

**DISTRICT ATTORNEY'S OFFICE
NORTHAMPTON COUNTY, PENNSYLVANIA**

**LAWRENCE PETERSON,
Requester,**

NO: 3-ORA-2023

v.

**NORTHAMPTON COUNTY
DISTRICT ATTORNEY'S OFFICE,
Respondent.**

FINAL DETERMINATION

AND NOW, the Northampton County District Attorney's Office respectfully submits its Final Determination as to Lawrence Peterson's ("Requester's") Right to Know Law ("RTKL") request.

Introduction

Upon information and belief, on September 8, 2023, the Northampton County District Attorney's Office ("Respondent") received a request from Requester seeking (1) a copy of a Mental Health Examination dated March 20, 2000, and (2) and 'Post sentence investigation (PSI) report dated July 17, 2000. *See* Exhibit "A". On September 14, 2023, Respondent denied the request as a record of an agency relating to or resulting in a criminal investigation (Section 708(b)(16) of the RTKL, 65 P.S. § 67.708(b)(16)) and The Criminal History Records Information Act (CHRIA, 18 Pa.C.S.A. §9106(c)(4)). *See* Exhibit "B." This response was returned for lack of an inmate number and court control number on or about September 23, 2023, which identifiers were not contained on the request (Exhibit A). *See* Exhibit "C."

On October 12, 2023, an appeal, forwarded by the Pennsylvania Office of Open Records, was received by the Northampton County District Attorney's Office Appeals Officer. *See* Exhibit

“D.” The appeal specifically requested all materials denied by Respondent. This document is the Appeals Officer's final determination regarding the items denied by the Respondent.

Discussion

In this case, Requester seeks information, which the undersigned believes relates to Docket No.: CP-48-CR-0000493-1999. *See* Exhibit A. The records Requester seeks relate to a criminal investigation, and thus are exempt from access by the Requester under the RTKL. A public record is “[a] record in the possession of a Commonwealth agency or local agency shall be presumed to be a public record. The presumption shall not apply if (1) the record is exempt under section 708 . . .” 65 P.S. §67.305(a)(1). The burden is on the responding agency to show by a preponderance of the evidence that the record is exempt from public disclosure. 65 P.S. §67.708(a)(1).

The Northampton County District Attorney’s Office Appeals Officer retains authority to determine whether a request under the RTKL seeks records related to a criminal investigation. 65 P.S. §67.503(d)(2). Under section 708(b)(16), “[a] record of an agency relating to or resulting in a criminal investigation” is exempt from disclosure. 65 P.S. §67.708(b)(16). This includes “[a] record that includes information made confidential by law or court order.” 65 P.S. §67.708(b)(16)(iv). “All pre-sentence reports and related psychiatric and psychological reports shall be confidential, and not of public record.” 234 Pa.Code Rule 703(A).

Additionally, CHRIA prohibits the disclosure of the information requested. This information is “investigative and treatment information” which is defined by CHRIA 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 and may include *modus operandi* information.” 18 Pa.C.S.A. § 9102. Importantly, 18 Pa.C.S.A. § 9106(c)(4) specifies that: “Investigative and treatment information shall not be disseminated to any department, agency or

individual unless the department, agency or individual requesting the information is a criminal justice agency which requests the information in connection with its duties, and the request is based upon a name, fingerprints, *modus operandi*, genetic typing, voice print or other identifying characteristic.” The Requester is not a “criminal justice agency” as defined by 18 Pa.C.S.A. § 9102. Therefore, the requested information cannot be disseminated to the Requester under CHRIA.

Here, the record at issue is, on its face, related to a criminal investigation, treatment information, and confidential, and is exempt from disclosure under the RTKL and CHRIA.¹


Conclusion

For the foregoing reasons, Requester’s request is **DENIED**. This Final Determination is binding on the parties. Requester may file a petition for judicial review in the Northampton County Court of Common Pleas within 30 days. 65 P.S. § 67.1302.

Respectfully submitted,

Dated: 11/13/2023

By: _____


Robert J. Duminiak, Deputy District Attorney
Appeals Officer
Northampton County District Attorney’s Office
669 Washington Street
Easton, PA 18042

(610) 829-6672
rduminiak@norcopa.gov

¹ It is noted that the information being sought may be available to the Requestor directly from the Northampton County Clerk of Courts, Criminal Division, 669 Washington Street, Easton, PA 18042 (Phone: (610) 829-6453).

Peterson v. Northampton County District Attorney's Office
3-ORA-2023

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cc: (via US First Class Mail)

Smart Communications/PaDOC
Lawrence Peterson EK2899
P.O. Box 33028
St. Petersburg, FL 33733

Exhibit A



pennsylvania
OFFICE OF OPEN RECORDS

DISTRICT ATTORNEY'S OFFICE
2023 SEP -8 AM 11:36

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: 9-5-23

REQUEST SUBMITTED BY: E-MAIL **U.S. MAIL** FAX IN-PERSON

NAME OF REQUESTOR: Lawrence Peterson EK2899

STREET ADDRESS: 48 over look dr.

CITY/STATE/COUNTY (Required): LaBelle, Pa. (Fayette county)

TELEPHONE (Optional): (724) 364-2200

RECORDS REQUESTED:

**Provide as much specific detail as possible so the agency can identify the information.*

I am requesting for duplicate copies through the Pa. RTKL pursuant to 65 P.S. §67.101 et seq. from case number Commonwealth vs. Lawrence Peterson, CP-48-CR-493-99/494-99 trial date 6-21-2000 sentencing date 7-21-2000 Judge: Baratta;

- 1) mental health examination on date 3-30-2000
- 2) Post sentence investigation (PSI) report on 7-17-2000

If there is copying fees and postage fees please send notice of total amount back to requestor

DO YOU WANT COPIES? YES or NO

DO YOU WANT TO INSPECT THE RECORDS? YES or NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES or NO

RIGHT TO KNOW OFFICER:

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5)-DAY RESPONSE DUE:

****Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)**

Exhibit B

TERENCE HOUCK
DISTRICT ATTORNEY

COUNTY OF NORTHAMPTON
OFFICE OF THE DISTRICT ATTORNEY

Northampton County Government Center
669 Washington Street
Easton, Pennsylvania 18042
(610) 829-6630- Main
(610) 559-3035 - Fax

Lawrence Peterson
48 Overlook Drive
LaBelle, PA 15450

RE: Right to Know Request

September 14, 2023

Please be advised that this office acknowledges receipt of your mailed request dated received September 8, 2023, which requested copies certain records pursuant to the Pa. RTKL, which sets forth which records are subject to public access. The records you requested under the RTKL were:

- 1) *Mental Health Examination on date 3-30-2000*
- 2) *Post sentence investigation (PSI) report on 7-17-2000*

Please be advised that the request for the records must be denied. This office relies on Section 708 of the Right to Know Law, which provides that certain records are subject to an exemption for disclosure as follows:

... (16) A record of an agency relating to or resulting in a criminal investigation, including: (i) Complaints of potential criminal conduct other than a private criminal complaint. (ii) Investigative materials, notes, correspondences, videos, and reports. ... (vi) A record that, if disclosed, would do any of the following: endanger the life or physical safety of an individual.

The information you request involves a criminal investigation. As such, it is exempt from disclosure. See *Coley v. Philadelphia District Attorney's Office*, 77 A.3d 694, 696 (Pa. Commw. 2013) (denying access to investigative materials because criminal investigation records are still exempt after investigation is completed). To the extent that your requests asks for documents that are not police blotters, it is denied.

Additionally the Criminal History Record Information Act 18 Pa.C.S. § 9106(c)(4) states that "investigative and treatment information shall not be disseminated to any department, agency or individual unless the department, agency, or individual requesting the information is a criminal justice agency." Investigative information is "information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or allegation of criminal wrongdoing and may include modus operandi information." 18 Pa.C.S. § 9102. The information you have requested is "investigative information" and you are not a criminal justice agency, so the information you requested cannot be released under the RTKL. In fact, the District Attorney's office would have been legally prohibited from releasing that information under the RTKL due to CHRIA.

TERENCE HOUCK
DISTRICT ATTORNEY

**COUNTY OF NORTHAMPTON
OFFICE OF THE DISTRICT ATTORNEY**

Northampton County Government Center
669 Washington Street
Easton, Pennsylvania 18042
(610) 829-6630- Main
(610) 559-3035 - Fax

If you choose to appeal this decision, you may appeal to Northampton County Court of Common Pleas within thirty days (30) of the mailing date of this decision. See 65 P.S. §67.1302(a). Alternatively, you may appeal by filing with the Office of Open Records as follows, within fifteen (15) business days of this date pursuant to 65 P.S. § 67.1101:

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

All parties must be served with notice of the appeal.

Sincerely,



Bridget Murphy, Esq.
District Attorney's Office

Exhibit C

[Handwritten Signature]

COUNTY OF NORFOLK

DISTRICT ATTORNEY

Northampton County Courthouse
669 Washington Street
Easton, Pennsylvania 18042

ADDRESS SERVICE REQUESTED

21008 09019058451

PRESORTED
FIRST CLASS



US POSTAGE METNET BY POWERS
ZIP 18042 \$ 000.576
02 4M
0000379641 SEP 15 2023

- *****Refused*****
- Unapproved Name
- No Attorney Control Number
- No Time Code
- Missing Inmate Number
- No Court Control Number

NIXIE 152 DE 1 0009/23/23

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTF RC: 18042740869 *0719-00127-15-49
18042740869

Lawrence Peterson
48 Overlook Drive
Lafayette, PA 15450

(0107) 3333-0

Exhibit D



pennsylvania
OFFICE OF OPEN RECORDS

DISTRICT ATTORNEY'S OFFICE
2023 OCT 12 AM 11:47

Executive Director
Office of Open Records
Commonwealth of Pennsylvania
Commonwealth Keystone Building
400 North Street, Plaza Level
Harrisburg, PA 17120-0225

Re: Right to Know Law Appeal - No Response from Agency

Dear Executive Director:

This is an appeal under the Pennsylvania Right-to-Know Law, 65 P.S. §67.101. On 9-5-23, I requested the following documents from the following Agency District Attorney's office located at 469 Washington St., Easton, Pa. 18042

I did not receive a response as required by the Law and my request was therefore deemed denied on 9-25-23. I am appealing the denial of my request under section 1101 of the Law.

A copy of my Right to Know request is enclosed. I will send a copy of this appeal to the agency.

I look forward to a decision on this appeal of the denial of my request within thirty (30) days as required by section 1101 of the Law.

Thank you for your consideration of this appeal.

Name smart communications/Pa.DOC
Lawrence Peterson EK2899
Address P.O. Box 33028
City, State, Zip Code St. Petersburg, FL. 33733
[optional:] Telephone Number or e-mail

cc: Non-respondent Agency



pennsylvania
OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: 9-5-23

REQUEST SUBMITTED BY: E-MAIL **U.S. MAIL** FAX IN-PERSON

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