



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

**ANDREW MCCORMACK,  
Requester**

**v.**

**NORTHERN YORK COUNTY  
REGIONAL POLICE DEPARTMENT,  
Respondent**

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**Docket No.: AP 2023-2876**

On November 27, 2023, Andrew McCormack (“Requester”) filed a request (“Request”) with the Northern York County Regional Police Department (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a copy of a police report filed in October 2020 or November 2020 pertaining to the Requester’s dog barking. The Department partially denied the Request on November 28, 2023, stating, among other things, that the records are related to a criminal investigation. *See* 65 P.S. § 67.708(b)(16). On November 29, 2023, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial of a police report identified as Record # 2020-016178.<sup>1</sup>

The Department is a local law enforcement agency, and the Request 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

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<sup>1</sup> The Department’s response informed the Requester that an appeal of criminal records should be filed with the Appeals Officer for the York County District Attorney’s Office.

enforcement agency are to be heard by an appeals officer designated by the local district attorney. *See id.* Accordingly, because the Department withheld Record # 2020-016178 under Section 708(b)(16) of the RTKL, the appeal is hereby transferred to the Appeals Officer for the York County District Attorney's Office ("District Attorney's Office") to determine whether the records are subject to disclosure.<sup>2</sup> 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 to determine whether the report identified as Record # 2020-016178 is exempt as a criminal investigative record. 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 York 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>3</sup> This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: December 1, 2023**

/s/ Joshua T. Young

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Senior Deputy Chief Counsel  
Joshua T. Young, Esq.

Sent to: Requester; Open Records Officer; Appeals Officer for the York County District Attorney's Office

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<sup>2</sup> 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").

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