



FINAL DETERMINATION

IN THE MATTER OF

**DENNIS PAPE,
Requester**

v.

**PENN HILLS MUNICIPALITY,
Respondent**

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Docket No: AP 2026-3193

On June 22, 2026, Dennis Pape (“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 “copies of all records in the possession, custody or control of the Penn Hills Police Department concerning the investigation, detention, arrest, charging, and prosecution involving [the Requester] that ultimately resulted in the dismissal of all charges in the Court of Common Pleas of Allegheny County.” *See* Request, Items 1-16. On June 25, 2026, the Municipality invoked a thirty-day extension to respond; however, as the Municipality did not respond within the extension period, the Request was deemed denied on July 29, 2026. *See* 65 P.S. § 67.902(b)(2).

On August 5, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), stating grounds for disclosure.¹ 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).

On September 3, 2026, the Requester submitted a position statement.

On September 13, 2026, the Municipality submitted a position statement, stating that responsive records are governed by Act 22 of 2017 (“Act 22”), relating to video and audio footage,² 42 Pa.C.S. §§ 67A02-67A03, constitute criminal investigatory records, 65 P.S. § 67.708(b)(16), and that “the [R]equest is vague in violation of 65 P.S. § 67.703.”

Based upon my review of the appeal and necessary evidence, I make the following conclusions of law and findings of fact:

- The OOR lacks jurisdiction over the appeal of some records. The Request seeks “photographs, digital images, surveillance footage, dash camera recordings, cell phone videos,” and “body-worn camera recordings.” Request Items 5-6. Act 22 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

¹ The Requester granted the OOR a 30-day extension to issue a final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

² The OOR notes that the Municipality incorrectly cited to “Act 17.”

over this matter as it relates to the request for audio and video surveillance in the possession of a law enforcement agency, and the appeal as to those records is dismissed.³

- The remainder of the Request is transferred to the Allegheny County District Attorney's Office. 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.* As the Request seeks, *inter alia*, incident reports and investigative records from a law enforcement "concerning the investigation, detention, arrest, charging, and prosecution involving [the Requester]," 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").⁴ 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 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)).⁵

³ 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>.

⁴ 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").

⁵ Because these records may relate to a criminal investigation and is transferred to the DA's Office, the OOR need not address the Municipality's alternative ground for denial under 65 P.S. § 67.703. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

For the foregoing reasons, the appeal is **dismissed in part** and **transferred in part** 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, any party may appeal or petition for review 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 according to court rules 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.⁶ 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: September 30, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via e-file portal to:	Dennis Pape; Diane Fitzhenry, AORO; Craig Alexander, Esq.
Sent via Email to:	Appeals Officer for the Allegheny County DA's Office

⁶ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).