



**FINAL DETERMINATION**

**IN THE MATTER OF**

**WALTER CHWASTYK,  
Requester**

**v.**

**TELFORD BOROUGH POLICE  
DEPARTMENT,  
Respondent**

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**Docket No.: AP 2024-0691**

On March 3, 2024, Walter Chwastyk (“Requester”) submitted a request (“Request”) to the Telford Borough Police Department (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “[t]he current ‘Chief’s Roll Call’ Power Point Presentation.” On March 4, 2024, the Department denied the Request, asserting that the roll call presentation is exempt from disclosure under the RTKL’s criminal investigative records exemption. *See* 65 P.S. § 67.708(b)(16). On March 11, 2024, the Requester appealed to the Office of Open Records (“OOR”).

The Department is a local law enforcement agency. 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 district attorney. *See id.* Here, the Department submitted evidence demonstrating that the requested record is an internal department communication that may contain confidential

investigative information that, if released, could hinder an investigation, reveal the institution or progress of an investigation, and identify a victim or a confidential source.<sup>1</sup> *See* Beres Attestation. The Beres Attestation further states that “the Chief’s roll calls are no different than a department that might hold a roll call in person with confidential investigative information meant solely for interoffice communication.” *Id.* Accordingly, the appeal is hereby transferred to the Appeals Officer for the Montgomery County District Attorney’s Office (“DA’s Office”).<sup>2</sup> A copy of this final order and the appeal filed by the Requester will be sent to Appeals Officer for the DA’s Office.<sup>3</sup>

For the foregoing reasons, the Requester’s appeal is **transferred** to the Appeals Officer for the DA’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 Montgomery 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. This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: March 29, 2024**

/s/ Kathleen A. Higgins

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KATHLEEN A. HIGGINS  
DEPUTY CHIEF COUNSEL

Sent via portal to: Walter Chwastyk; Brittany Beres, AORO; Montgomery County DA’s Office

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<sup>1</sup> Under the RTKL, an attestation or statement made under the penalty of perjury may serve as sufficient evidentiary support. *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).

<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> Because the OOR lacks jurisdiction, the Requester’s March 21, 2024 request for *in camera* review will not be addressed.