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April 15, 2019

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

Re: Kevin Kennedy vs. Washington Township
Docket No.: AP 2019-0314

OVERVIEW AND FINDING

Kevin Kennedy ("Requester") submitted a request ("Request") seeking information related to police activity to Washington Township ("Township") pursuant to the Right-to-Know Law ("RTK"). Overall there were three types of information sought. The Township denied all three requests. The Township claimed that the requested records relate to criminal investigations. The Requester then appealed the Township ruling to the Office of Open Records ("OOR").

On April 5, 2019, the OOR announced that it agreed with the Township on two of the records. However, the third category of records requested is, according to the Township, related to criminal investigation matters. As such it need not be released.

The third type of information requested, according to Police Chief Keller of Washington Township PD, relates to law enforcement investigative matters, which characterization is required to be decided by the undersigned Right-to-Know officer appointed by the Franklin County District Attorney. OOR transferred the remaining issue to the Franklin County District Attorney's RTK officer for determination. The Township argues that the required records seek information about criminal complaints, charges, and investigations and therefore are exempt under Section 708(b)(16).

In support of this argument, the Township submitted the verification of Chief Keller, who attested that his officers have been involved in numerous investigations of criminal allegations involving the Requester as either alleged perpetrator or alleged victim, and Chief Keller attested that the Requester's appeal contains descriptions of several complaints which prompted investigations. Finally, Chief Keller attested that although the sought after records were not provided, the Requester was provided police blotter logs. Police blotter logs are not protected from public view.

Since the Township police department is a local law enforcement agency, the OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. Instead, appeals involving records alleged to be criminal investigative records held by a local law enforcement agency are to be heard by an appeal officer designated by the local district attorney. Jurisdiction is properly transferred from the OOR to the District Attorney's Office when an appeal on its face involves records that relate to a criminal investigation.

In this case, the Township has submitted evidence showing that the Requester seeks records of criminal investigations, and the Requester's appeal filing confirms that he is looking specifically for information regarding police investigations and their referral or charging decisions. Therefore, the Township has shown that the requested records may relate to various criminal investigations.

Pursuant to 65 P.S. §67.503(d)(2), only the Appeals Officer for the Franklin County District Attorney's Office is authorized to "determine if the record[s] requested [are] criminal investigative record[s] of a local law enforcement agency within Franklin County. Consequently, on April 8, 2019, the appeal was transferred to this undersigned RTK Appeal Officer for the DA office to determine whether the Requester seeks criminal investigative records.

FINDING

Wherefore this April 15, 2019, the undersigned Right-to-Know Officer, having reviewed the record, including but not limited to Mr. Kennedy's requests and Chief Keller's attestation of facts, finds the subject matter requested to be exempt under Section 708(b)(16) and Mr. Kennedy's request is properly **DENIED** by Washington Township PD.

Respectfully,



Timothy D. Wilmot
Assistant District Attorney
Right-to-Know Officer
Franklin County, PA

TDW/cbe

Sent to: Jordan Davis, Esq. (via email only)
Kevin Kennedy (via US mail)
Washington Twp Police Dept (via US mail)
Honorable Matthew D. Fogal (via internal mail)

IN THE MATTER OF

KEVIN KENNEDY,
Resquester

Vs.

WASHINGTON TOWNSHIP,
Respondent

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Docket No.:2019-0314

CERTIFICATE OF SERVICE

I, Timothy D. Wilmot, Esquire, hereby certify that I served a true and correct copy of the Right-to Know Officer's Finding to Kevin Kennedy, via First-Class U.S. Mail at 11457 Airport Road, Waynesboro, PA 17268.

Date: April 15, 2019



Timothy D. Wilmot, Esquire
Franklin County Right-to-Know Officer