



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

:

**KIRSTEN BALL,
Requester**

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:

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v.

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Docket No.: AP 2020-1737

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**LIMERICK TOWNSHIP,
Respondent**

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On August 20, 2020, Kirsten Ball (“Requester”) filed a request (“Request”) with Limerick Township (“Township”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a police incident report regarding a theft. The Township denied the Request on August 24, 2020, stating that the record is related to a criminal investigation. *See* 65 P.S. § 67.708(b)(16). On September 11, 2020, the Requester appealed to the Office of Open Records (“OOR”).

The Township is a local law enforcement agency, and the Request seeks a police record regarding a criminal incident in the possession of the Township. The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement 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.* Accordingly, the appeal is hereby transferred to the Appeals Officer for the Montgomery County District Attorney’s Office (“District Attorney’s

Office”) to determine whether the record relates to a criminal investigation.¹ A copy of this final order and the appeal filed by the Requester will be sent to the Appeals Officer for the District Attorney’s Office.

For the foregoing reasons, Requester’s appeal is **transferred** to the Appeals Officer for the District Attorney’s Office. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, either party may appeal to the Montgomery 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 as per 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.² This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: September 15, 2020

/s/ Kyle Applegate

Appeals Officer
Kyle Applegate

Sent to: Requester, Open Records Officer, Appeals Officer for the Montgomery County District Attorney’s Office

¹ 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. 2019) (“... [A]lthough the onus for appealing from an 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”).

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).