



FINAL DETERMINATION

IN THE MATTER OF

**VIRGIL GREER,
Requester**

v.

**ALLEGHENY COUNTY,
Respondent**

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Docket No.: AP 2023-1142

On April 26, 2023, Virgil Greer (“Requester”) mailed a request (“Request”) to Allegheny County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a Forensic Laboratory analysis report. The County denied the Request on May 9, 2023, stating that the records are related to a criminal investigation.¹ *See* 65 P.S. § 67.708(b)(16). On May 19, 2023, the Requester appealed to the Office of Open Records (“OOR”).²

The County is a local law enforcement agency, and the Request, by its very wording, seeks records concerning a criminal matter. 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

¹ The County’s response informed the Requester that any appeal related to a criminal investigation should be filed with the Appeals Officer for the Allegheny County District Attorney’s Office, rather than the OOR.

² The appeal was postmarked May 19, 2023 and received by the OOR on May 22, 2023.

district attorney. *See id.* Accordingly, the appeal is hereby transferred to the Appeals Officer for the Allegheny County District Attorney's Office ("District Attorney's Office") to determine whether the records are subject to disclosure.³ A copy of this final order and the appeal filed by the Requester will be sent to the Appeals Officer for the District Attorney's Office.

For the foregoing reasons, the Requester's appeal is **transferred** to the Appeals Officer for the District Attorney's Office. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Allegheny 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.⁴ This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: May 25, 2023

/s/ Joshua Young

Senior Deputy Chief Counsel
Joshua Young, Esq.

Sent to: Requester (via first class mail), Open Records Officer (via email), Appeals Officer for the Allegheny County District Attorney's Office (via email)

³ The Commonwealth Court has noted that the OOR has the authority to transfer an appeal to "where [a requester] should have initially appealed." *See Phila. Dist. Attorney's Office v. Williams*, 204 A.3d 1062, *4 n.5 (Pa. Commw. Ct. 2019) ("... [A]lthough the onus for appealing from an RTKL denial to the proper appeals officer is on the requester, the OOR did not violate the law or any procedure in redirecting the appeal in this case").

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).