



FINAL DETERMINATION

IN THE MATTER OF

**ELISHA HILL,
Requester**

v.

**PENN HILLS MUNICIPALITY,
Respondent**

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Docket No: AP 2026-3321

FACTUAL BACKGROUND

On July 22, 2026, Elisha Hill (“Requester”) submitted a request (“Request”) to Penn Hills Municipality (“Municipality”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records “related to an incident involving me that occurred on July 18, 2026, at the Penn Hills Police Department,” which the Requester identified as “Incident Report Number: 260011810.”

As the Requester did not receive the Municipality’s response within five business days of the Request, the Requester filed an appeal with the Office of Open Records (“OOR”) on August 12, 2026, asserting that the Request was deemed denied. *See* 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the Municipality to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c). The Municipality logged in and

viewed the appeal docket on August 14, 2026, but it did not participate on appeal by submitting legal argument or evidence in support of withholding records.

LEGAL ANALYSIS

The Municipality is a local agency subject to the RTKL. 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. As an agency subject to the RTKL, the Municipality is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). 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.” *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)).

1. The OOR lacks jurisdiction over audio and video recordings made by law enforcement

The Request seeks, “[a]ll body-worn camera (BWC) footage from every officer who responded or was involved,” “[a]ny dash camera footage,” and “[a]ll surveillance video from inside and outside the Police Department,” “[p]olice radio transmissions,” and “[a]ny other... recordings... related to this incident.” Act 22 of 2017, 42 Pa.C.S. §§ 67A02-67A03, removed audio and video recordings made by law enforcement agencies from access under the RTKL and created a separate, exclusive means of access. To obtain such recordings, a requester must follow the procedures set forth in Act 22 and submit a written request to the open records officer for the law enforcement agency that possesses the record. 42 Pa.C.S. § 67A02. Further, appeals concerning such requests are to be filed “in the court of common pleas with jurisdiction.” 42 Pa.C.S. § 67A06. Therefore, the OOR does not have jurisdiction over this matter as it relates to

the request for audio and video recordings made by the Penn Hills Police Department, and the appeal as to those recordings is dismissed.¹

2. The OOR lacks jurisdiction over records related to a criminal investigation

The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local agencies. *See* 65 P.S. § 67.503(d)(2). Instead, appeals involving records alleged to be criminal investigative records held by a local agency are to be heard by an appeals officer designated by the local district attorney. *See id.* (“The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record.”). As the Request seeks records “related to an incident involving me that occurred on July 18, 2026, at the Penn Hills Police Department,” including incident reports, officer notes, and witness statements, and the Requester specifically mentions Incident Report Number 260011810 in the Request, it is reasonable to infer that the responsive records may relate to a criminal investigation or contain information about a criminal investigation. As the OOR does not have jurisdiction to consider an appeal as to criminal investigative records held by a local agency, and the record shows that the records may relate to a criminal investigation, the remainder of the appeal is hereby transferred to the Appeals Officer for the Allegheny County District Attorney’s Office (“DA’s Office”).² A copy of this final order and the appeal filed by the Requester will be sent to Appeals Officer for the DA’s Office. *See Pennsylvanians for Union Reform v. Centre Cnty. Dist. Attorney’s*

¹ Act 22 of 2017 has very different appeal procedures from the RTKL, with strict time constraints. The OOR has created a summary of the requirements and procedures to appeal under Act 22, which can be found at <https://www.openrecords.pa.gov/RTKL/PoliceRecordings.cfm>.

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”).

Office, 139 A.3d 354 (Pa. Commw. Ct. 2016) (citing 42 Pa.C.S. § 5103(a) (relating to the process for handling improperly filed appeals)).

CONCLUSION

For the foregoing reasons, the appeal is **dismissed in part** and **transferred in part** to the Appeals Officer for the Allegheny County DA's Office. Should the DA's Office determine that the responsive records are not criminal investigative records, the appeal shall be granted. 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 65 P.S. § 67.1303, but as the quasi-judicial tribunal that adjudicated this matter, the OOR is not a proper party to any appeal 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 OOR website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 3, 2026

/s/ Josh Macel

APPEALS OFFICER
JOSH MACEL

Sent *via* Appeals Portal to: Elisha Hill; Diane Fitzhenry (AORO) ; Lisa DeMarco
Sent *via* Email to: Appeals Officer for the Allegheny County DA's Office

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