

July 21, 2022

FILED VIA PACFILE

Michael Krimmel, Esq.
Prothonotary
Commonwealth Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 2100
Harrisburg, PA 17106-2575

RE: Submission of Record in:
James Shatzer v. Pennsylvania State Police, No. 448 CD 2022

Dear Mr. Krimmel:

We hereby submit the record in the above-referenced matter. Section 1303 of the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.*, (“RTKL”), defines the Record on Appeal as: “the record before a court shall consist of the request, the agency’s response, the appeal filed under section 1101, the hearing transcript, if any, and the final written determination of the appeals officer.” Pursuant to *Department of Transportation v. Office of Open Records*, 7 A.3d 329 (Pa. Commw. Ct. 2010), this record includes all “evidence and documents admitted into evidence by the appeals officer pursuant to Section 1102(a)(2).” The record in this matter consists of the following:

Office of Open Records Docket No. AP 2022-0465:

1. The appeal filed by James Shatzer (“Requester”) to the Office of Open Records (“OOR”), received February 15, 2022.
2. Official Notice of Appeal dated February 15, 2022, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. The Pennsylvania State Police (“PSP”) submission dated February 25, 2022.
4. The Final Determination dated March 8, 2022, issued by the OOR.

Prothonotary
Commonwealth Court of Pennsylvania

July 21, 2022
Page Two

The OOR has discretion to hold a hearing on appeals filed but chose not to do so in this matter. Therefore, there is no transcript to transmit. Certification of the record in this case is attached to this letter. Please feel free to contact us for any reason in connection with this matter.

Sincerely,

A handwritten signature in black ink that reads "Kyle Applegate". The signature is written in a cursive, flowing style.

Kyle Applegate
Chief Counsel

Attachments

cc: See certificate of service

Commonwealth of Pennsylvania

Agency Docket Number: AP 2022-0465

Appellate Court Docket Number: 448 CD 2022

I, Elizabeth Wagenseller, certify that the accompanying electronically transmitted materials are true and correct copies of all materials filed in the Office of Open Records and constitute the record for :

James Shatzer,
Petitioner

v.

Pennsylvania State Police
(Office of Open Records),
Respondent

/s/ Elizabeth Wagenseller

07/21/2022

Executive Director

Volumes:

Agency Record (2)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JAMES SHATZER,
Petitioner,

v.

PENNSYLVANIA STATE POLICE
Respondent.

:
:
: No. 448 CD 2022
:
:
:
:

CERTIFIED RECORD

Kyle Applegate
Chief Counsel
Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
Email: Kyapplegat@pa.gov

July 21, 2022

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JAMES SHATZER,
Petitioner,

v.

PENNSYLVANIA STATE POLICE
Respondent.

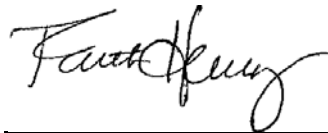
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: **No. 448 CD 2022**
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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Certified Record
upon the following persons via the manner designated below:

James Shatzer, QC-1223
SCI-Greene
175 Progress Drive
Waynesburg, PA 15370
(via first-class mail only)

Andrew J. Lovette, Esq.
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110
ALovette@pa.gov
(via email only)



Faith Henry, Administrative Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
Phone: (717) 346-9903
Fax: (717) 425-5343
Email: fahenry@pa.gov

Dated: July 21, 2022

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JAMES SHATZER,
Petitioner,

v.

PENNSYLVANIA STATE POLICE
Respondent.

:
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: No. 448 CD 2022
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TABLE OF CONTENTS - RECORD

James Shatzer v. Pennsylvania State Police, OOR Dkt. AP 2022-0465

1. The appeal filed by James Shatzer (“Requester”) to the Office of Open Records (“OOR”), received February 15, 2022.
2. Official Notice of Appeal dated February 15, 2022, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. The Pennsylvania State Police (“PSP”) submission dated February 25, 2022.
4. The Final Determination dated March 8, 2022, issued by the OOR.

00R Exhibit 1



pennsylvania
OFFICE OF OPEN RECORDS

RECEIVED

FEB 15 2022

OFFICE OF OPEN RECORDS

Executive Director
Office of Open Records
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

office of Open Records
333 Market St. 16th Floor
Harrisburg PA 17101-2234

Notice

Re: Right to Know Law Appeal - Denial or Partial Denial by Agency

Dear Executive Director:

This is an appeal under the Pennsylvania Right to Know Law, 65 P.S. §67.101. I requested documents from PSP Dept. Headquarters. The Agency denied or partially denied my request for information. I am appealing the denial of my request, under section 1101 of the Law and provide the following information in accordance with the Law:

PSP Postmarked
Mailed
date

Requester's name: James K. Shatzer QC1223 SCI Green
Address/City/State/Zip: 175 Progress Ave. / Waynesburg / PA / 15370
Date of Right to Know request: Nov. 3rd 2021 Date of Agency Response: 11-15-2021 & 12-15-2021
Telephone and fax number: N/A Post marked 1-20-2022

Concise statement of facts (may attach additional pages if necessary)
I the requester, is labeled as the Actor in the written reports, which contain exculpatory information needed to fully form my appeals from a faulted conviction.

Name and address of Agency:
PSP Dept. Headquarters / 1800 Elmerton Ave., Harrisburg PA 17110

Name and title of the Agency official who denied the request for information:

William A. Rozier, PSP Agency open Records officer

Description of the records requested: Written Reports which

Pertain to incident No. PA 17-1279522 / Nov. 26th 2017 to May 21st 2018

List any grounds upon which the requester asserts that the record is a public record:

Brady V. Maryland 373 U.S. 83 (1963) Giglio V. United States 405 U.S. 150 (1972)

Address any grounds relied upon by the Agency for denial of the request:

Respectfully Submitted, James K. Shatzer QC1223 (must be signed)

2-9-2022

Required documents to include with appeal - copies of original RTK request, Agency denial

PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

Return Service Requested

Smart Communications/PADOC
James K. Shatzer/QC1223
SCI Greene
PO Box 33028
St. Petersburg, Florida 33733

REZLNHS SHATZER Pg 1 of 12 For JAMES SHATZER

20

Hasler

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Page 1 of 1
OOB Exhibit 1



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

Mailing Date: December 15, 2021

Smart Communications/PADOC
James K. Shatzer/QC1223
SCI Greene
PO Box 33028
St. Petersburg, Florida 33733

PSP/RTKL Request N° 2021-1650

Dear Ms. Shatzer:

On November 8, 2021, the Pennsylvania State Police (PSP) received your request for information pursuant to Pennsylvania's Right-to-Know Law (RTKL), 65 P.S. §§ 67.101 – 67.3104, wherein you state:

I am requesting copies of incident reports that pertain to incident No. PA17-1279522 that were written between Nov. 26th 2017 to May 21st 2018 by the following PSP officers: See Additional Page with this being #1 of 2

1. Trooper Jeremy Holderbaum
2. Trooper Matthew Eicher
3. Trooper David Fackler
4. Trooper Joseph J. Vlcek
5. Trooper Zachary D. Crouse
6. Trooper Quincy Cunningham
7. Trooper Robert F. Wareham
8. Trooper Courtney L. Pattillo
9. Corporal David Julock
10. Corporal Aaron Martin

ALSO: PSP Property Records of Case No. PA 2017-1279522

1. Inventory No. H03-24679C
2. Inventory No. H03-24679D

Lastly is a copy of a unsigned:

Miranda Rights and Warnings Waiver

A copy of your request is enclosed. In accordance with RTKL section 67.902(b), you were notified by electronic response on November 15, 2021, that PSP required an additional thirty days to prepare this final response to your request.

Your request is granted in part and denied in part. In response to your request for "a copy of a unsigned Miranda Rights and Warnings Waiver," your request is granted insofar as the responsive single page record, PSP Rights Warning and Waiver (marked for identification as PSP/RTK000001). This document is enclosed with this letter.

However, your request is denied as it seeks non-public records. The RTKL defines a "public record" as "[a] record . . . of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege." 65 P. S. § 67.102.

Following the first limitation on the definition of "public record," PSP Incident Report PA 2017-1279522 details a PSP investigation into a complaint of criminal activity. Thus, the report, and each of its components, which includes property records are records of an agency relating to or resulting in a criminal investigation," which are exempt from public disclosure under RTKL section 67.708(b)(16). Furthermore:

- The report contains "[c]omplaints of potential criminal conduct other than a private criminal complaint[.]" and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
- Because it reflects the findings and conclusions, as well as the actions, observations and notes of investigating troopers, the reports' components constitute "[i]nvestigative materials, notes, correspondence, . . . and reports," all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).
- In its entirety, as well as in its components, the report is "a record that, if disclosed, would . . . [r]eveal the institution, progress or result of a criminal investigation," and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
- The report includes "victim information," (e.g., the victim's full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).

- The report also contains personal identification information all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
- Yet, none of the reports' components comprise original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other "information contained in a police blotter as defined in 18 Pa.C.S. § 9102." *Pa. State Police v. Office of Open Records*, 5 A.3d 473, 478 n.4 (Pa. Commw. Ct. 2010) (en banc).

A supporting verification accompanies this letter.

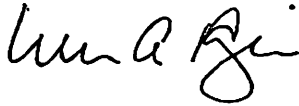
Following the second limitation, disclosing the report or its components to you would violate Pennsylvania's *Criminal History Record Information Act* (CHRIA), 18 Pa. C. S. §§ 9101-9183, which prohibits criminal justice agencies from disseminating investigative information, except to other criminal justice agencies. 18 Pa. C. S. § 9106(c)(4). CHRIA defines "investigative information" as "[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing." 18 Pa. C. S. § 9102. Therefore, PSP is barred by CHRIA from providing you with access to the records you have requested. See *McGarvey v. Pa. State Police*, OOR Docket N° AP 2009-0522 (Glinn) (CHRIA section 9106 protects criminal investigation report, in its entirety, from public disclosure).

To the extent that your request seeks or may be construed to seek records involving covert law enforcement investigations, including intelligence gathering and analysis, PSP can neither confirm, nor deny the existence of such records without risk of compromising investigations and imperiling individuals. UNDER NO CIRCUMSTANCES, therefore, should this response to your Request be interpreted as indicating otherwise. In all events, should such records exist, they are entirely exempt from public disclosure under RTKL and CHRIA.

You have a right to appeal this response in writing to the Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2234. The appropriate appeal form is available for your use on the OOR website, <https://www.openrecords.pa.gov/Appeals/AppealForm.cfm>. If you choose to appeal, within 15 business days of the mailing date of this response, you must send to OOR:

- 1) this response;
- 2) your Request; and
- 3) the reason(s) why you think the agency wrongfully denied your Request. (a statement addressing any grounds provided by the agency for denying you access to the records you seek). If the agency gave several reasons why your access is denied, state which reasons you think are wrong.

Sincerely yours,



William A. Rozier
Agency Open Records Officer
Pennsylvania State Police
Bureau of Records & Identification
Right-to-Know Law/Subpoena Section
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110
RA-psprighttoknow@pa.gov
1.877.785.7771 (Main) | 717.525.5795 (Fax)

Enclosures: PSP/RTK Request N° 2021-1650
Granted "public record", PSP/RTKL000001
Rozier Verification

PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS

VERIFICATION OF
WILLIAM A. ROZIER
AGENCY OPEN RECORDS OFFICER

I, William A. Rozier, Agency Open Records Officer of the Pennsylvania State Police (PSP or Department), am authorized to prepare this verification on the Department's behalf in response to PSP/RTKL Request N° 2021-1650. Accordingly, on this 15th day of December, 2021, I verify the following facts to be true and correct, to the best of my knowledge or information and belief:

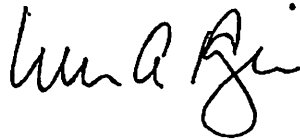
1. I am familiar with PSP/RTKL Request N° 2021-1650, which is attached to this verification.
2. Utilizing the information contained in the request, I searched all Department databases to which I have access for evidence of any PSP records that may respond to the request.
3. In response to the request for "a copy of a unsigned Miranda Rights and Warnings Waiver," I identified and located the following responsive record:
 - Responsive single page record, PSP Rights Warning and Waiver (marked for identification as PSP/RTK000001).
4. In addition, my searches revealed one responsive record, PSP Incident Report PA 2017-1279522.
5. I personally examined this incident report and found it to be manifestly related to a criminal investigation. PSP Incident Report PA 2017-1279522 and each of its components, which include property records, are a multiple page record assembled by Troopers on or after November 26, 2017 as the result of an investigation into a criminal incident or an allegation of criminal wrongdoing. Furthermore:

- a. The report contains “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing,” 18 Pa.C.S. § 9102, and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
 - b. The report’s component records reflect the findings and conclusions, as well as the actions, observations and notes of investigating troopers, thus constituting “investigative materials, notes, correspondence, . . . and reports,” all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).
 - c. Based on its content, the report is clearly “a record that, if disclosed, would reveal the institution, progress or result of a criminal investigation,” and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
 - d. The report also contains personal identification information, all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
 - e. The report includes “victim information,” (e.g., the victim’s full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).
 - f. Yet, none of the report’s components comprises original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other “information contained in a police blotter as defined in 18 Pa.C.S. § 9102.”
6. Furthermore, disclosing the report or its components to the requestor would violate Pennsylvania’s Criminal History Record Information Act (CHRIA), 18 Pa. C. S. sections 9101-9183, which prohibits

criminal justice agencies from disseminating investigative information, except to other criminal justice agencies.

7. Accordingly, I withheld the report from public disclosure.

I understand that false statements made in this verification are subject to penalties of 18 Pa. C. S. § 4904, relating to unsworn falsification to authorities.



William A. Rozier
Pennsylvania State Police
Agency Open Records Officer



Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: PSP Department Headquarters (Attn: AORO)

Date of Request: Nov. 3rd 2021 Submitted via: ☐ Email ☒ U.S. Mail ☐ Fax ☐ In Person

PERSON MAKING REQUEST:

Name: James K. Shatzen QC 1223 Company (if applicable): SCI Greene

Mailing Address: 17.5 Progress Avenue

City: Waynesburg State: PA Zip: 15370 Email: N/A

Telephone: N/A Fax: N/A

How do you prefer to be contacted if the agency has questions? ☐ Telephone ☐ Email ☒ U.S. Mail

RECORDS REQUESTED: Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.

I am requesting copies of incident reports that pertain to incident No. PA17-1279522 that were written between Nov. 26th 2017 to May 21st 2018 by the following PSP officers: See Additional Page with this being # 1 of 2

DO YOU WANT COPIES? ☒ Yes, printed copies (default if none are checked)
☐ Yes, electronic copies preferred if available
☐ No, in-person inspection of records preferred (may request copies later)

Do you want certified copies? ☒ Yes (may be subject to additional costs) ☐ No

RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.

Please notify me if fees associated with this request will be more than ☒ \$100 (or) ☐ \$_____

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? ☐ Yes ☐ No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: ☐ Granted ☐ Partially Granted & Denied ☐ Denied Cost to Requester: \$ _____

☐ Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Feb. 3, 2020

- Page 2 of 2 2021-1650 -
11/15/21

Right-to-Know Law Request Form
Submitted BY: James K. Shatzer QC1223

RECEIVED
RIGHT-TO-KNOW LAW OFFICE
CLIA UNIT
2021 NOV-8 P 2:32

1. Trooper Jeremy Holderbaum
2. Trooper Matthew Eicher
3. Trooper David Fackler
4. Trooper Joseph J. Vlcek
5. Trooper Zachary D. Crouse
6. Trooper Quincy Cunningham
7. Trooper Robert F. Wareham
8. Trooper Courtney L. Pattillo
9. Corporal David Tulock
10. Corporal Aaron Martin

ALSO: PSP Property Records of Case No. PA 2017-1279522

1. Inventory No. H03-24679C
2. Inventory No. H03-24679D

Lastly is a copy of a unsigned:
Miranda Rights and Warnings Waiver

Thank You,
James K. Shatzer

Smart Communications/PADOC

SCI- Green

Name James Shatzen

Number QC 1223

PO Box 33028

St Petersburg FL 33733

PA DEPT OF
CORRECTIONS
INMATE MAIL



US POSTAGE[®] PITNEY BOWES

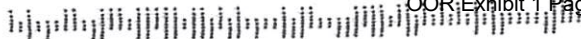


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0000383425 FEB 10 2022

Executive Director
office of Open Records
333 Market St 16th Floor
Harrisburg PA 17101-2234

OPENED AT CMPC

1710182234 0005



OOR Exhibit 2

NOTICE OF DEADLINES

The appeal has been docketed by the OOR and it has been assigned to an Appeals Officer. The docket number and the Appeals Officer's contact information are included in the attachments you received along with this notice.

The Final Determination is currently due on **March 17, 2022**.

The timeline for this RTKL appeal may be extended by the OOR during the appeal. This extension will allow the OOR the flexibility it requires to protect due process and to ensure that the agency and requester, along with any third parties, have a full and fair opportunity to meaningfully participate in the appeal.

Evidence, legal argument and general information to support your position must be submitted within seven (7) business days from the date of this letter, unless the Appeals Officer informs you otherwise. *Note: If the proceedings have been stayed for the parties to submit a completed mediation agreement, the record will remain open for seven (7) business days beyond the mediation agreement submission deadline.*

Submissions in this case are currently due on **February 25, 2022**.

If you are unable to meaningfully participate in this appeal under the above deadlines, please notify the Appeals Officer as soon as possible.

Due to delays in U.S. mail, we urge agencies and requesters to use email for all communications with the OOR to the extent possible.

Presently, the OOR is receiving postal mail on a limited basis. Accordingly, we urge agencies and requesters to use email for all communication with the OOR to the extent possible.

If you have any questions about this notice or the underlying appeal, please contact the Appeals Officer. The OOR is committed to working with agencies and requesters to ensure that the RTKL appeal process proceeds as fairly and as smoothly as possible.

February 15, 2022

Via First Class Mail Only:

Mr. James K Shatzer, QC1223
SCI-Greene
169 Progress Drive
Waynesburg, PA 15370-8090

Via Email Only:

William Rozier
Agency Open Records Officer
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110
RA-psprighttoknow@pa.gov
wrozier@pa.gov
kdaczka@pa.gov
mlaughlin@pa.gov
daniebeck@pa.gov

RE: OFFICIAL NOTICE OF APPEAL - Shatzer v. Pennsylvania State Police OOR Dkt. AP 2022-0465

Dear Parties:

Review this information and all enclosures carefully as they affect your legal rights.

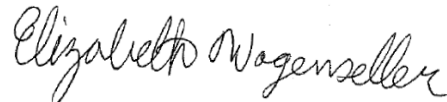
The Office of Open Records (“OOR”) received this appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. on February 15, 2022. A binding Final Determination (“FD”) will be issued pursuant to the timeline required by the RTKL, **please see the attached information for more information about deadlines.**

Notes for both parties (more information in the enclosed documents):

- The docket number above must be included on all submissions related to this appeal.
- Any information provided to the OOR must be provided to all parties involved in this appeal. Information that is not shared with all parties will not be considered.
- All submissions to the OOR, other than *in camera* records, will be public records. Do not include any sensitive information- such as Social Security numbers.

If you have questions about this appeal, please contact the assigned Appeals Officer (contact information enclosed), providing a copy of any correspondence to all parties involved in this appeal.

Sincerely,



Elizabeth Wagenseller
Executive Director

Enc.: Description of RTKL appeal process
Assigned Appeals Officer contact information
Entire appeal as filed with OOR

The Right-to-Know Law Appeal Process

Please review this information carefully as it affects your legal rights.

The Office of Open Records (“OOR”) has received the enclosed appeal, which was filed under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. A binding Final Determination will be issued by the OOR pursuant to the statutory timeline, subject to the notice of deadlines enclosed herein. If you have any questions, please contact the Appeals Officer assigned to this case. Contact information is included on the enclosed documents.

Submissions to the OOR

Both parties may submit evidence, legal argument, and general information to support their positions to the assigned Appeals Officer. Please contact the Appeals Officer as soon as possible.

Any information provided to the OOR must be provided to all parties involved in this appeal. Information submitted to the OOR will not be considered unless it is also shared with all parties.

Include the docket number on all submissions.

The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Generally, submissions to the OOR — other than *in camera* records — will be public records. Do not include sensitive or personal information, such as Social Security numbers, on any submissions.

Agency Must Notify Third Parties

If records affect a legal or security interest of a third party; contain confidential, proprietary or trademarked records; **or** are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above.**

Such notice must be made by: (1) Providing a copy of all documents included with this letter; **and** (2) Advising relevant third parties that interested persons may request to participate in this appeal by contacting the Appeals Officer assigned to this case (see 65 P.S. Â§ 67.1101(c)).

The Commonwealth Court has held that “the burden [is] on third-party contractors... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)).

A third party's failure to participate in a RTKL appeal before the OOR may be construed as a waiver of objections regarding release of requested records.

NOTE TO AGENCIES: If you have questions about this requirement, please contact the Appeals Officer immediately.

Statements of Fact & Burden of Proof

Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge. Statements of fact or allegations submitted without an affidavit may not be considered.

Under the RTKL, the agency has the burden of proving that records are exempt from public access (see 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.**

The law requires the agency position to be supported by sufficient facts and citation to all relevant sections of the RTKL, case law, and OOR Final Determinations.

An affidavit or attestation is required to prove that records do not exist.

Sample affidavits are on the OOR website, openrecords.pa.gov.

Any evidence or legal arguments not submitted or made to the OOR may be waived.

Preserving Responsive Records

The agency must preserve all potentially responsive records during the RTKL appeal process, including all proceedings before the OOR and any subsequent appeals to court.

Failure to properly preserve records may result in the agency being sanctioned by a court for acting in bad faith.

See *Lockwood v. City of Scranton*, 2019-CV-3668 (Lackawanna County Court of Common Pleas), holding that an agency had “a mandatory duty” to preserve records after receiving a RTKL request. Also see generally *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 185 A.3d 1161 (Pa. Commw. Ct. 2018), holding that “a fee award holds an agency accountable for its conduct during the RTKL process...”

Mediation

The OOR offers a mediation program as an alternative to the standard appeal process. To participate in the mediation program, both parties must agree in writing.

The agency must preserve all potentially responsive records during the RTKL appeal process. Mediation is a voluntary, informal process to help parties reach a mutually agreeable settlement. The OOR has had great success in mediating RTKL cases.

If mediation is successful, the requester will withdraw the appeal. This ensures that the case will not proceed to court — saving both sides time and money.

Either party can end mediation at any time.

If mediation is unsuccessful, both parties will be able to make submissions to the OOR as outlined on this document, and the OOR will have no less than 30 calendar days from the conclusion of the mediation process to issue a Final Determination.

Parties are encouraged to consider the OOR's mediation program as an alternative way to resolve disputes under the RTKL.



APPEALS OFFICER:

Erin Burlew, Esq.

CONTACT INFORMATION:

Commonwealth of Pennsylvania
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

FACSIMILE:

(717) 425-5343

EMAIL:

eburlew@pa.gov

**Preferred method of contact and
submission of information:**

EMAIL

**Please direct submissions and correspondence related to this appeal to the above Appeals Officer.
Please include the case name and docket number on all submissions.**

**You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot
speak to parties individually without the participation of the other party.**

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review
prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff
are also available to provide general information about the appeals process by calling (717) 346-9903.

REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.

OOR Docket No: _____

Today's date: _____

Name: _____

PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.

Address/City/State/Zip _____

E-mail _____

Fax Number: _____

Name of Requester: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Name of Agency: _____

Address/City/State/Zip _____

Telephone/Fax Number: _____ / _____

E-mail _____

Record at issue: _____

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) _____

I have attached a copy of all evidence and arguments I wish to submit in support of my position.

Respectfully submitted, _____ (must be signed)

Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.

OOR Exhibit 3

From: [Daczka, Kate](#)
To: [Burlew, Erin](#)
Cc: [Rozier, William A](#); [Laughlin, Melissa K](#); [Beck, Daniel](#)
Subject: RE: Shatzer v. PSP: AP 2022-0465
Date: Friday, February 25, 2022 12:42:28
Attachments: [Response to Shatzer Appeal \(2022-0465\).pdf](#)
[Rozier Verification re Shatzer Appeal \(2022-0465\).pdf](#)

Good Afternoon Appeals Officer Burlew,

Please find the PSP's response to OOR AP 2022-0465 attached. The same has been mailed to the Requester. Please let me know if you require any further information.

Respectfully,

Kate

Kathryn B. Daczka | Assistant Counsel
Governor's Office of General Counsel | Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110
Cell: (717) 798-4996 | Fax: (717) 772-2883
kdaczka@pa.gov | www.ogc.state.pa.us | www.psp.state.pa.us

PRIVILEGED AND CONFIDENTIAL COMMUNICATION

The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.

From: DC, OpenRecords <RA-OpenRecords@pa.gov>
Sent: Tuesday, February 15, 2022 3:58 PM
To: SP, PSP RIGHT TO KNOW <RA-psprighttoknow@pa.gov>; Rozier, William A <wrozier@pa.gov>; Laughlin, Melissa K <mLaughlin@pa.gov>; Daczka, Kate <kdaczka@pa.gov>; Beck, Daniel <daniebeck@pa.gov>
Cc: Burlew, Erin <eburlew@pa.gov>
Subject: Shatzer v. PSP: AP 2022-0465

Dear Open Records Officer,

Attached, find an appeal that has been filed with the Office of Open Records. The above mentioned matter has been assigned to Appeals Officer Erin Burlew (refer to the attachment for contact information). Please forward all future correspondence directly to the Appeals Officer (cc'd on this email) and all other parties.

Sincerely,



Dylan Devenyi
Administrative Officer
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
(717) 346-9903 | Fax (717) 425-5343
<https://openrecords.pa.gov>
[@OpenRecordsPA](https://twitter.com/OpenRecordsPA)



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

February 25, 2021

Erin Burlew, Esquire.
Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

Re: *James Shatzer v. Pennsylvania State Police*
AP 2022-0465
Brief of Appellee
Right-To-Know Law ("RTKL") 65 P.S. §§67.101-67.3104

Encl. Verification of William Rozier, PSP AORO

Dear Appeals Officer Burlew:

I am responding on behalf of my client, the Pennsylvania State Police ("PSP"), to the February 15, 2022, appeal filed by James Shatzer, ("Requester") regarding the purported denial of his Right-To-Know Law ("RTKL") request (PSP/RTK No. 2021-1650, now the subject of the Office of Open Records ("OOR") Appeal No. 2022-0465). Please accept this correspondence as my formal entry of appearance in the matter and kindly direct your future communications to me.

STATEMENT OF FACTS and PROCEDURAL HISTORY

On November 8, 2021 the PSP received RTKL Request 2021-1650 from Requester wherein he requested the following:

"I am requesting copies of incident reports that pertain to incident No. PA17-1279522 that were written between Nov. 26th 2017 to May 21st 2018 by the following PSP officers: See Additional Page with this being #1 of 2

1. Trooper Jeremy Holderbaum
2. Trooper Matthew Eicher
3. Trooper David Fackler
4. Trooper Joseph J. Vlcek
5. Trooper Zachary D. Crouse
6. Trooper Quincy Cunningham
7. Trooper Robert F. Wareham
8. Trooper Courtney L. Pattillo
9. Corporal David Julock
10. Corporal Aaron Martin



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

ALSO: PSP Property Records of Case No. PA 2017-1279522

1. Inventory No. H03-24679C
2. Inventory No. H03-24679D

Lastly is a copy of a unsigned:
Miranda Rights and Warnings Waiver"

By electronic response dated November 15, 2021 Requester was notified in accordance with RTKL section 67.902(b) that PSP required an additional thirty (30) days to prepare its final response to their request. In a letter dated December 15, 2021, PSP provided Requester with its final response granting the request in part and denying the request in part. The request was granted insofar as Mr. Shatzer's request for an unsigned copy of the "Miranda Rights and Warnings Waiver." The responsive single page record, PSP Rights and Warning Waiver, was marked for identification as PSP/RTK000001 and provided with PSP's final response. The remainder of the request was denied as the same sought non-public records.

By way of clarification regarding timeliness of the instant appeal: The PSP's final response was mailed on December 15, 2021 to the address¹ as it appears on the Request. This mailing was returned to the PSP due to an incorrect address on or about January 20, 2021. The correct address for prison mail was affixed and mailed out the same day.

In response to this request, the PSP RTKL section identified PSP Incident Report PA 2017-1279522 and its components, including property records. This incident report is comprised of 67 pages and details the investigation of Trooper Quincy Cunningham into a complaint of criminal activity. This record and its components reflect the findings, conclusions, actions, and observations of investigating PSP members taken during the investigation into a complaint of criminal activity. Additionally, the same contains personal identifying information. As such, this responsive record and its component records were withheld under RTKL exemptions §67.708(b)(16), §67.708(b)(16)(i), §67.708(b)(16)(ii), §67.708(b)(16)(v), §67.708(b)(16)(vi)(A), and §67.708(b)(6)(i)(A). Further, none of the reports' components were identified as comprising original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other "information contained in a police blotter as defined in 18 Pa.C.S. §9102."

The PSP further asserted that the disclosure of PSP Incident Report PA 2017-1279522 and its components would violate Pennsylvania's Criminal History Record Information Act (CHRIA), 18 Pa.C.S. §§9101-9183. More specifically, such disclosure would violate 18 Pa.C.S. §9106(c)(4) prohibiting criminal justice agencies from disseminating investigative information to

¹ The PSP's final response was mailed on December 15, 2021 to 175 Progress Avenue, Waynesburg, PA 15370.



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

anyone except other criminal justice agencies.

PSP continues to rely upon the arguments asserted in its final response and accompanying affidavit and incorporates the same as though fully stated herein. Relying upon the stated positions and the arguments made below, the PSP respectfully requests that Mr. Shatzer's appeal be denied.

ARGUMENT

The RTKL only requires Commonwealth agencies² to provide documents that are public records. 65 P.S. §67.301. A document is not a public record if: (1) it is specifically exempted from disclosure in section 67.708 of the RTKL³; (2) it is exempt under other federal or state law; or (3) it is protected by a privilege. *Id.* At §67.102 (defining "Public Record"). Requester cites *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963), and *Giglio v. United States*, 405 U.S. 150, 92 S. Ct. 763 (1972) as grounds upon which he asserts that the record is a public record. These cases are not relevant to the issue at bar as they concern a defendant's due process rights regarding access to material evidence in a criminal trial rather than the public's ability to obtain public records under the RTKL.

Here, the responsive records were identified as PSP Incident Report PA 2017-1279522 and its components, including property records. This report and its components are the documented results of the PSP investigation by Tpr. Quincy Cunningham into a complaint of criminal activity. This record is comprised of 67 pages and was assembled as a result of an investigation into a criminal incident or an allegation of criminal wrongdoing and contains personal identifying information and investigative information reflecting the findings and conclusions, as well as actions, observations and notes of investigating troopers. §67.708(b)(16) exempts "[a] record of an agency relating to or resulting in a criminal investigation." Given the content and context of the responsive record, the PSP further asserts that this record is precluded from dissemination under the following RTKL sections: §67.708(b)(16)(i), 67.708(b)(16)(ii), §67.708(b)(16)(v), §67.708(b)(16)(vi)(A), and §67.708(b)(6)(i)(A). This assertion is supported by the clear precedent of this Court. This Court has consistently recognized that a PSP Incident Report is wholly exempt from disclosure under RTKL Section 708(b)(16) because it contains both criminal investigative materials and victim information. See *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 479 (2010).

Further, the *Criminal History Record Information Act* ("CHRIA") excludes investigative

² It is well settled that PSP is a Commonwealth agency within the meaning of the RTKL. *Id.* at §67.101; *Detok v. PSP*, Dkt. AP 2011-0086* 4.

³ The RTKL statute defines a "public record" as "[a] record ... of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; of (3) is not protected by a privilege." 65 Pa.C.S. § 67.102.



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

information from the definition of criminal history record information. Pursuant to section 9106(c)(4) of the Criminal History Record Information Act (CHRIA) this request is exempt from disclosure. *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 477 (Pa. Cmwlth. 2010), appeal denied, 76 A.3d 540 (Pa. 2013); *see also*, *Cafoncelli v. Pennsylvania State Police*, 2017 WL 2415205 (Pa. Cmwlth. 2017); *Freemore v. PSP*, AP 2020-2227 *5 (collecting cases).

CONCLUSION

Based upon the RTKL, CHRIA, case law, and the facts contained within the Verification of PSP's Agency Open Records Officer, William A. Rozier, the Pennsylvania State Police respectfully requests that you deny Mr. Shatzer's appeal. I thank you in advance for your thoughtful deliberations.

Sincerely,

A handwritten signature in blue ink, reading "Kathryn B. Daczka".

Kathryn B. Daczka, Esquire
Assistant Counsel - Pennsylvania State Police
Governor's Office of General Counsel
717.798.4996 / kdaczka@pa.gov

Cc James K. Shatzer (w/ encl.) (*sent only via first-class mail*)
William A. Rozier (w/ encl.) (*sent only via electronic transmission*)

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
RTKL OFFICE

Commonwealth of Pennsylvania :
:
County of Dauphin :
:

VERIFICATION OF
WILLIAM A. ROZIER
AGENCY OPEN RECORDS OFFICER

On this 25th day of February 2022, your verifier, WILLIAM A. ROZIER, states the following:

1. My name is William A. Rozier. Being over eighteen years of age, I am fully competent to execute this verification, which avers as true and correct only the facts known to me personally and only such opinions as I am qualified to express.

2. I am an Administrative Officer 3 with the Pennsylvania State Police (“PSP” or “Department”), presently serving as the Agency Open Records Officer. In this capacity, I am authorized to make this statement on behalf of the Department and its Commissioner, Robert Evanchick, in the interests of the Commonwealth of Pennsylvania and its citizens.

3. I assumed the duties of my present position on November 15, 2011. My duties encompass the responsibilities specified in the RTKL for Agency Open Records Officers. In this capacity, I maintain a comprehensive knowledge and in-depth understanding of PSP bureaus and the records they may or may not maintain.

4. As the Agency Open Records Officer, I am respectful of the objectives embodied by RTKL and personally committed to their realization. Although I am very familiar with most aspects of the RTKL, I consult regularly with PSP legal counsel regarding those RTKL provisions that impact significantly upon my duties and responsibilities.

5. I have prepared this verification in response to a RTKL appeal filed by James K. Shatzer (“Requester”) with the Office of Open Records (“OOR”), which has been docketed by OOR as N° AP 2022-0465. I do so in order to clarify PSP’s response to Mr. Shatzer’s request and subsequent appeal.

6. On November 8, 2021, PSP received a RTK Request from Requester, wherein he requested the following information:

“I am requesting copies of incident reports that pertain to incident No. PA17-1279522 that were written between Nov. 26th 2017 to May 21st 2018 by the following PSP officers: See Additional Page with this being #1 of 2

1. Trooper Jeremy Holderbaum
2. Trooper Matthew Eicher
3. Trooper David Fackler
4. Trooper Joseph J. Vlcek
5. Trooper Zachary D. Crouse
6. Trooper Quincy Cunningham
7. Trooper Robert F. Wareham
8. Trooper Courtney L. Pattillo
9. Corporal David Julock
10. Corporal Aaron Martin

ALSO: PSP Property Records of Case No. PA 2017-1279522

1. Inventory No. H03-24679C
2. Inventory No. H03-24679D

Lastly is a copy of a unsigned:
Miranda Rights and Warnings Waiver”

7. On December 15, 2021 the PSP mailed its final response granting the request in part and denying the request in part to the Requester. This mailing was returned to the PSP on or about January 20, 2022 due to an incorrect address. The address was corrected and the PSP’s final response was posted on January 20, 2022.

8. The PSP Right to Know Law Section has access to various PSP and Commonwealth databases. To obtain possible responsive records for this request, the following databases were searched: Unified Judicial System Portal Docket Sheets, PSP Records Management System (RMS), and QIC (Query Initial Crime).

9. As a result of my search I identified PSP Incident Report PA 2017-1279522 and its components to be responsive to the instant request.

10. Upon my examination of the responsive record, I determined that PSP Incident Report PA 2017-1279522 and its components – including property records – comprise the documented PSP investigation by Trooper Quincy Cunningham into a complaint of criminal activity. I identified that the record reflects the findings, conclusions, actions, and observations of investigating PSP members taken during the investigation into this complaint of criminal activity. The components of this report identify further steps taken by the PSP in order to systematically investigate the manner in which this incident occurred and the results of the same. In addition to containing personal identification information and investigative materials, this report – based upon

its content – is a PSP record that, if disclosed, would reveal the institution, progress or result of this criminal investigation.

11. Further, the dissemination of this responsive record and all related investigative materials identified in paragraph eight is prohibited under 18 Pa.C.S. §9106 (c)(4) of the Criminal History Records Information Act.

12. None of this reports' components comprise original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other "information contained in a police blotter as defined in 18 Pa.C.S. § 9102." *Pa. State Police v. Office of Open Records*, 5 A.3d 473, 478 n.4 (Pa. Commw. Ct. 2010) (en banc).

13. Therefore, I withheld the responsive record from disclosure.

I, William A. Rozier, hereby verify that the facts set forth in this document are true and correct. I also understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



William A. Rozier
Pennsylvania State Police
Agency Open Records Officer

February 25, 2022

OOR Exhibit 4

From: [Burlew, Erin](#)
To: [Daczka, Kate](#)
Cc: [Rozier, William A](#); [Laughlin, Melissa K](#); [Beck, Daniel](#)
Subject: Shatzer v. Pa. State Police, OOR Dkt. AP 2022-0465; final determination
Date: Tuesday, March 8, 2022 15:02:00
Attachments: [2022-0465 Shatzer PSP FD.pdf](#)

Parties-

Please find attached a copy of the OOR's Final Determination in the above captioned appeal. A copy of this Final Determination is being mailed to the Requester via USPS.

Sincerely,



Erin Burlew

Attorney

Office of Open Records

333 Market Street, 16th Floor

Harrisburg, PA 17101-2234

[\(717\) 346-9903](tel:(717)346-9903) | eburlew@pa.gov

<https://openrecords.pa.gov> | [@OpenRecordsPA](https://twitter.com/OpenRecordsPA)



FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
JAMES SHATZER,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2022-0465
	:	
PENNSYLVANIA STATE POLICE,	:	
Respondent	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* For the following reasons, the appeal is dismissed.

On November 8, 2021, James Shatzer (“Requester”), an inmate at SCI-Greene, submitted a request (“Request”) to the Pennsylvania State Police (“PSP”) pursuant to the RTKL seeking incident reports pertaining to an incident No. PA17-1279552.

Following a thirty-day extension to respond, on December 15, 2021, the PSP partially denied the Request, *see* 65 P.S. § 67.902(b); however, on January 20, 2022, the mailing was returned to the PSP due to an incorrect address. The final response was mailed out with the correct address the same day.

On February 10, 2022, the Requester mailed an appeal to the OOR, challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and

directed the PSP to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c)

On February 25, 2022, the PSP submitted a position statement reiterating its grounds for denial. The PSP also addresses the timeliness of the appeal – explaining that the timely mailed final response was returned for an incorrect address and re-sent over a month later. In support of its position, the PSP provides the statement made under the penalty of perjury of William Rozier, the PSP's Open Records Officer.

Here, the PSP mailed a timely final response on December 15, 2021; however, it was mailed to the address provided on the Request, which was incorrect, and returned. Because the PSP invoked a thirty-day extension of time to respond to the Request, the Requester had notice to expect a final response from the PSP within that time period. When the Requester did not receive a response within the thirty-day extension period, he could have filed an appeal with the OOR, pursuant to 65 P.S. § 67.1101(a)(1), asserting the Request was deemed denied. *See, e.g., Boyer v. Mount Carmel Borough Police Dep't*, OOR Dkt. AP 2021-1022, 2021 PA O.O.R.D. LEXIS 1037. The RTKL's filing deadlines may be extended or waived in situations where an inmate's filing is late because of mail delays, or other administrative issues beyond the inmate's control. *See Little v. Pa. Dep't of Corr.*, 224 A.3d 454 (Pa. Commw. Ct. 2020). Here, however, the Requester does not seek *nunc pro tunc* relief, and, while a mailing error caused the final response to be late, there is no evidence in the record that the Requester was prevented from filing a timely appeal when he did not receive a final response within thirty days. Pursuant to 65 P.S. § 67.1101(a)(1), an appeal must be filed within fifteen business days of the date upon which a request is denied or deemed denied. Because the OOR received the appeal on February 10, 2022, and an appeal was due by

January 10, 2022, the appeal is **dismissed as untimely**, and the PSP is not required to take any further action.

The file is now closed and no further action will be taken. 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 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 as per Section 1303 of the RTKL. 65 P.S. § 67.1303. 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.¹ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: March 8, 2022

/s/ Erin Burlew

APPEALS OFFICER
ERIN BURLEW, ESQ.

Sent to: James Shatzer, QC1223 (via US mail); Kathryn Daczka, Esq. (via email); William Rozier (via email)

¹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).