



**DISTRICT ATTORNEY'S OFFICE**  
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R. SETH WILLIAMS  
District Attorney

December 30, 2016

*By post (Mr. Fullman) & electronic mail (Ms. Freeman & Mr. Crofts)*

Mr. Andrew Fullman  
1305 N. 15<sup>th</sup> Street, Apt. C  
Philadelphia, PA 19121-4372

Jill Freeman, Esquire  
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Assistant City Solicitor  
Law Department  
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1515 Arch Street  
Philadelphia, PA 19102

**Re: Appeal from the Philadelphia Police Department's Partial Denial of RTKL Request**

Dear Mr. Fullman, Ms. Freeman, and Mr. Crofts:

This letter constitutes the final determination of the Appeals Officer for the Philadelphia District Attorney's Office concerning Mr. Fullman's appeal from the partial denial by the Philadelphia Police Department of his request for public records under Pennsylvania's Right-to-Know Law. For the reasons set forth below, the appeal is dismissed.

**BACKGROUND**

On or about September 5, 2016, the Philadelphia Police Department (PPD) received a request under the Right-to-Know Law (the RTKL), 65 P.S. §§ 67.101-67.3104, dated September 1, 2016, from Mr. Andrew Fullman (the Requestor). The Requestor sought, among other things, "records of Internal Affairs' entire investigative case record" concerning a particular shooting.

On or about September 11, 2016, the PPD sent its response, denying the request for the Internal Affairs investigative case record. As one of the grounds for its denial, the PPD asserted the criminal investigative records exemption found in Section 708(b)(16) of the RTKL. The PPD explicitly informed the Requestor that any appeal from its decision based on the criminal investigative records exemption should be filed with the Appeals Officer for the Philadelphia District Attorney's Office no later than fifteen business days from the mailing date of its response (i.e., September 30, 2016).

Notwithstanding those instructions, on or about October 24, 2016, the Requestor mailed a letter to the Philadelphia District Attorney's Appeals Officer, which the Appeals Officer received

only on November 29, 2016. The letter stated that the Requestor was appealing the PPD's denial of a RTKL request but provided no supporting documentation. That same day, the Appeals Officer wrote to the Requestor, explaining that the appellate submission was deficient and offering him the opportunity to supplement it within fifteen business days.

On December 20, 2016, the Requestor supplemented his appellate submission, providing copies of his original request and the PPD's denial letter, as well as a copy of an October 27, 2016 final determination by the Pennsylvania Office of Open Records (OOR). *See Andrew Fullman v. Philadelphia Police Department*, OOR Dkt. AP 2016-1818. In that decision, the OOR dismissed an appeal by the Requestor of the PPD's denial of the instant request because the appeal was "untimely": "Appeals must be received by OOR within fifteen business days of date of Agency Response or September 30, 2016. Appeal mailed October 25, 2016."

### LEGAL ANALYSIS

The RTKL grants the Appeals Officer of the Office of the District Attorney for Philadelphia (the Appeals Officer) jurisdiction to hear and decide this appeal. 65 P.S. §§ 503(d)(2), 1101(a)(1). Under 65 P.S. § 67.503(d)(2), the Appeals Officer is authorized to "determine if the record requested is a criminal investigative record" of a local agency in Philadelphia County. Such appeals must be filed "within 15 business days of the mailing date of the agency's response." 65 P.S. § 67.1101(a)(1).

The Requestor's appeal is unquestionably untimely. The Requestor was required to file his appeal with the DAO Appeals Officer within fifteen business days of the mailing date of the PPD's response, i.e. by September 30, 2016. Instead, he initially mailed his appellate submission on October 24, 2016, by which date the time for his appeal had already expired.

For the foregoing reasons, this appeal is dismissed. This final determination is binding on all parties. Within thirty days of the date of this letter, either party may appeal to the Philadelphia County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served notice of the appeal. The DAO Appeals Officer also shall be served notice and have an opportunity to respond in accordance with applicable court rules. *Id.* § 67.1303.

Sincerely,

*/s/ Priya Travassos*

Priya Travassos  
Appeals Officer  
Office of the District Attorney of Philadelphia