

DISTRICT ATTORNEY'S OFFICE
NORTHAMPTON COUNTY, PENNSYLVANIA

JOSHUA KREIDLER,
Requester,

v.

COLONIAL REGIONAL POLICE
DEPARTMENT,
Respondent.

No.: 6 – ORA – 2022

2022 AUG 31 PM 1:22

DISTRICT ATTORNEY'S
OFFICE

FINAL DETERMINATION

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

INTRODUCTION

On July 27, 2022, Requester submitted a request, pursuant to the RTKL, to the Colonial Regional Police Department ("Department") seeking a copy of the police report related to an incident involving Requester. *See* Attachment "A." On the same day, Respondent denied the request, because the requested report related to a criminal investigation or a non-criminal investigation. *See* Attachment "B."

On July 28, 2022, Requester appealed the Department's response to the Pennsylvania Office of Open Records ("OOR"). *See* Attachment "C." The OOR issued its Final Determination on August 2, 2022, transferring this appeal to the Northampton County District Attorney's Office Appeals Officer, because the request sought documents related to a criminal investigation. *See* Attachment "D" (*citing* 65 P.S. § 67.708(b)(16)).

DISCUSSION

The records Requester seeks relates to a criminal investigation, and thus are not producible public records under the RTKL. 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. *See* 64 P.S. § 67.503(d)(2). A public record is "[any] 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. § 67.305(a). The burden is on the responding agency to show by a preponderance of the evidence that the record is exempt from public disclosure. *Com. v. Williams*, 732 A.2d 1167, 1187 (Pa. 1999).

Generally, records "in the possession of a Commonwealth agency shall be presumed to be a public record unless the record is exempt under Section 708 ..." *See* 65 P.S. § 67.305(a). Under section 708(b)(16), "record[s] of an agency relating to or resulting in a criminal investigation" are exempt from disclosure." 65 P.S. § 708(b)(16). A criminal investigation "refers to an official inquiry into a possible crime." *Pennsylvania State Police v. Grove*, 161 A.3d 877, 892-93 (Pa. 2017). This material typically includes "statements compiled by district attorneys, forensic reports, and reports of police, including notes of interviews with victims, suspects and witnesses assembled for the specific purpose of investigation." *Id.* (citing *Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Commw. Ct. 2014)).

In this case, Requester sought a police report involving a traffic-related altercation for which he was charged with a summary offense. *See* Attachment A. Since Requester seeks an official report of police involving a criminal investigation, this Appeals Officer finds that the Department properly denied the request. *See Pennsylvania State Police v. Office of Open Records*,

5 A.3d 473, 479 (Pa. Commw. Ct. 2010) (holding that incident reports that contain investigative materials are exempt from public disclosure under the RTKL).

CONCLUSION

For the foregoing reasons, Requester's request is hereby **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. 42 Pa.C.S.A. § 67A06.

Respectfully Submitted:

By: Katharine R. Kurnas
Katharine R. Kurnas, Assistant District Attorney
Northampton County District Attorney's Office
669 Washington Street, Easton, PA 18042
Tel.: (610) 829-6630
Email: KKurnas@northamptoncounty.org
Appeals Officer

Date: August 31, 2022

Cc via email only:

Joshua Kreidler
Email: kreidler.josh@gmail.com
Requester

Attachment “A”



pennsylvania
OFFICE OF OPEN RECORDS

Standard Right-to-Know Law Request Form

Good communication is vital in the RTKL process. Complete this form thoroughly and retain a copy; it may be required if an appeal is filed. You have 15 business days to appeal after a request is denied or deemed denied.

SUBMITTED TO AGENCY NAME: Colonial Regional Police Department (Attn: AORO)

Date of Request: 7/27/2022 Submitted via: Email U.S. Mail Fax In Person

PERSON MAKING REQUEST:

Name: Joshua Kreidler Company (if applicable): _____

Mailing Address: 110 Brandywine Dr

City: Bethlehem State: PA Zip: 18020 Email: Kreidler.Josh@gmail.com

Telephone: 610-739-6683 Fax: _____

How do you prefer to be contacted if the agency has questions? Telephone Email U.S. Mail

RECORDS REQUESTED: Be clear and concise. Provide as much specific detail as possible, ideally including subject matter, time frame, and type of record or party names. RTKL requests should seek records, not ask questions. Requesters are not required to explain why the records are sought or the intended use of the records unless otherwise required by law. Use additional pages if necessary.

I am requesting to obtain an incident/police report relating to an incident that occurred in Lower Nazareth Twp at SR 248 off ramp for Rt 33s, on 5/28/2022 at approximately 1pm. Party involved was myself (Joshua Kreidler) and it was a traffic related altercation. Citation No R2796244-3

DO YOU WANT COPIES? Yes, printed copies (default if none are checked) Yes, electronic copies preferred if available No, in-person inspection of records preferred (may request copies later)

Docket Number
ITT-245-22

Do you want certified copies? Yes (may be subject to additional costs) No
RTKL requests may require payment or prepayment of fees. See the Official RTKL Fee Schedule for more details.
Please notify me if fees associated with this request will be more than \$100 (or) \$_____.

ITEMS BELOW THIS LINE FOR AGENCY USE ONLY

Tracking: _____ Date Received: _____ Response Due (5 bus. days): _____

30-Day Ext.? Yes No (If Yes, Final Due Date: _____) Actual Response Date: _____

Request was: Granted Partially Granted & Denied Denied Date Approved: _____

Appropriate third parties notified and given an opportunity to object to the release of requested records.

NOTE: In most cases, a completed RTKL request form is a public record.
More information about the RTKL is available at <https://www.openrecords.pa.gov>

Form updated Feb. 3, 2020

Attachment “B”



Colonial Regional Police Department

248 Brodhead Road, Suite 1
Bethlehem, Pennsylvania 18017
Phone (610) 861-4820 Fax (610) 861-4829
www.colonialregionalpd.org

James DePalma
Chief of Police

July 27, 2022

Dear Mr. Kreidler:

Thank you for writing to the Colonial Regional Police Department with your request for information pursuant to the Pennsylvania Right-To-Know Law.

On July 27, 2022 you provided a written request for information regarding incidents 22-5723. Your request is denied under section 708 Exceptions for Public Records, sub section b 16 and 17. All records are either relating to a criminal investigation or a non-criminal investigation, therefore, they are exempt.

You have a right to appeal this denial of information in writing to Liz Wagenseller, Executive Director, Commonwealth of Pennsylvania, Office of Open Records, 333 Market Street, 16th Floor, Harrisburg PA 17101-2234.

An appeal for criminal records should be addressed to District Attorney Terence Houck, 669 Washington Street, Easton, PA 18042.

If you choose to file an appeal, you must do so within 15 business days of the mailing due date of the agency's response. See Section 1101. Please note that a copy of your original Right-to-Know request and this denial letter must be included when filing an appeal. The law also requires that you state the reasons why the record is a public record and address each of the reasons your request was denied. Visit the Office of Open Records website at openrecords.state.pa.us for further information on filing an appeal. Please be advised that this correspondence will serve to close this record with our office as permitted by law.

Respectfully,

James DePalma
Chief of Police
Open Records Officer

Attachment “C”

From: no-reply@openrecordspennsylvania.com
To: kreidler.josh@gmail.com
Subject: [External] PA Office of Open Records - Appeal Confirmation
Date: Thursday, July 28, 2022 2:46:57 PM
Attachments: [oor_logo_email.png](#)

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the [Report Phishing button in Outlook](#).



You have filed an appeal of an agency's response to a request for records under the Right-to-Know Law.

Name:	Joshua Kreidler
Company:	
Address 1:	110 brandywine dr
Address 2:	
City:	Bethlehem
State:	Pennsylvania
Zip:	18020
Phone:	610-739-6683
Email:	kreidler.josh@gmail.com
Email2:	kreidler.josh@gmail.com
Agency (list):	Colonial Regional Police Department
Agency Address 1:	248 Broadhead RD
Agency Address 2:	
Agency City:	Bethlehem

Agency State: Pennsylvania

Agency Zip: 18017

Agency Phone: 610-861-4820

Agency Email: info@colonialregionalpd.org

Records at Issue in this Appeal: I am trying to obtain records relating to an incident I was involved in personally and have court date of 8/15/2022 , where I will be representing myself. I am attempting to gather all available information for my case. I believe the official police report regarding this incident would be pertinent to the building of my defense. Incident occurred on 5/28/2022 on RT 33 s off-bound ramp for exit 248 at approximately 1pm. Citation No R2796244-3 Docket Number ITT-245-22

Request Submitted to Agency Via: web form

Request Date: 07/27/2022

Response Date: 07/27/2022

Deemed Denied: No

Agency Open Records Officer: James DePalma

Attached a copy of my request for records: Yes

Attached a copy of all responses from the Agency regarding my request: Yes

Attached any letters or No

notices
extending the
Agency's time
to respond to
my request:

Agree to No
permit the
OOR
additional
time to issue a
final
determination:

Interested in No
resolving this
issue through
OOR
mediation:

Attachments:

- Kreidler Right to Know Response.pdf
- Incident Reqeust Form (Completed).pdf

I requested the listed records from the Agency named above. By submitting this form, I am appealing the Agency's denial, partial denial, or deemed denial because the requested records are public records in the possession, custody or control of the Agency; the records do not qualify for any exemptions under § 708 of the RTKL, are not protected by a privilege, and are not exempt under any Federal or State law or regulation; and the request was sufficiently specific.

Attachment “D”



pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

2022 AUG -14 PM 9:49
ESPERANZA L. TORRES
JAMES TORRES

IN THE MATTER OF	:	
	:	
JOSHUA KREIDLER,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2022-1756
	:	
COLONIAL REGIONAL	:	
POLICE DEPARTMENT,	:	
Respondent	:	

On July 27, 2022, Joshua Kreidler (“Requester”) filed a request (“Request”) with the Colonial Regional Police Department (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking an incident report involving the Requester. The Department denied the Request on July 27, 2022, stating that the incident report is related to a criminal investigation.¹ *See* 65 P.S. § 67.708(b)(16). On July 28, 2022, the Requester appealed to the Office of Open Records (“OOR”).²

The Department is a local law enforcement agency, and the Request, by its very wording, seeks an incident report concerning a criminal matter.³ The OOR does not have jurisdiction to hear appeals related to criminal investigative records held by local law enforcement agencies. *See*

¹ The Department also cited Section 708(b)(17), 65 P.S. § 67.708(b)(17), pertaining to noncriminal investigations.

² The Department’s response informed the Requester that an appeal for criminal records should be filed with the Northampton County District Attorney’s Appeals Officer, rather than the OOR.

³ The Request references “a traffic related altercation,” a citation, and a docket number. The appeal also references the Requester’s upcoming court date.

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 District Attorney's Office to determine whether the incident report is subject to disclosure.⁴ A copy of this final order and the appeal filed by the Requester will be sent to the Appeals Officer for the Northampton County 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 Northampton 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.⁵ This Final Determination shall be placed on the OOR website at: <https://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: August 2, 2022

/s/ Kyle Applegate

Appeals Officer
Kyle Applegate, Esq.

Sent to: Requester (via email), Open Records Officer (via email), Appeals Officer for the Northampton County District Attorney's Office (via email)

⁴ 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").

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