

DISTRICT ATTORNEY'S OFFICE
NORTHAMPTON COUNTY, PENNSYLVANIA

DISTRICT ATTORNEY'S
OFFICE
2022 AUG 25 PM 2:06

TRICIA MEZZACAPPA,
Requester,

v.

No.: 5 – ORA – 2022

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 Tricia Mezzacappa's ("Requester") Right to Know Law request.

INTRODUCTION

On May 13, 2022, Requester submitted a Right to Know Law ("RTKL") request seeking "electronic copies of any financial document that shows all deposits and disbursements in the asset forfeiture account, for fiscal years 2018 to present." Attachment "A." That request was deemed denied by the Northampton County District Attorney's Office Open Records Officer on May 18, 2022. *See* 65 P.S. § 67.901.

On May 27, 2022, Requester appealed to the Office of Open Records ("OOR"). Attachment "B." The OOR subsequently invited both parties to supplement the record. Attachment "C." On July 26, 2022, the OOR filed its Final Determination on this matter, transferring the appeal to the Northampton County District Attorney's Office Appeals Officer "to determine if the responsive records relate to criminal investigations or, with respect to any purely financial records, what, if any, criminal investigative information is contained therein and may be redacted from the records before disclosure to the Requester." Attachment "D" at 9-10.

DISCUSSION

Requester's request for financial documents showing all deposits and disbursements in the asset forfeiture accounts for fiscal years 2018 to present does not fall under the RTKL's criminal investigation exception. *See* 64 P.S. § 67.503(d)(2) ("The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record"). Under the RTKL, "[a] Commonwealth agency shall provide public records" to requesters unless an exception applies. *See* 65 P.S. § 302(a). 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. Under section 708, "a record 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. Cmwlth. Ct. 2014)). Thus, the inquiry is whether the financial documents requested in this case "generally depict a systematic inquiry or examination into a potential crime." *Grove*, 161 A.3d at 893. This Officer finds that they do not.


In this case, Requester seeks "electronic copies of any financial document that shows all deposits and disbursements in the asset forfeiture account, for fiscal years 2018 to present." *See* Attachment "A." The records sought are purely financial records showing the amount of funds deposited and withdrawn from each of the Northampton County District Attorney's Office asset forfeiture accounts. *City of Harrisburg v. Prince*, 219 A.3d 602 (Pa. 2019) (holding that the Commonwealth's financial records of debit and credit entries, as well as monetary receipts and

disbursements are public records). These are not the sort of documents used to prosecute or investigate crimes, but merely an accounting of the fruits of prior prosecution. *California Borough v. Rothey*, 185 A.3d 456 (Pa. Cmwlth. Ct. 2018) (opining that the mere fact that a record has some connection to a criminal proceeding does not automatically exempt it under section 708(b)(16) of the RTKL). However, any personal identification information on the financial records may be redacted before being turned over to Requester. *See* Attachment “D” at 10-11; *see also* 65 P.S. § 67.708(b)(30)(c).

CONCLUSION

For the foregoing reasons, Requester’s request for electronic copies of any financial document that shows all deposits and disbursements in the asset forfeiture accounts, for fiscal years 2018 to present, is hereby GRANTED. This Final Determination is binding on the parties. Requester may file a petition for judicial review in the Northampton County Court of Common Pleas. 65 P.S. § 67.1302(a).

Respectfully Submitted:

By: 
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 25, 2022

Cc via email only:

Tricia Mezzacappa
Email: 5jailsin5months@gmail.com
Requester

Attachment “A”

Your Right To Know request has been submitted RTK-01550

Inbox

CRM RTK Account <RTK@northamptoncounty.org> May 13, 2022, 5:30 AM
to me

This is a confirmation of your Right To Know request RTK-01550 submitted to the District Attorney's Office. Please retain a copy for your records.
Here is the contents of your request:

I would like electronic copies of any financial document that shows all deposits and disbursements in the asset forfeiture account, for fiscal years 2018 to present. do not incur copy fees.

Note: This message was sent from an unmonitored address. Please do not respond to this message.

Thank you,
Right To Know Officer
Nicole Cheskey
Assistant District Attorney
669 Washington Street
Easton, PA 18042
+1 (610) 829-6672

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Attachment “B”

Devenyi, Dylan

From: no-reply@openrecordspennsylvania.com
Sent: Friday, May 27, 2022 6:26 PM
To: 5jailsin5months@gmail.com
Subject: [External] PA Office of Open Records - Appeal Confirmation

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.



pennsylvania
OFFICE OF OPEN RECORDS

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

Name:	Tricia Mezzacappa
Company:	
Address 1:	817 Ridge St
Address 2:	
City:	West Easton
State:	Pennsylvania
Zip:	18042
Phone:	908-878-3468
Email:	5jailsin5months@gmail.com
Agency (list):	Northampton County District Attorney's Office
Agency Address 1:	669 Washington St
Agency Address 2:	
Agency City:	Easton
Agency State:	Pennsylvania
Agency Zip:	18042
Agency Phone:	610-829-6672
Agency Email:	RTK@northamptoncounty.org

Records at Issue in this Appeal:	asset forfeiture account receipts and disbursements from 2018 to present
Request Submitted to Agency Via:	e-mail
Request Date:	05/13/2022
Response Date:	
Deemed Denied:	Yes
Agency Open Records Officer:	Nicole Cheskey
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 notices extending the Agency's time to respond to my request:	No
Agree to permit the OOR additional time to issue a final determination:	30 Days
Interested in resolving this issue through OOR mediation:	No
Attachments:	<ul style="list-style-type: none"> • rtk may 13, 2022.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 “C”



pennsylvania
OFFICE OF OPEN RECORDS

May 31, 2022

Via Email Only:

Tricia Mezzacappa
817 Ridge Street
West Easton, PA 18042
5jailsin5months@gmail.com

Via Email Only:

Bridget Murphy
Agency Open Records Officer
Northampton County District Attorney's Office
669 Washington Street
Easton, PA 18042
daopenrecords@northamptoncounty.org
RTK@northamptoncounty.org

RE: OFFICIAL NOTICE OF APPEAL - Mezzacappa v. Northampton County District Attorney's Office OOR Dkt. AP 2022-1290

Dear Parties:

Review this information and all enclosures carefully as they affect your legal rights.

The Office of Open Records ("OOR") received this appeal under the Right-to-Know Law ("RTKL"), 65 P.S. §§ 67.101, et seq. on May 27, 2022. A binding Final Determination ("FD") will be issued pursuant to the timeline required by the RTKL, **please see the attached information for more information about deadlines.**

Notes for both parties (more information in the enclosed documents):

- The docket number above must be included on all submissions related to this appeal.
- Any information provided to the OOR must be provided to all parties involved in this appeal. Information that is not shared with all parties will not be considered.
- All submissions to the OOR, other than *in camera* records, will be public records. Do not include any sensitive information- such as Social Security numbers.

If you have questions about this appeal, please contact the assigned Appeals Officer (contact information enclosed), providing a copy of any correspondence to all parties involved in this appeal.

Sincerely,

Elizabeth Wagenseller
Executive Director

Enc.: Description of RTKL appeal process
Assigned Appeals Officer contact information
Entire appeal as filed with OOR

Attachment “D”



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
TRICIA MEZZACAPPA,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2022-1290
	:	
NORTHAMPTON COUNTY DISTRICT	:	
ATTORNEY'S OFFICE,	:	
Respondent	:	

FACTUAL BACKGROUND

On May 13, 2022, Tricia Mezzacappa (“Requester”) submitted a request (“Request”) to the Northampton County District Attorney’s Office (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating:

I would like electronic copies of any financial document that shows all deposits and disbursements in the asset forfeiture account, for fiscal years 2018 to present. [D]o not incur copy fees.

On May 27, 2022, the Requester appealed to the Office of Open Records (“OOR”), arguing that the Request was deemed denied and stating grounds for disclosure.¹ *See* 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the Office to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

¹ In the appeal, the Requester granted the OOR an additional thirty days to issue this Final Determination. *See* 65 P.S. § 67.1101(b)(1).

On June 3, 2022, the Requester submitted a position statement in support of the appeal, citing the OOR's determination in *DeBartola v. Cambria County Dist. Atty's Office*, OOR Dkt. AP 2017-0050, 2017 PA O.O.R.D. LEXIS 1019.

On June 10, 2022, having received no submission from the Office, the OOR extended the submission period until close of business on June 13, 2022. *See* 65 P.S. § 67.1102(a)(1) (vesting appeals officers with the discretion to establish a schedule for the parties to submit evidence and argument).

On June 14, 2022, the Office submitted the attestation, made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities, of its Open Records Officer, Bridget Murphy, Esq. ("Attorney Murphy").²

On June 24, 2022, in response to the OOR's request for clarification, the Office submitted records responsive to the Request and the supplemental attestation of Attorney Murphy.³ Through Attorney Murphy's attestation, the Office argues that the Request is duplicative of a prior request submitted to the Office by the Requester, and that the Request is insufficiently specific. 65 P.S. § 67.703. The Office also argues that, even if the Request was sufficiently specific, responsive records are exempt from disclosure under the RTKL's criminal investigative records exemption, 65 P.S. § 67.708(b)(16), and that the records are also protected by the Criminal History Record Information Act ("CHRIA"), 18 Pa.C.S. §§ 9101-9106. Finally, the Office argues that personal identification information contained within the responsive records is exempt from disclosure pursuant to 65 P.S. § 67.708(b)(6).

² The Office's June 14, 2022 submission was received after the record closed; however, to develop the record, the submission was considered. *See* 65 P.S. § 67.1102(b)(3) (stating that "the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute").

³ The supplemental attestation of Attorney Murphy was made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

On July 14, 2022, in response to the OOR's request for clarification, Attorney Murphy attested, subject to the penalties of 18 Pa.C.S. § 4904, that the Office "has three completely separate forfeiture accounts."

LEGAL ANALYSIS

"The objective of the Right to Know Law...is to empower citizens by affording them access to information concerning the activities of their government." *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is "designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions." *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff'd* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required "to review all information filed relating to the request" and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.* Here, neither party requested a hearing.

The Office is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.302. Records in the possession of a local agency are presumed public unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond within five business days. 65 P.S. § 67.901.

An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

1. The appeal is moot in part

During the appeal, the Office provided responsive records “regarding all forfeiture accounts” that it “determined not to be exempt.” *See* Murphy Attestation, 6/24/2022, ¶¶ 6, 12. Accordingly, insofar as it seeks those records, the appeal is dismissed as moot. *See Kutztown Univ. of Pa. v. Bollinger*, 2019 Pa. Commw. Unpub. LEXIS 521, *6 (holding that an appeal is properly dismissed as moot where no controversy remains).⁴

2. The Request is not duplicative

The Office argues that the Request is “duplicative of [a] previous request [filed by the Requester on March 31, 2022], which was already responded to[,]” on May 9, 2022 and that “[n]o response [to the instant Request] was sent [by the Office] to the email address [provided by the Requester,] which had[,] days before[,] proved to be an undeliverable address.” *See* Murphy

⁴ The OOR cites for its persuasive value.

Attestation, 6/24/2022, ¶¶ 3-5. The language of the previous Request was also provided by the Office. See Murphy Attestation, 6/14/2022.

Section 506(a) of the RTKL provides that “[a]n agency may deny a requester access to a record if the requester has made repeated request for that same record and the repeated requests have placed an unreasonable burden on the agency.” 65 P.S. § 67.506(a). “Under this section...an agency must demonstrate that (1) ‘the requester has made repeated requests for th[e] same record[(s)]’ and (2) ‘the repeated requests have placed an unreasonable burden on the agency.’” *Pa. Office of the Governor v. Bari*, 20 A.3d 634, 645 (Pa. Commw. Ct. 2011); see also *Borough of West Easton v. Mezzacappa*, No. C-48-CV-2012-7973 (North. Com. Pl. Jan. 9, 2013) (“[A] request is not disruptive when a requester [seeks] the same records only twice”), *aff’d* 74 A.3d 417 (Pa. Commw. Ct. 2013).

Here, a review of both the previous request and the instant Request, shows that although the language in some portions of the previous, six-item request, is similar to the language of the instant Request, the instant matter is not identical to the prior request. Further, the OOR has routinely held that, for purpose of Section 506(a), a request is not considered to be repeated unless the same records have been sought at least three times. *Mezzacappa, supra*. Accordingly, the Office did not demonstrate that the Requester has made repeated requests for the same records. See e.g. *Rodkey v. York Cnty.*, OOR Dkt. AP 2022-0098, 2022 PA O.O.R.D. LEXIS 701; *Mandrusiak and Freedom Foundation v. York Cnty.*, OOR Dkt. AP 2021-1708, 2021 PA O.O.R.D. LEXIS 1947.

3. The Office did not demonstrate that the Request is insufficiently specific

The Office argues that the Request is “insufficiently specific as to which [asset] forfeiture account [the Requester] is requesting records regarding.” The Requester argues that the Request is sufficiently specific because “[a]ny and all’ asset forfeiture accounts speaks for itself.”⁵

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” *Id.* When interpreting a RTKL request, agencies should rely on the common meaning of words and phrases, as the RTKL is remedial legislation that must be interpreted to maximize access. *See Gingrich v. Pa. Game Comm’n*, No. 1254 C.D. 2011, 2012 Pa. Commw. Unpub. LEXIS 38 at *16 (Pa. Commw. Ct. 2012) (citing *Bowling*, 990 A.2d at 824). In determining whether a particular request under the RTKL is sufficiently specific, the OOR uses the three-part balancing test employed by the Commonwealth Court in *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015), and *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013).

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Pa. Dep’t of Educ.*, 119 A.3d at 1125. In *Carey*, the Commonwealth Court found a request for unspecified records (“all documents/communications”) related to a specific agency project (“the transfer of Pennsylvania inmates to Michigan”) that included a limiting timeframe was sufficiently specific “to apprise [the agency] of the records sought.” 61 A.3d 367. Second, the scope of the request must identify a discrete group of documents (e.g., type or recipient). *See Pa. Dep’t of Educ.*, 119 A.3d at 1125. Finally, “[t]he

⁵ The OOR notes that the Request does not contain the language “any and all.” Rather, the instant Request seeks “...copies of any financial document that shows all deposits and disbursements in the asset forfeiture account....”

timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126. This factor is the most fluid and is dependent upon the request’s subject matter and scope. *Id.* Failure to identify a finite timeframe will not automatically render a sufficiently specific request overbroad; likewise, a short timeframe will not transform an overly broad request into a specific one. *Id.*

While responding to a RTKL request must entail accuracy and a good faith effort to provide the records sought, it is not an exact science, and must also encompass reasonable discretion by the agency to identify and provide the requested information, particularly where the request is a broad one. When conducting the three-part balancing test, a review of the instant Request shows that it contains a subject matter, deposits and disbursements, a moderate scope, asset forfeiture accounts, and a lengthy but finite timeframe of 2018 to present. While the timeframe of approximately three and a half years is somewhat lengthy, that alone is not fatal to the Request if the subject matter and scope provide sufficient guidance to the agency. *See Pa. Dep’t of Educ., supra; see also, e.g.,*

Although the Request also contains a subject matter, a request still must provide an agency with the necessary context to determine which records a requester is seeking. *Pa. Dep’t of Envtl. Prot. v. Legere*, 50 A.3d 260, 265 (Pa. Commw. Ct. 2012). In this instance, the Request seeks “financial document that shows all deposits and disbursements in the asset forfeiture account[,]” without specifically identifying a particular asset forfeiture account. However, Attorney Murphy attests that the Office has three asset forfeiture accounts. *See* Murphy Attestation, 7/14/2022. Therefore, based on the number of asset forfeiture accounts maintained by the Office, the scope of the Request is sufficiently limiting for the Office to perform a search for documents showing the deposits and disbursements from each account. Additionally, the Office provided some responsive

records on appeal.⁶ Although, a request is not necessarily sufficiently specific merely because an agency is able to identify potentially responsive records, it does weigh in favor of such a determination. *See Pa. Dep't of Educ.*, 119 A.3d at 1126, n.8. Moreover, as previously discussed, the RTKL is remedial legislation that must be interpreted to maximize access. *See Gingrich, supra.*

In this instance, the Request is sufficiently limited in subject matter and scope, such that the somewhat lengthy timeframe of approximately three and a half years does not make it insufficiently specific. Accordingly, based on the plain language of the Request and the evidence presented, the Request meets the specificity requirements set forth in Section 703 of the RTKL. *See 65 P.S. § 67.703.*

4. The OOR lacks jurisdiction over some records or parts of records requested

The Office argues that the responsive records are exempt under Section 708(b)(16) of the RTKL, 65 P.S. § 67.708(b)(16), because “forfeiture deposits received as a result of criminal investigations would necessarily implicate current or past criminal investigations[,] and because “information regarding disbursements and supporting documents of...disbursements...[implicate] current or past criminal investigations....” *See* Murphy Attestation 6/24/2022, ¶¶ 7-8.

Specifically, in relevant part, Attorney Murphy attests that the records include:

9. ...Disbursements for trainings that may contain information regarding specific numbers of officers working in task force or vice-related investigations (which include undercover or covert drug investigations), or the specific content of trainings available to officers in a given department.
10. Disbursements for specific police departments' equipment and training that may contain details regarding which types of equipment are available to certain police departments for drug-related investigations (which include undercover or covert drug investigations)....

⁶ The Office argues that “as a courtesy,” it is providing “documents with regard to non-exempt disbursements from forfeiture accounts.” *See* Murphy Attestation, ¶ 6.

See Murphy Attestation 6/24/2022, ¶¶ 9-10.

Under the RTKL, a sworn affidavit or statement made under the penalty of perjury may serve as sufficient evidentiary support. See *Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of evidence that the Office acted in bad faith, “the averments in [the statement] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

Based on Attorney Murphy’s attestation, it must be determined whether the OOR has jurisdiction to hear this appeal as it pertains to these records. The issue of subject matter jurisdiction may be raised by the parties or by the OOR, *sua sponte*. See *Weber v. Wyoming Valley Sch. Dist.*, 668 A.2d 1218 (Pa. Commw. Ct. 1995) (Secretary of Education permitted to raise issues of subject matter jurisdiction in an administrative proceeding under the Public School Code, *sua sponte*). As previously discussed, the OOR is authorized to hear appeals for all Commonwealth and local agencies,⁷ and the Office is a local law enforcement agency. However, 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, and, here, the Office submitted evidence demonstrating that some of the requested records could contain information relating to a criminal investigation. See *id.* Accordingly, this appeal is hereby transferred to the Appeals Officer for the Northampton County District Attorney’s Office to determine if the responsive records relate to

⁷ See 65 P.S. § 67.503(a).

criminal investigations or, with respect to any purely financial records, what, if any, criminal investigative information is contained therein and may be redacted from the records before disclosure to the Requester.⁸ See *Pennsylvanians for Union Reform v. Centre Cnty. Dist. Atty's Office*, 139 A.3d 354 (Pa. Commw. Ct. 2016) (citing 42 Pa.C.S. § 5103(a) (relating to the process for handling improperly filed appeals)); see also *DeBartola v. Cambria Cnty. Dist. Atty's Office*, No. 2017-2524 (Cambria Cnty. C.C.P. Nov. 19, 2018) (finding that criminal investigative information may be redacted from financial records relating to drug forfeiture accounts, but the records may not be withheld in their entirety under Section 708(b)(16)); *DeBartola v. Johnstown City*, OOR Dkt. AP 2019-0386, 2019 PA O.O.R.D. LEXIS 480. As noted above, the Office must release strictly financial information that does not contain investigative information.

5. Personal identification information that is expressly exempt from disclosure under Section 708(b)(6) of the RTKL may be redacted

The Office argues that certain portions of the responsive records contain personal identification information, which are exempt from disclosure pursuant to Section 708(b)(6) of the RTKL. 65 P.S. § 67.708(b)(6). Specifically, the Office argues “to the extent [the] [R]equest[] implicates any forfeiture account disbursements towards charitable initiatives and their supporting documents, that request would be exempt to the extent the supporting documents (such as a request for a charitable donation) may contain exempt personal identification information such as cell phone numbers which would have to be redacted.” See *Murphy Attestation 6/24/2022*, ¶ 11.

Section 708(b)(6)(i)(A) of the RTKL exempts: “[a] record containing all or part of a person’s Social Security number, driver’s license number, personal financial information, home,

⁸ 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.

cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number.” 65 P.S. § 67.708(b)(6)(i)(A).

Accordingly, insofar as any personal identification information expressly exempt from disclosure under Section 708(b)(6) is contained within the responsive records, that information may be redacted. *Id.*

CONCLUSION

For the foregoing reasons, the appeal is **denied in part, dismissed as moot in part and transferred in part** to the Appeals Officer for the Northampton County District Attorney’s Office; and the Office is not required to take any further action at this time. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any 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. 65 P.S. § 67.1303. 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.⁹ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: July 26, 2022

/s/ Erika Similo

APPEALS OFFICER
ERIKA SIMILO, ESQ.

Sent to: Tricia Mezzacappa (via email only);
Bridget Murphy, Esq. (via email only)

⁹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).