yahoo.com

OOR Exhibit 9

From: [Feige Grundman](#)
To: [Lara, Lois](#); dereenorman@yahoo.com
Cc: [Douglas Morrison](#)
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629
Date: Wednesday, August 3, 2022 9:25:54 PM
Attachments: [Norman Affidavit.tif](#)
[City Response - Norman v. Law 2022-1629.pdf](#)

Dear Appeals Officer Lara:

I have attached the City's response to this appeal. Thank you for your accommodation.

Respectfully submitted,

Feige Grundman
Pronouns: she/her

Divisional Deputy City Solicitor - Right to Know
Legislation and Legal Counsel Unit
City of Philadelphia Law Department
One Parkway Building, 17th Floor
1515 Arch Street
Philadelphia, PA 19102

From: Lara, Lois <lolara@pa.gov>
Sent: Wednesday, August 3, 2022 9:05 AM
To: Feige Grundman <Feige.Grundman@Phila.gov>; dereenorman@yahoo.com
Subject: RE: Norman v. City of Philadelphia Law Department, 2022-1629

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Dear Ms. Norman and Attorney Grundman,

I am granting the City's request for an extension to file submissions in this case. I acknowledge that Ms. Norman opposed the request, however, in order to ensure the record is developed to conduct a full review of this case, submissions may be filed by the end of the day today.

Submissions due August 3, 2022.

Regards,
Lois Lara



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
[\(717\) 346-9903](tel:(717)346-9903) | **Fax** [\(717\) 425-5343](tel:(717)425-5343)
<https://openrecords.pa.gov>



CITY OF PHILADELPHIA

LAW DEPARTMENT
ONE PARKWAY BUILDING
1515 ARCH STREET
PHILADELPHIA, PA 19102

Diana P. Cortes
City Solicitor

Feige Grundman
Divisional Deputy City Solicitor
Right to Know
Feige.Grundman@phila.gov

August 3, 2022

VIA EMAIL

Appeals Officer Lois Lara
Office of Open Records
lolara@pa.gov

Re: Norman v. City of Philadelphia Law Department: AP 2022-1629

Dear Appeals Officer Lara:

I represent the City of Philadelphia (City) Law Department in the above-captioned appeal. The City reserves the right to provide further evidence if there are appeals beyond the Office of Open Records (OOR). *Bowling v. Office of Open Records*, 990 A.2d 813, 822-23 (Pa. Cmwlth. 2010), *aff'd* 75 A.3d 453 (Pa. 2013). For the reasons described below, this appeal should be dismissed and/or denied.

Procedural Background

On July 1, 2022, the City received a request via email to from Ms. Norman pursuant to the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. § 67.101 *et seq.*, seeking:

On April 8, 2022 I arrived at the Ryan Vet Hospital for a scheduled appointment. I was immediately approached by a Univ of Penn law enforcement officer, in response to a complaint of trespassing. I subsequently called 911 from my cell phone to report the violation of Title 18 of the Pennsylvania Crimes Code Pursuant to ¶4906(a) and ¶4906(b)(1)(2). I am requesting a copy (recording) of the 911 call I made and the call made by the Ryan Hospital relating to Univ of Penn Div of Public Safety case no. 22-1701.

On July 6, 2022, the City denied this request. On July 12, 2022, the City received a notice of appeal in this matter, with an associated deficiency notice; the requester subsequently cured the deficiency. The OOR granted an extension of time until August 3, 2022. This correspondence constitutes the City's response to the appeal.

Argument

This appeal should be dismissed and/or denied. As explained in the City's final response, the RTKL exempts from disclosure "[r]ecords or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings." 65 P.S. § 67.708(b)(18)(i). The Commonwealth Court has interpreted "time response logs" to consist of "the time of the request for service, the address or cross-street information, and when the responder arrived at the scene." *County of York v. Pa. Off. of Open Records*, 13 A.3d 594, 602 (Pa. Commw. 2011). Because the Philadelphia Police Department Computer Aided Dispatch Report consists entirely of information pertaining to the "audio recordings, telephone or radio transmissions received by emergency dispatch personnel," it is exempt from disclosure in its entirety.

Additionally, although the requester appears to be seeking records concerning herself, the City may not consider a requestor's identity when responding to a request. See *Dimartino v. Pa. State Police*, 2011 Pa. Commw. Unpub. LEXIS 787, 18-19 (Pa. Commw. 2011) ("[T]he RTKL must be construed without regard to the requester's identity."); accord 65 P.S. § 67.301(b). For a record to be public, it has to be public to everyone, not merely the requester. See *Coulter v. Pennsylvania Bd. of Probation and Parole*, 48 A.3d 516, 519 (Pa. Commw. Ct. 2012) (noting – in a case concerning the exemption of parolee's 'home plan' pursuant to the non-criminal investigatory exemption – that "while [Requester] is requesting her own Home Plans, if all Home Plans were considered public records, they would be open to the entire public at large which could have adverse effects on all parolees").

Nevertheless, Lt. Jacobs, Open Records Officer for the Philadelphia Police Department—the department that is the custodian of 911 records—attests that he searched (or caused to be searched) PPD records, and that responsive records do not exist. It is not a denial of access under the RTKL if the records requested do not exist. *Cf. Jenkins v. Pa. Dep't of State*, O.O.R. Dkt. AP 2009-0065 (Pa. O.O.R. April 2, 2009).

Finally, requests for audio, visual, or bodycam records from the Philadelphia Police Department must be made following the instructions in 42 Pa.C.S.A. § 67A(3). Such requests are not processed under the RTKL. 42 Pa.C.S.A. § 67A(2)(a).

Conclusion

For the foregoing reasons, the City respectfully requests that the instant appeal be dismissed and/or denied. Thank you for your consideration in this matter.

Respectfully submitted,



Feige M. Grundman

CC: Lt. Barry Jacobs
Deree Norman

Norman v. City of Philadelphia Law Department: AP 2022-1629

Affidavit of Lt. Barry Jacobs, Philadelphia Police Department

My name is Lt. Barry Jacobs, and as the Open Records Officer for the Philadelphia Police Department (PPD), I am authorized to execute this affidavit. I state the following to the best of my knowledge, information, and belief under penalty of perjury pursuant to 18 Pa.C.S. § 4904 relating to unsworn falsification of authorities:

1. I am familiar with the request underlying the above-captioned appeal, which was received on July 1, 2022 and addressed to the Department of Records, seeking:

On April 8, 2022 I arrived at the Tyan Vet Hospital for a scheduled appointment. I was immediately approached by a Univ of Penn law enforcement officer, in response to a complaint of trespassing. I subsequently called 911 from my cell phone to report the violation of Title 18 of the Pennsylvania Crimes Code Pursuant to ¶4906(a) and ¶4906(b)(1)(2). I am requesting a copy (recording) of the 911 call I made and the call made by the Ryan Hospital relating to Univ of Penn Div of Public Safety case no. 22-1701.

2. 911 call records, to the extent that they exist, are generally under the custody and control of PPD, not the Department of Records to which this request was addressed.
3. As the requester was informed in the final response, 911 audio call recordings are not public records under the RTKL, regardless of a requester's relationship to those records.
4. Nevertheless, I searched (or caused to be searched) PPD records for audio recordings responsive to this request using the identifying information provided in the request regarding location, date, and name underlying the 911 calls. This search was conducted in files where such records are routinely kept.
5. To the best of my knowledge, information, and belief, PPD does not possess any responsive records for this request.
6. It is understood that this does not mean that record(s) do not exist under another spelling, another name, or under another classification.

By Lt. Barry Jacobs #97 on 8-3-22
Lt. Barry Jacobs
Open Records Officer
Philadelphia Police Department
Barry.Jacobs@phila.gov

OOR Exhibit 10

From: [Lara, Lois](#)
To: dereenorman@yahoo.com; [Feige Grundman](#); [RightToKnowLaw](#)
Subject: 2022-1629_Norman-CityofPhiladelphia_FD
Date: Friday, August 5, 2022 2:04:00 PM
Attachments: [2022-1629_Norman-CityofPhiladelphia_FD.pdf](#)

Dear Parties:

Attached please find the Final Determination issued in the above matter. Thank you.



Lois P. Lara
Appeals Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
[\(717\) 346-9903](tel:(717)346-9903) | **Fax** [\(717\) 425-5343](tel:(717)425-5343)
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[@OpenRecordsPA](#)
[Open Records in Pennsylvania Blog](#)



FINAL DETERMINATION

IN THE MATTER OF

**DEREE NORMAN,
Requester**

v.

**CITY OF PHILADELPHIA,
Respondent**

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Docket No.: AP 2022-1629

INTRODUCTION

Deree Norman (“Requester”) submitted a request (“Request”) to the City of Philadelphia (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq*, seeking a copy of specific 911 calls. The City denied the Request, indicating it does not possess responsive records and 911 records are exempt under the RTKL regardless of the Requester’s identity. The Requester filed an appeal with the Office of Open Records (“OOR”). Upon review of the file, the appeal is **denied**, and the City is not required to take any further action.

FACTUAL BACKGROUND

The Request was filed on July 1, 2022, stating:

[o]n April 8, 2022 I arrived at the Ryan Vet Hospital for a scheduled appointment. I was immediately approached by a Univ of Penn law enforcement officer, in respon[s]e to a complaint of trespassing. I subsequently called 911 from my cell phone to report the violation of Title 18 of the Pennsylvania Crimes code [p]ursuant to § 4906(a) and § 4906(b)(1)(2). I am requesting a copy (recording) of the 911 call I made and the call made by the Ryan Hospital relating to Univ of Penn Div of Public Safety case no. 22-1701”.

See Request. On July 6, 2022, the City denied the Request, stating that records pertaining to 911 recordings are expressly exempt under the RTKL, 65 P.S. § 67.708(b)(18), and the City cannot consider the Requester's identity in responding to the Request. *See Response.*

On July 11, 2022, the Requester filed an appeal with the OOR, challenging the denial and stating grounds for disclosure. The OOR notified the Requester the appeal was insufficient because it did not include a copy of the City's Response. The Requester provided a copy of the Response, and the OOR invited both parties to supplement the record and directed the City to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On August 3, 2022, the City submitted a position statement, arguing the records in question cannot be released pursuant to 65 P.S. § 67.708(b)(18)(i), and the City conducted a search and determined there are no responsive records in the City's possession, custody, or control. On August 3, 2022, the Requester filed a submission challenging the City's search, response, and submission.

LEGAL ANALYSIS

"The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government." *SWB Yankees L.L.C. v. Wintermantel*, 45.A.3d 1029, 1041 (Pa. 2012). This important open-government law is "designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions." *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff'd* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required "to review all information filed relating to the request" and may consider testimony, evidence and documents that are reasonable probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing

to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.* Here, neither party requested a hearing.

The City is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. An agency bears the burden of proving the applicability of any cited exemption(s). *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” 65 P.S. § 67.708(a); *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011)(quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). Likewise, “[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request.” *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

The City argues it conducted a good faith search and determined no responsive records exist in this case.¹ In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the record[.]” 65 P.S. § 67.901.

¹ The requested records, even if they did exist, could not be released under the RTKL pursuant to 65 P.S. § 67.708(b)(18) that specifically exempts “[r]ecords ... by emergency dispatch personnel, including 911 recordings.”

While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, the Commonwealth Court concluded that:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession.... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors.... After obtaining potentially responsive records, an agency has the duty to review the record and assess their public nature under...the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2013) (internal citations omitted), *aff’d* 243 A.3d 19 (2020); *see also* *Rowles v. Rice Twp.*, OOR Dkt. AP 2014-0729, 2014 PA O.O.R.D. LEXIS 602 (citing *Judicial Watch, Inc. v. United States Dep’t of Homeland Sec.*, 857 F.Supp.2d 129, 138-39 (D.D.C. 2012)). Additionally, the Commonwealth Court has held that an open records officer’s inquiry of agency members may constitute a “good faith effort” to locate records, stating that open records officers have

a duty to inquire of [agency personnel] as to whether he or she was in the possession, custody or control of any of the ... requested emails that could be deemed public and, if so, whether the emails were, in fact, public and subject to disclosure or exemption from access by [r]equest[e]r.

Mollick v. Twp. Of Worcester, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011); *see also* *In re Silberstein*, 11 A.3d 629, 634 (Pa. Commw. Ct. 2011) (holding that it is “the open-records officer’s duty and responsibility” to both send an inquiry to agency personnel concerning a request and to determine whether to deny access.

In support of the City’s argument that it conducted a good faith search and no responsive records exist, the City provided the affidavit of Lieutenant Barry Jacobs (“Lt. Jacobs”), the Open Records Officer for the Philadelphia Police Department (“PPD”). Under penalty of perjury, Lt. Jacobs affirms as follows:

1. I am familiar with the [R]equest underlying the above-captioned appeal, which was received on July 1, 2022 and addressed to the Department of Records....
2. 911 call records, to the extent that they exist, are generally under the custody and control of the PPD, not the Department of Records to which this [R]equest was addressed.
3. As the [R]equester was informed in the ... [R]esponse, 911 audio call recordings are not public records under the RTKL, regardless of a [R]equester's relationship to those records.
4. Nevertheless, I searched (or caused to be searched) PPD records for audio recordings responsive to this [R]equest using the identifying information provided in the [R]equest regarding location, date, and name underlying the 911 calls. This search was conducted in files where such records are routinely kept.
5. To the best of my knowledge, information, and belief, PPD does not possess any responsive records for this [R]equest.

Under the RTKL, a sworn affidavit is generally competent evidence to sustain an agency's burden of proof. *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). In the absence of any competent evidence that the City acted in bad faith, "the averments in [the 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) (citing *Office of the Governor v. Scolforo*, 65 A. 3d 1095, 1103 (Pa. Commw. Ct. 2013)).

In this instance, the City has demonstrated its Open Records Officer conducted a good faith search by searching PPD records for recordings responsive to the Request in the files where such records are routinely kept. Jacobs Affidavit ¶ 4. The City also demonstrated that the good faith search resulted in no responsive records. Jacobs Affidavit ¶ 5. *See Campbell v. Pa. Interscholastic Ath. Ass'n*, 268 A.3d 502, (Pa. Commw. Ct. 2021) (the affidavit of the association's executive director stating that after a thorough search, the association did not have possession, custody or control of certain records was sufficient); *Hays v. Pa. State Police*, OOR Dkt. AP 2015-0193, 2015

PA O.O.R.D. LEXIS 294 (finding that an agency conducted a good faith search by “contact[ing] the Bureau most likely to possess responsive records, and ... explain[ing] why that Bureau is most likely to possess those records”). Therefore, the City has met its burden of proving the requested records do not exist.

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the City is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Philadelphia 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. 65 P.S. § 67.1303. 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 website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 5, 2022

/s/ Lois Lara

APPEALS OFFICER
LOIS LARA, ESQ.

Sent to: Deree Norman, (via email only)
Feige Grundman, Esq., Counsel for the City (via email only)
Lt. Barry Jacobs, AORO (via email only)

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