



FINAL DETERMINATION

IN THE MATTER OF	:
	:
ERICA PUGLIESE	:
Requester	:
	:
v.	: Docket No: AP 2026-4160
	:
OLD FORGE BOROUGH,	:
Respondent	:

On September 4, 2026, Erica Pugliese (“Requester”) submitted a request (“Request”) to the Old Forge Borough (“Borough”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking records related to a police response to the Requester’s residence on July 25, 2024.

The Borough failed to invoke a thirty-day extension and failed to provide the Requester with a response within five business days. Thus, the Request was deemed denied on September 14, 2026. *See* 65 P.S. § 67.901. However, the Borough sent an untimely response to the Requester on September 23, 2026, denying the Request, stating that the records were exempt as criminal investigative records under Section 708(b)(16) of the RTKL. 65 P.S. § 67.708(b)(16).

On September 28, 2026, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure.¹ The OOR invited both parties

¹ The appeal was timely filed as September 7, 2026, was a holiday. Therefore, the Requester filed the appeal timely on September 28, 2026, to the deemed denial.

to supplement the record and directed the Borough to notify the OOR if any third parties have a direct interest in this appeal. 65 P.S. § 67.1101(c).

On October 14, 2026, the Borough provided its position statement, supported by the affidavit of Jason Dubernas, (“Dubernas Affidavit”), the Chief of Police of Old Forge Borough. Chief Dubernas states that the Request concerns records associated with a police response on July 25, 2024, and seeks incident reports, call-for-service records, dispatch information, communications, police narratives and other records concerning the origin and circumstances of the request for police assistance. Dubernas Affidavit, ¶3. Chief Dubernas further affirms that the Department has been advised that the investigation concerning the underlying matter remains active. *Id.* at ¶7. The Borough further provided an email exchange between the Requester and Attorney William J. Rinaldi, the Borough’s solicitor, wherein it was stated that criminal cases listed at dockets CP-35CR-001797-2025 and CP-35-CR-00641-2025 are currently active.

The Borough is a local agency subject to the RTKL. 65 P.S. § 67.302. The Request facially seeks records concerning an alleged criminal matter from the Old Forge Police Department. It is undisputed that the Old Forge Police Department is a law enforcement entity. 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 law enforcement agency are to be heard by an appeals officer designated by the local district attorney. *See id.* As the OOR does not have jurisdiction to consider an appeal as to criminal investigative records, and the record shows that the records may relate to a criminal investigation, the appeal is hereby transferred to the Appeals Officer for the Lackawanna County District Attorney’s Office (“DA’s Office”).² A copy of this final order and the appeal filed by the

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.

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)).

For the foregoing reasons, the appeal is **transferred to** the Appeals Officer for the Lackawanna County District Attorney's Office and the Borough is not required to take any further action at this time. 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 Lackawanna 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.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: October 20, 2026

/s/ Meryl M. Peterman

MERYL M. PETERMAN, ESQ.
APPEALS OFFICER

Sent via OOR E-file appeal portal to:

Erica Pugliese
William Rinaldi, Esq.

Sent via email to:

Lackawanna County District Attorney's Office
Appeals Officer

2019) (" . . . [A]lthough the onus for appealing from a 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").

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