



**FINAL DETERMINATION**

**IN THE MATTER OF**

**DAVID DIXON,  
Requester**

**v.**

**PENNSYLVANIA OFFICE  
OF THE GOVERNOR,  
Respondent**

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**Docket No: AP 2021-0199**

On January 13, 2021, David Dixon (“Requester”), an inmate at SCI-Huntingdon, submitted a request (“Request”) to the Pennsylvania Office of the Governor (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking “Documents & Records and Copy of Senate Bill 873 & 872 Consolidated and Amendment to Jail House Informants Testimony as Witnesses for Governments. Please send me a copy of Senate Bill 873 & 872 in your control.” On January 21, 2021, the Office denied the Request, arguing that no responsive records exist, that the Request would require the Office to conduct legal research, but also provided copies of Senate Bills 873 and 872 of 2019.

On January 22, 2021, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging an alleged deemed denial.<sup>1</sup> The OOR invited both parties to supplement the record.

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<sup>1</sup> The Requester’s appeal indicates that he did not receive the Office’s final response prior to filing an appeal.

On February 9, 2021, the Office submitted a copy of its response to the Request, along with the verification of Marc Eisenstein, the Office's Agency Open Records Officer, who attested that the documents were provided on January 21, 2021.<sup>2</sup>

The Office argues that responsive records do not exist or would require legal research to ascertain, however the Office also provided the Requester with copies of the two requested Senate bills.<sup>3</sup> *See, e.g., Angelucci v. Pa. Office of Admin.*, OOR Dkt. AP 2016-1558, 2016 PA O.O.R.D. LEXIS 1446 (the OOR will dismiss an appeal as moot where it can determine that the provided record is, on its face, fully responsive to the request); *Kutztown Univ. of Pa. v. Bollinger*, 2019 Pa. Commw. Unpub. LEXIS 521, \*6 (Pa. Commw. Ct. 2019) (holding that an appeal is properly dismissed as moot where no controversy remains). Because the Office has provided the Requester with responsive records and no apparent controversy remains, the case must be dismissed. Accordingly, this appeal is dismissed as moot.

For the foregoing reasons, Requester's appeal is **dismissed as moot**, and the Office is not required to take any further action. 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 Commonwealth Court. 65 P.S. § 67.1301(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 Section 1303 of the RTKL. However, 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.<sup>4</sup> This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

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<sup>2</sup> Under the RTKL, an affidavit may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010).

<sup>3</sup> It appears that the Office's response may be due to the extraneous language in the Request, e.g., for "documents and records", but the two Senate bills provided are the only records actually identified and sought in the Request, and therefore the provision of those bills is fully responsive.

<sup>4</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

**FINAL DETERMINATION ISSUED AND MAILED: February 26, 2021**

/s/ Jordan C. Davis

Jordan C. Davis, Esq.

Appeals Officer

Sent to: David Dixon, HX2244 (via US mail);  
Marc Eisenstein, Esq. (via email)