

FILED

2025 MAY -7 AM 11:13

NORTH'D CO.
PROTHONOTARY

IN THE COURT OF COMMON PLEAS
NORTHUMBERLAND COUNTY, PENNSYLVANIA
CIVIL DIVISION

CV AS. 761

CRYSTAL GETTING,
Petitioner

v.

MOUNT CARMEL BOROUGH,
Respondent

No.: _____

**PETITION FOR REVIEW UNDER THE RIGHT-TO-
KNOW LAW AND ACT 22 OF 2017**

This petition is submitted pursuant to Pennsylvania's Right-to-Know Law (65 P.S. § 67.1302) and Act 22 of 2017, seeking judicial review of a denial issued by Mount Carmel Borough in response to a public records request.

Respectfully submitted,

Crystal Getting
Mount Carmel, PA 17851
Hazellfire777@gmail.com
Date: 05-07-2025

RECEIVED

MAY 19 2025

OFFICE OF OPEN RECORDS

May 13 2025
A TRUE AND ATTESTED COPY
Jamie Salas
PROTHONOTARY

IN THE COURT OF COMMON PLEAS OF NORTHUMBERLAND COUNTY, PENNSYLVANIA
CIVIL DIVISION

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No. _____

PETITION FOR REVIEW UNDER THE RIGHT-TO-KNOW LAW AND ACT 22 OF 2017

Petitioner s Statement

1. Petitioner, Crystal Getting, resides in Mount Carmel, Pennsylvania (ZIP 17851), and brings this petition under the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. 67.101 et seq., and Act 22 of 2017, concerning access to public records and law enforcement audio/video footage.
2. On February 28, 2025, Petitioner submitted a formal Right-to-Know and Act 22 request to Mount Carmel Borough, requesting access to records related to a traffic stop involving Petitioner, her daughter, and Frank Doone, which occurred on or about September 2, 2024.
3. The stop in question was unlawful, and Petitioner was personally searched without a warrant by a male officer later identified in a sworn affidavit by Officer Hornberger as being accompanied by a Northumberland-Montour County Joint Drug Task Force Special Detective, likely named Blainey.
4. Petitioner s request sought records relevant to that incident. A copy of the request is attached as Exhibit B.
5. The Borough acknowledged receipt of the request, invoked a 30-day extension, and ultimately denied it on March 31, 2025, citing Section 708(b)(16) (criminal investigative exemption).

6. The Borough's denial failed to comply with Section 903 of the RTKL (65 P.S. 67.903), which requires agencies to provide specific legal and factual reasons for a denial. The Borough offered no evidence or explanation supporting the claim that an ongoing investigation existed.

7. Petitioner submitted a timely appeal to the Office of Open Records (OOR). The OOR dismissed the appeal in part and transferred the Act 22 portion to the Northumberland County District Attorney's Office, pursuant to 65 P.S. 67.503(d)(2).

8. On April 11, 2025, Petitioner received a response from Peter R. Kay, Esq., the DA's RTK Officer, who confirmed that: (a) The case was closed with no active or ongoing criminal investigation, and (b) No video evidence was submitted or retained by the DA's Office.

9. This directly contradicts the Borough's stated reason for denial and strongly suggests that the exemption was invoked improperly to prevent the release of records.

Declaration of Material Misrepresentation

10. Petitioner later obtained a copy of a sworn affidavit by Officer Hornberger in relation to the same stop. In it, the officer falsely states that Petitioner had been dropped off, implying that she was not present.

11. In truth, Petitioner was present throughout the stop, along with her minor daughter. She was personally subjected to a warrantless search and believes the false affidavit was submitted to conceal procedural misconduct.

12. The apparent deletion or withholding of video footage, coupled with the affidavit's falsehood, strongly suggests that the Borough is concealing or destroying evidence that would contradict its narrative and expose misconduct by its officers or task force agents.

13. Petitioner also attempted to resolve this matter by emailing the Northumberland County Prothonotary Clerk for clarification and assistance.

Relief Requested

14. Petitioner respectfully requests that this Court:

a. Order Mount Carmel Borough to release all responsive, non-exempt records related to the September 2, 2024 stop, including: Dashcam or bodycam video, audio recordings, reports, and data

retention policies;

- b. Review the Borough's exemption claim under Section 708(b)(16) in light of the DA's statement confirming no active criminal investigation exists;
- c. Compel the Borough to disclose the retention schedule and whether video evidence ever existed, and if so, when and why it was deleted or withheld;
- d. Grant any further relief the Court deems just and proper.

SUPPLEMENTAL RELIEF REQUESTED:

In addition to the relief already requested in this petition, Petitioner respectfully requests the following:

1. A Declaratory Judgment stating that the Borough's use of the criminal investigation exemption under 65 P.S. § 67.708(b)(16) was improper, as confirmed by the District Attorney's RTK Officer.
2. An Order requiring the Borough to produce all records responsive to Petitioner's February 28, 2025, RTK and Act 22 request, including but not limited to: dashcam/bodycam footage, incident reports, CAD logs, radio and internal communications, emails, texts, surveillance footage, complaints, disciplinary records, investigative basis notes, sworn statements from officers involved, and all records referencing Officers James Hornberger and the attending officer.
3. That, if upon review the Court finds evidence of misrepresentation, destruction of evidence, or abuse of process, the matter be referred to the appropriate oversight authority, including the Pennsylvania Attorney General or other disciplinary entity.

IN THE COURT OF COMMON PLEAS
NORTHUMBERLAND COUNTY, PENNSYLVANIA
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CRYSTAL GETTING,
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No.: _____

VERIFICATION

I, Crystal Getting, hereby state that I am the Petitioner in the foregoing matter and that the facts set forth in the foregoing Petition for Review are true and correct to the best of my knowledge, information, and belief. I understand that any false statements made herein are subject to the penalties of 18 Pa.C.S. Section 4904 (relating to unsworn falsification to authorities).

Date: 05-07-2025 Crystal Getting
Crystal Getting, Petitioner

Argument Summary for Crystal Getting's Petition for Review

Petitioner Crystal Getting respectfully submits this summary to support her Petition for Review under the Pennsylvania Right-to-Know Law (RTKL) and Act 22 of 2017.

1. Failure to Meet Burden of Proof:

Mount Carmel Borough denied Petitioner's request by citing the criminal investigative exemption under 65 P.S. Section 67.708(b)(16), but failed to submit any affidavit, factual explanation, or evidence supporting the application of this exemption, as required by Pennsylvania law. The RTKL places the burden of proof squarely on the agency to justify any denial (65 P.S. Section 67.708(a)(1)).

2. OOR's Improper Acceptance of Unsupported Exemption:

During the administrative appeal, the Office of Open Records (OOR) did not require the Borough to meet its burden of proof. Instead, the OOR effectively accepted the Borough's blanket exemption claim without requiring supporting evidence, contrary to well-established Pennsylvania Commonwealth Court precedent (*Office of the Governor v. Scolforo*, 65 A.3d 1095 (Pa. Cmwlth. 2013); *Levy v. Senate of Pennsylvania*, 94 A.3d 436 (Pa. Cmwlth. 2014)).

3. Contradictory Evidence Confirming No Investigation:

After the OOR dismissal, Petitioner obtained a written response from Peter R. Kay, Esq., Right-to-Know Appeals Officer for the Northumberland County District Attorney's Office, confirming that no ongoing investigation exists and that no records were received by the District Attorney's Office concerning the event at issue. This confirmation directly contradicts the Borough's asserted basis for denial.

4. Entitlement to Requested Records:

Because the Borough failed to prove any lawful exemption and because the factual circumstances confirm that

no criminal investigation exists, Petitioner is entitled to access the requested records under the RTKL and Act 22.

For these reasons, Petitioner respectfully requests that this Court grant her Petition for Review, order the production of the requested records, and provide such further relief as the Court deems appropriate.

Respectfully submitted,

Crystal Getting

Mount Carmel, PA 17851

Hazellfire777@gmail.com

Date: 05-07-2025

Attachments:

Exhibit A - Borough denial letter (dated March 31, 2025)

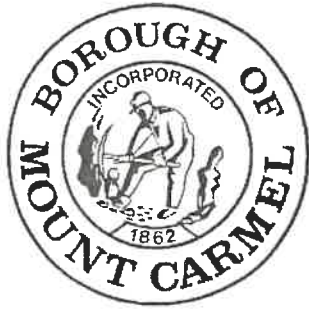
Exhibit B - Copy of original RTK/Act 22 request submitted on February 28, 2025

Exhibit C - Email from DA RTK Officer confirming petitioner is not named in investigation and case is closed

Exhibit D - Office of Open Records docket confirmation and final transfer to DA (AP 2025-0887)

EXHIBIT A

Borough of Mount Carmel Denial Letter (March 31, 2025)



Borough of Mount Carmel

Edward T. Cuff, III, Borough Manager
50 West Third Street – Mount Carmel, PA 17851-2077
Phone: 570.339.4486 Fax: 570.339.6022
Email: edcuff@mountcarmelborough.org

March 7, 2025

Crystal Getting
442 West Girard Street
Mount Carmel, PA 17851

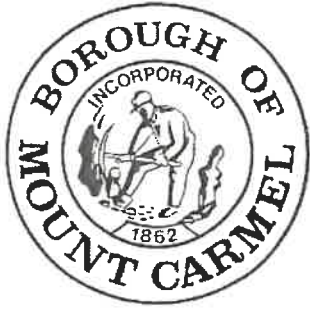
Crystal,

We received your Right-to-know request on March 4, 2025 for information pursuant to the Pennsylvania Right-to-Know Law ("RTKL"), 65 P.S. 67.101, et. seq. A copy of your Right-to-Know request is attached.

Pursuant to Section 902(a) of the Right to Know Law, the Agency requires an additional 30 days to respond because a legal review is necessary to determine whether the record is a record subject to access under the RTKL, and the extent or nature of the request precludes a response within the required time period. The Agency expects to respond to your request on or April 5, 2025.

Sincerely,

Edward T. Cuff, III
Borough Manger



Borough of Mount Carmel

Edward T. Cuff, III, Borough Manager
50 West Third Street – Mount Carmel, PA 17851-2077
Phone: 570.339.4486 Fax: 570.339.6022
Email: edcuff@mountcarmelborough.org

March 31, 2025

Crystal Getting
442 West Girard Street
Mount Carmel, PA 17851

Crystal,

We received your Right-to-know request on March 4, 2025 for information pursuant to the Pennsylvania Right-to-Know Law ("RTKL"), 65 P.S. 67.101, et. seq. A copy of your Right-to-Know request is attached.

Pursuant to Section 902(a) of the Right to Know Law, the Agency requires an additional 30 days to respond because a legal review is necessary to determine whether the record is a record subject to access under the RTKL, and the extent or nature of the request precludes a response within the required time period. The Agency expects to respond to your request on or April 5, 2025.

The request is denied regarding the traffic stop. It is an exception under 65 P.S. 67.708(b)(16) which is a record relating to a criminal investigation.

The request is denied regarding complaints about Hornberger is an exception under 65 P.S. 67.708(b)(7) which does not require production of documents relating to performance reviews, criticisms, or information regarding discipline.

This denial may be appealed to the Office of Open Records within fifteen business days of the mailing of this denial. (65 P.S. §67.101)

Please feel free to contact me if you have any questions.

Sincerely,

Edward T. Cuff, III
Borough Manger

Exhibit B

Right-to-Know Law / Act 22 Request

Submitted by Petitioner Crystal Getting

Dated: February 28, 2025

This exhibit includes a complete copy of the original records request submitted to Mount Carmel Borough under the Pennsylvania Right-to-Know Law (65 P.S. § 67.101 et seq.) and Act 22 of 2017, pertaining to a September 2, 2024, traffic stop involving the Petitioner and her daughter.



Pennsylvania
Office of Open Records

Standard Right-to-Know Law Request Form

Please read carefully. Complete this form and retain a copy of **both** pages; this copy may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied. More information about the RTKL is available at <https://www.openrecords.pa.gov>. In most cases, a completed RTKL request form is a public record.

SUBMITTED TO AGENCY NAME: Mount Carmel Borough Police Dept. (Attn: AORO)

Date Request Submitted: 02-28-25 Submitted via: Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Full Name: Crystal Getting

Company (if applicable): _____

Please send response via: Email U.S. Mail

If you wish to obtain records that only exist in hard copy, or must be provided on an electronic storage device, you may be required to provide a mailing address to the agency. See Section 703.

Email: hazellfire77@gmail.com

Mailing Address: 442 West Girard St.

City: Mount Carmel State: Pa. Zip: 17851 Telephone: 570-391-6007

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

By checking this box, I affirm that my full name and contact information is true and correct, and that I am a legal resident of the United States. I understand that failure to check this box may result in the denial of my request and the dismissal of any appeal filed with the Office of Open Records.

RECORDS REQUESTED: Provide as much detail as possible, including subject matter, time frame, and type of record sought. RTKL requests must seek records, not ask questions. Use additional pages if necessary.

I am submitting a printed list instead of writing it all out. See attached page(s) for full description of records requested.

Form continues on page 2. Retain a copy of **both** pages.

RECORDS REQUESTED (continued):

DO YOU WANT COPIES? Yes, printed Yes, electronic No, in-person inspection

Records shall be provided in the medium requested if they exist in that medium; otherwise, they shall be provided in the medium in which they exist. See Section 701. Your request may require payment or prepayment of fees. View the Official RTKL Fee Schedule for more details.

I understand that my request may incur fees. Notify me before further processing if fees will be more than \$100 (or) \$_____.

Do you want certified copies? Yes (may be subject to additional costs) No

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: 3-4-25 Response Due (5 bus. days): 5-11-25

30-Day Ext.? Yes No (If Yes, Final Due Date: April 5th) Actual Response Date: 3-6-25

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.

Retain a copy of both pages of this Form.

Records Requested

I am requesting any and all records related to the traffic stop involving Frank Doone Jr. and myself, Crystal Getting, conducted by Officer James Hornberger and the attending officer who accompanied him. This includes any other officers who arrived on scene following the stop, along with their names and badge numbers.

This request includes, but is not limited to:

- All body-worn camera footage from all officers involved.
- All dash camera footage from all police vehicles present.
- All radio communications between officers and dispatch related to this stop.
- All incident reports, call logs, CAD (Computer-Aided Dispatch) records, and field contact reports related to this stop.
- Any internal communications, including emails, text messages, memos, and notes discussing or referencing this stop or referencing Frank Doone Jr. and/or Crystal Getting.
- Any surveillance footage obtained by or in possession of the department related to this stop.
- Any and all complaints, tips, or reports received by the Mount Carmel Borough Police Department between August 15, 2024, and September 2, 2024, referencing Frank Doone Jr., including but not limited to allegations of criminal activity.
- Any records related to the basis for initiating the traffic stop, including but not limited to investigative notes, intelligence logs, and information received from other agencies or individuals.
- Any and all prior complaints, disciplinary records, and documented misconduct reports involving Officer James Hornberger and the attending officer who was present at the stop.

Exhibit C

Response Letter from Peter R. Kay, Esq.
Northumberland County District Attorney's Office

Dated: April 11, 2025

This exhibit contains written confirmation from Peter R. Kay, Right-to-Know Appeals Officer for the Northumberland County District Attorney's Office, stating that no ongoing investigation exists and that the Petitioner's name does not appear in any case file. This contradicts the exemption claimed by Mount Carmel Borough in its denial.

Exhibit C

From: Peter R. Kay, Esq.

First Assistant District Attorney

Northumberland County District Attorney's Office

"I am the RTK Officer for the District Attorney, and I am happy to assist you in any way possible. I see that you have had correspondence previously with OOR-did you ever submit a RTK request to our office? Could you please forward the response you received from OOR?

After reviewing your comments below and conducting some preliminary research into the matter, I have located a public record of a Frank Doone with an arrest date of 9/2/2024-is that the stop you are referring to?

I don't see any records related to you-were you cited for any offenses following the stop?

If this is related to the 9/2/2024 arrest of Mr. Doone, I can advise that the matter was closed upon the guilty plea and sentencing which took place at the MDJ on January 22, 2025. Because this case never came to the Common Pleas Court, no video evidence or other responsive records related to the case are held by the District Attorney's Office. If there was video evidence collected in the case, it would not necessarily be retained after the 30-day appeal period for pleas before an

MDJ has closed. I also cannot confirm whether video ever did exist, and if it did exist I have no knowledge whether it remains in evidence because it was not requested during the course of the criminal case.

If, on the other hand, you also were charged and it just isn't showing up under your name, then any video that was collected should still be available for your case and I can look into that."

OOR Dkt. No.: AP 2025-0887

Case Status: Transferred

FD Due:

05/08/2025

Record Closing Date:

Appeals Officer:

Young, Joshua

Agency/County:

Northumberland

Description:

The Request sought various records related to a traffic stop. The OOR has no jurisdiction over records alleged to be criminal investigative records held by a local agency. Act 22 removes the OOR's jurisdiction as to video recordings in the possession of law enforcement agencies. Dismissed for lack of jurisdiction in part and transferred in part to the Northumberland County District Attorney's Office pursuant to Section 503(d)(2).

Legal Issues:

Clause	Exemption	Result
Agency Invoked an Extension	The agency invoked a 30 day extension to respond to the request.	



pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF :
 :
CRYSTAL GETTING, :
Requester :
 :
v. : **Docket No.: AP 2025-0887**
 :
MOUNT CARMEL BOROUGH, :
Respondent :

On March 4, 2025, Crystal Getting (“Requester”) submitted a request (“Request”) to Mount Carmel Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking various records related to a traffic stop. On March 31, 2025, following a thirty-day extension, 65 P.S. § 67.902(b), the Borough denied the Request, arguing, among other things, that certain records were exempt from disclosure under the RTKL’s criminal investigative records exemption.¹ 65 P.S. § 67.708(b)(16). On April 8, 2025, the Requester appealed to the Office of Open Records (“OOR”).

As a preliminary matter, the appeal involves a request for law enforcement video footage. The RTKL does not apply to audio and video recordings made by a law enforcement agency; rather, there is a separate procedure governing access to these records. *See* 42 Pa.C.S. §§ 67A03-

¹ The Borough also denied access to records pursuant to Section 708(b)(7) of the RTKL, 65 P.S. § 67.708(b)(7); however, the Requester does not address those in her appeal form. Accordingly, the Requester has failed to challenge the Borough’s denial pursuant to this exemption. *See* 65 P.S. § 67.1101(a).

67A05. Further, any appeals are to be filed "in the court of common pleas with jurisdiction." 42 Pa.C.S. § 67A06. Therefore, the OOR lacks jurisdiction over the portion of the appeal related to law enforcement video footage and any appeal of the same should be made to the relevant court of common pleas.

The Borough is a local law enforcement agency, and the Request seeks records concerning an alleged criminal matter in the possession of the Borough. 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.* Accordingly, the appeal is hereby transferred to the Appeals Officer for the Northumberland County District Attorney's Office ("District Attorney's Office") to determine whether the record relates to a criminal investigation.² 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 **dismissed for lack of jurisdiction in part and transferred in part** 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 Northumberland 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

² 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").

and should not be named as a party.³ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: April 8, 2025

/s/ Joshua T. Young

SENIOR DEPUTY CHIEF COUNSEL
JOSHUA T. YOUNG, ESQ.

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

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

Although the Office of Open Records transferred the video portion of Petitioner's request to the District Attorney under Act 22, it did not adjudicate the remainder of the RTKL request involving written records. This left Petitioner without full administrative review. As confirmed in Exhibit C, the District Attorney determined there was no investigation involving Petitioner. Petitioner now seeks judicial review to obtain access to the requested records improperly withheld by Mount Carmel Borough.

FILED

2025 MAY -7 AM 11:13

NORTH'D CO.
PROTHONOTARY

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Crystal Getting
Signature: Crystal Getting
Name: Crystal Getting
Attorney No. (if applicable): _____

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CIVIL DIVISION

CRYSTAL GETTING,
Petitioner

v.

MOUNT CARMEL BOROUGH,
Respondent

No.: _____

CERTIFICATE OF SERVICE

I, Crystal Getting, hereby certify that on _____ (date you mail or deliver), I served a true and correct copy of the foregoing Petition for Review (including Exhibits A, B, C, and D) upon the following parties by first-class mail, postage prepaid:

- Mount Carmel Borough Open Records Officer
50 West Third Street
Mount Carmel, PA 17851
- Pennsylvania Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
- Northumberland County District Attorney's Office
201 Market Street
Sunbury, PA 17801

Date: ~~05-07-2025~~ 05-13-25 C.G.

Crystal Getting
Crystal Getting, Petitioner

Corrected to reflect actual mailing date.
Delay due to waiting on attested court-stamped
copies for service.

Crystal Getting
442 West Girard St.
Mount Carmel, Pa
17861

Office of Open Records
333 Market St. 16th Floor
Harrisburg, Pa.
17101

