

NORTHAMPTON COUNTY, PENNSYLVANIA  
DISTRICT ATTORNEY'S OFFICE

DISTRICT ATTORNEY'S OFFICE  
2021 DEC 15 AM 11:21

FINAL DETERMINATION

PRISCILLA LIGUORI,  
Requester,

v.

NORTHAMPTON COUNTY DISTRICT  
ATTORNEY'S OFFICE,  
Respondent.

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No. 6-ORA-2021

BACKGROUND

On December 8, 2021, Priscilla Liguori (“Requester”) submitted a request to the Northampton County District Attorney’s Office (“Respondent”) pursuant to the Right to Know (“RTK”) Law, seeking “footage from the Easton school bus’[s] interior camera, showing driver and students, the morning it crashed into Bushkill Creek.” Attachment “A.” The Respondent withheld the camera footage on December 8, 2021, because the records are exempt from access under Section 67.708(b)(16)(ii) of the RTK Law, which specifies that “[i]nvestigative materials, notes, correspondence, videos and reports” are exempt from disclosure. Attachment “B.”

On December 9, 2021, the Requester appealed to the Northampton County District Attorney’s Office, stating that the requested camera footage is a public record because: (1) taxpayers pay for the school buses and interior cameras, and should therefore have access to the footage; (2) taxpayer resources were used to respond to the crash; (3) thirteen students and the driver ended up in the hospital as a result of the crash; and (4) not having access to the video “may hinder changes in the district and elsewhere that could prevent similar life-threatening incidents in the future.” Attachment “C.” This Appeals Officer received the appeal on December 14, 2021. *Id.* This matter is now before the Northampton County District Attorney’s Office for disposition.

## LEGAL ANALYSIS

Under Section 102, a “public record” is defined as:

A record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under 708; (2) is not exempt from being disclosed under any other Federal or State laws or regulation or judicial order or decree; or (3) is not protected by a privilege.

65 P.S. § 67.102. The burden of proving that the record is exempt rests with the public body by a preponderance of the evidence. Preponderance of the evidence requires proof “by a greater weight of the evidence.” *Commonwealth v. Williams*, 732 A.2d 1167, 1187 (Pa. 1999). In *Commonwealth v. McJett*, 811 A.2d 104, 110 (Pa. Commw. 2002), the Commonwealth Court explained that “preponderance of the evidence is tantamount to a ‘more likely than not’ standard.”

The Respondent contends that the requested video footage is related to criminal investigation and is exempt from disclosure under 65 P.S. § 67.708(b)(16)(ii). In that Section, records of an agency relating to or resulting in a criminal investigation, “including . . . [i]nvestigative materials, notes, correspondence, videos and reports,” are exempt from disclosure. 65 P.S. § 67.708(b)(16)(ii). This Officer finds that the Respondent has proven that the requested video footage relates to a criminal investigations and is exempt. The record at issue is camera footage from an Easton school bus’s interior camera, which is related to a matter currently under investigation by the Respondent, as is acknowledged by virtue of the initial request. *See* Attachment “A.” Accordingly, it is clear that the requested material falls within the definition of items that are exempt from disclosure.<sup>1</sup>

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<sup>1</sup> In addition, the Requester sought the footage “showing the driver and students.” *See* Attachment “A.” By the Requester’s own admission, therefore, the requested footage involves depictions of juvenile students. *Id.* Thus, this material is also exempt from disclosure under The Juvenile Records Act, which provides that “records and files [concerning a child] shall not be open to public inspection or their contents disclosed to the public except as provided.” 42 Pa.C.S.A. § 6308(a).

In *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 479 (Pa. Commw. 2010), the Commonwealth Court held that incident reports which contain investigative materials are exempt from the definition of a public record and are not subject to disclosure or redaction. Further, Section 708 exempts release of “[a] record of an agency relating to or resulting in a criminal investigation,” specifically including “[i]nvestigative materials, notes, correspondence, videos and reports.” 65 P.S. § 67.708(b)(16)(ii). The Commonwealth Court has held: “Thus, if a record, *on its face*, relates to a criminal investigation, it is exempt under the RTKL pursuant to Section 708(b)(16)(ii).” *Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Commw. 2014) (emphasis added) (citing *Coley v. Philadelphia Dist. Attorney’s Office*, 77 A.3d 694, 697 (Pa. Commw. 2013); *Mitchell v. Office of Open Records*, 997 A.2d 1262, 1264 (Pa. Commw. 2010)). Here, the requested footage at issue is, on its face, related to a criminal investigation by the Respondent, the chief law enforcement agency in Northampton County, and is therefore exempt from disclosure.

Additionally, CHRIA prohibits the disclosure of the requested footage. This information is “investigative 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 . . . .” 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.” *Id.* at § 9106(c)(4). In the instant matter, the footage requested was assembled as a result of the Respondent’s investigation into a crash by a school bus by the Respondent. The

Requester is not a “criminal justice agency” as defined by 18 Pa.C.S.A. § 9102. Therefore, the requested camera footage cannot be disseminated to the Requester under CHRIA.

**CONCLUSION**

For the foregoing reasons, and because the Respondent has met its burden of proof by the preponderance in showing that the requested camera footage is exempt from disclosure under the RTK Law, the Requester’s appeal is denied. This Final Determination is binding on the parties. Within thirty (30) days of the mailing of this determination, any party may appeal to the Northampton County Court of Common Pleas under 65 P.S. §67.1302(a). All parties must be served with the notice of the appeal.



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**KATHARINE R. KURNAS, ESQUIRE**  
Appeals Officer for Northampton County  
District Attorney’s Office

Date: December 15, 2021

SENT TO: Amanda Bernier, Esquire  
Interim Open Records Officer  
Northampton County DA’s Office  
669 Washington Street  
Easton, PA 18042  
daopenrecords@northamptoncounty.org

AND Priscilla Liguori  
WFMZ  
300 East Rock Road  
Allentown, PA 18103-7599  
Priscilla.Liguori@wfmz.com

## Davin Jurgensen

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**From:** Priscilla Liguori <Priscilla.Liguori@wfmz.com>  
**Sent:** Wednesday, December 8, 2021 9:26 AM  
**To:** Davin Jurgensen; Becky Bartlett  
**Subject:** Right to Know request

**WARNING: This email message is from an external sender! Please exercise caution when clicking links or opening attachments.**

Hello,

We'd like to submit a Right to Know request for the footage from the Easton school bus' interior camera, showing the driver and students, the morning it crashed into Bushkill Creek. Please let me know if there is any specific form I need to fill out for this.

Thank you,  
Priscilla

**Priscilla Liguori**

Reporter  
WFMZ-TV  
[@PriscillaWFMZ](#)  
[Facebook.com/PriscillaNews](#)

Attachment "A"

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

First Assistant D.A.  
RICHARD H. PEPPER

December 8, 2021

Chief Deputy D.A.  
WILLIAM M. BLAKE  
PATRICIA F. MULQUEEN  
TATUM WILSON

Priscilla Liguori  
Reporter  
WFMZ-TV  
Priscilla.Liguori@wfmz.com

Deputy D.A.  
JAMES A. AUGUSTINE  
REBECCA J. KULIK  
JOSEPH D. LUPACKINO  
SANDRA L. MCCLURE  
EDWARD PENETAR  
MICHAEL J. THOMPSON

RE: Right to Know Request

Dear Ms. Liguori:

This office acknowledges receipt of your Right to Know Request. Our office received said request on December 8, 2021. You requested the following information:

"[T]he footage from the Easton school bus' interior camera, showing the driver and students, the morning it crashed into Bushkill Creek."

Please be advised that the request for the aforesaid documents is denied, as the records are exempt under Section 67.708 of Title 65, subsection (b)(16), which excludes records of an agency relating to or resulting in a criminal investigation. Specifically, subsection (ii) delineates as exempt from access, "[i]nvestigative materials, notes, correspondence, videos and reports."

If you choose, an appeal of this decision must be filed 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, 4<sup>th</sup> Floor  
Harrisburg PA 17120-0225

You may also appeal to the the Northampton County Court of Common Pleas within thirty days (30) of the mailing date of this decision. See 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal.



Attachment "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

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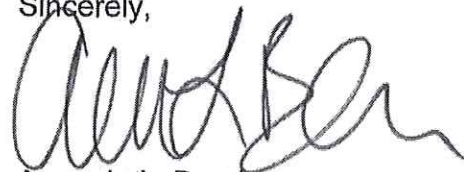
First Assistant D.A.  
RICHARD H. PEPPER

Chief Deputy D.A.  
WILLIAM M. BLAKE  
PATRICIA F. MULQUEEN  
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SANDRA L. MCCLURE  
EDWARD PENETAR  
MICHAEL J. THOMPSON

Assistant D.A.  
ABIGAIL BELLAFATTO  
DAVID M. CERAUL  
JUDY CHAVERRI  
NICOLE CHESKEY  
ALEC COLQUHOUN  
JULIANNE DANCAK  
ADRIANNE DOLL  
AARON GALLOGLY  
KATHARINE KURNAS  
LAURA M. MAJEWSKI  
PATRICIA TURZYN

Sincerely,



Amanda L. Bernier  
Acting Open Records Officer  
District Attorney's Office



December 9, 2021

Assistant District Attorney Katharine R. Kurnas

Appeals Officer

669 Washington Street

Easton, PA 18042

Dear Attorney Kurnas:

This is an appeal to the denial of information following this Right To Know request (RTK-01426) submitted December 8, 2021:

"We'd like to submit a Right To Know request for the footage from the Easton school bus' interior camera, showing the driver and students, the morning it crashed into Bushkill Creek."

The record requested is a public record because:

- Taxpayers pay the district to provide busing and tools like the interior camera to ensure busing remains safe for both students and employees. They should have access to what they pay for.
- Several city and county resources were used to respond to this crash. Taxpayers should know exactly what caused it.
- Thirteen students and the driver ended up in the hospital as a result of this crash. Families traumatized by this event deserve to see what led to it.
- Not showing what happened on the bus may hinder changes in this district and elsewhere that could prevent similar life-threatening incidents in the future.

As requested, a copy of this appeal has also been sent to the Northampton County District Attorney's Office.

Thank you,

Priscilla Liguori



WFMZ

300 East Rock Rd.

Allentown, PA 18103-7599

(610) 791-1111

DISTRICT ATTORNEY  
2021 DEC 14 PM 12:16

Attachment "C"