



FINAL DETERMINATION

IN THE MATTER OF

**DANIEL PENNOCK,
Requester**

v.

**ERIE COUNTY DISTRICT
ATTORNEY'S OFFICE,
Respondent**

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Docket No: AP 2026-3707

FACTUAL BACKGROUND

On August 12, 2026, Daniel Pennock ("Requester") emailed a request ("Request") to the Erie County District Attorney's Office ("Office") pursuant to the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101 *et seq.*, seeking sentencing recommendations, victim family communications, discovery materials, plea agreements and other case resolution documents for an identified criminal homicide, as well as administrative documents concerning the Office's handling of RTKL appeals transferred to the Office by the Office of Open Records ("OOR").

Having received no response from the Office within five business days, the Requester appealed to the OOR on September 4, 2026, alleging that the Request was deemed denied. The OOR invited both parties to supplement the record and directed the Office to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c). Neither party submitted legal argument or evidence during the appeal.

LEGAL ANALYSIS

As a preliminary matter, Part 1 of the Request expressly seeks various judicial and criminal investigative records associated with an identified homicide matter. Because the OOR may not grant access to judicial records, *see Phila. Dist. Attorney's Office v. Stover*, 176 A.3d 1024 (Pa. Commw. Ct. 2017), and does not have jurisdiction over criminal investigative records in the possession of a local law enforcement agency, *see* 65 P.S. § 67.503(d)(2), the appeal of Part 1 of the Request must be dismissed. *See Pa. Game Comm'n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (explaining that the OOR must consider uncontradicted statements contained in the appeal as evidence).

With respect to Part 2 of the Request, which seeks administrative records regarding the transfer of RTKL appeals, the Office is a local agency subject to the RTKL, 65 P.S. § 67.302, and records in the possession of a local agency are presumed to be public, *see* 65 P.S. § 67.305; therefore, the Office is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Here, however, the Office did not comply with the RTKL by timely responding to the Request, nor did the Office participate on appeal by submitting legal argument or evidence in support of withholding these records.¹ Accordingly, the Office failed to meet its burden of proving that the records responsive to Part 2 of the Request may be withheld. 65 P.S. § 67.305.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part, denied in part and dismissed for lack of jurisdiction in part**, and the Office is required to provide all records responsive to

¹ The Request was directed to Brendan Sala, Esq., the Assistant District Attorney identified as the Deputy Agency Open Records Officer for the Office on Erie County's website. *See [Right-to-Know Requests | Erie County, PA](#)* (last accessed September 21, 2026). Attorney Sala also logged into the OOR's e-file portal system and viewed the appeal documents on multiple occasions.

Part 2 of the Request within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Erie 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 adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.² 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: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: 21 September 2026

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Daniel Pennock; Brendan Sala, Esq., AORO

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).