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IN THE MATTER OF	:	DISTRICT ATTORNEY'S OFFICE
	:	
STUART S. SMITH,	:	CHESTER COUNTY, PENNSYLVANIA
Requester	:	
	:	RIGHT TO KNOW APPEAL
v.	:	
	:	FINAL DETERMINATION
	:	
WEST PIKELAND	:	DA-RTKL-A NO. 2018-008
POLICE DEPARTMENT,	:	
Respondent	:	
	:	

INTRODUCTION

On May 24, 2018, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et seq.* On June 15, 2018, the request was denied. On June 22, 2018, Requester appealed to the Chester County District Attorney's Office, which was received on June 27, 2018.

For the reasons set forth in this Final Determination, the appeal is **DENIED** and the Respondent is not required to take any further action.

FACTUAL BACKGROUND

On May 24, 2018, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law (“RTKL”), 65 P.S. § 67.101, *et seq.* Requester sought the following records:

I am writing to request copies of records pursuant to Pennsylvania’s Right to Know Law, 65 P.S. §67.101 et seq. (the “Act”), which requires that public records be accessible for inspection and duplication. Please forward to my attention full and complete copies of the police report(s) concerning this incident as well as any and all documents, relating to the investigation of the above incident, whether final or in draft format, and whether stored electronically or in hard copy, including, but not limited to, the following: all written, printed, electronic, transmitted, or recorded matter and/or thing of any kind, including the originals and all non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise (including, without limitation, correspondence, memoranda, notes, diaries, statistics, letters, email, telegraphs, minutes, reports, studies, statements, summaries, communications, notations or any sort of conversation, computer printouts, teletypes, telefax, invoices, tape recording of voicemail messages, worksheets and all drafts, alterations, modifications, changes and amendments of any of the foregoing, graphic or manual records or representations of any kind, including, without limitations, photographs, charts, graphs, microfiche, microfilm, videotape, audiotape, records, motion pictures, and electronic, mechanical or electric records or representations of any kind, including, without limitation, tapes, cassettes, disks and recordings).

May 24, 2018 Letter of Stuart S. Smith, at 1.

On June 15, 2018, the request was denied for the following reasons:

Your request is denied for the following reasons, as permitted by Section 708 of the Act. The West Pikeland Township Police Department has denied your request because pursuant to section 708 (b)(16)(i) of the Right to Know Law, A record/records of an agency relating to or resulting In a criminal investigation, Including: complaints of potential criminal conduct other than a private criminal complaint is exempt from disclosure.

June 15, 2018 Letter of Sergeant Wayne O'Connell, at 1.

On June 22, 2018, Requester appealed to the appeal to the Chester County District Attorney's Office, stating in part:

I am writing to respectfully appeal the denial of my Right to Know Law request for several reasons. First, § 708 (b)(16)(i) of the Act provides an exception for records of an agency "relating to or resulting in a criminal investigation." While the Act enumerates certain valid reasons for excluding "criminal investigation" records from production none applies here. For example, valid exclusions include records identifying a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised, information made confidential by law or court order, victim information including information that might jeopardize the safety of the victim, a record that, if disclosed, would reveal the institution, progress or result of a criminal investigation or deprive a person of a fair trial or impartial adjudication, impair the ability to locate a defendant or codefendant, hinder an agency's ability to secure an arrest, prosecution, or conviction, or endanger the life or physical safety of an individual. *See: 65 P.S. § 708(b)(16)(ii)-(vi)(A-E).*

The civil claims I am pursuing on behalf of the Hillegas family, and my use of such materials to pursue these civil claims, does not and will not implicate any of these concerns. Thus, refusal to produce the records does not advance any purpose of the Act. On the other

hand, refusal to produce these critical records will compound the harm already inflicted upon the Hillegas family by depriving them of information required to pursue their civil claims which cannot be recreated or sourced elsewhere.

Moreover, it is highly likely the records are subject to discovery by the defense in any criminal proceedings initiated by the Chester County District Attorney's office. If the records are available to the perpetrator they should certainly be made available to the victims seeking compensation for the injuries caused by the perpetrator's conduct.

I am certainly willing to cooperate with the West Pikeland Township Police Department and the Chester County District Attorney to come to a reasonable agreement concerning safeguarding and limiting the use of such records as necessary and appropriate.

June 22, 2018 Letter of Stuart S. Smith, at 1-2.

On June 27, 2018, this Appeals Officer for the Chester County District Attorney's Office gave Notice to the parties of the following:

On May 24, 2018, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et. seq.*. On June 15, 2018, the request was denied. On June 22, 2018, Requester mailed an appeal to the Chester County District Attorney's Office, which was received on June 27, 2018.

Unless the Requester agrees otherwise, as the appeals officer, I shall make a final determination, which shall be mailed to the Requester and the Respondent, **within 30 days of June 27, 2018, which is July 27, 2018.** 65 P.S. § 67.1101(b)(1). If a final determination is not made within 30 days, the appeal is deemed denied by operation of law. 65 P.S. § 67.1101(b)(2). Prior to issuing a final determination, a hearing may be conducted. However, a hearing is generally not needed to make a final determination. The final determination shall be a final appealable order, and shall include a written

explanation of the reason for the decision. 65 P.S. § 67.1101(b)(3).

The Respondent should submit its response, if any, on or before July 6, 2018.

The Respondent should note: The Supreme Court has held that a Respondent is permitted to assert exemptions on appeal, even if the agency did not assert them when the request was originally denied. Levy v. Senate of Pennsylvania, 619 Pa. 586, 65 A.3d 361 (2013). **Merely citing exceptions to the required disclosure of public records or conclusory statements are not sufficient to justify the exemption of public records.** Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Cmwlth. 2013).

The Requester should submit its response, if any, on or before July 13, 2018.

The Requester should note: The Commonwealth Court has held that, pursuant to 65 P.S. § 67.1101(a), the appeal shall state the grounds upon which the Requester asserts that the record is a public record and shall address any grounds stated by the agency for denying the request. **When a Requester fails to state the records sought are public, or fails to address an agency's grounds for denial, the appeal may be dismissed.** Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013); Saunders v. Department of Correction, 48 A. 3d 540 (Pa. Cmwlth. 2012); Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011).

Any statements of fact must be supported by an Affidavit made under penalty of perjury by a person with actual knowledge. However, legal arguments and citation to authority do not require Affidavits. All parties must be served with a copy of any responses submitted to this appeal officer.

June 27, 2018 Letter of Chief Deputy District Attorney Nicholas J. Casenta, Jr.

On June 29, 2018, the Requester, by email, agreed to extend the 30 day

deadline to August 27, 2018.

On July 23, 2018, this Appeals Officer for the Chester County District Attorney's Office sent a supplemental notice to the parties requesting additional information from the parties:

On May 24, 2018, Requester filed a right-to-know request with the Respondent, pursuant to the Right to Know Law ("RTKL"), 65 P.S. § 67.101, *et. seq.*. On June 15, 2018, the request was denied. On June 22, 2018, Requester mailed an appeal to the Chester County District Attorney's Office, which was received on June 27, 2018.

On June 27, 2018, this appeals officer, sent a letter to the parties indicating that I shall make a final determination, which shall be mailed to the Requester and the Respondent, **within 30 days of June 27, 2018, which is July 27, 2018**, unless the Requester agrees otherwise. On June 29, 2018, the Requester agreed to extend the 30 day deadline, which is now August 27, 2018.

Because this Right to Know Law Appeal involves an investigation of a motor vehicle accident, I need the parties to file responses on a particular issue before I can make a final determination. Generally, a criminal investigative record is anything that contains information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing. The size, scope, or formality, of police inquiries are not relevant in determining if something is a criminal investigative record. Whether an arrest has occurred or whether a criminal investigation is ongoing or closed, are not relevant factors in determining if something is a criminal investigative record. Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed. Also, a record is not considered a public record if it is exempt under any other State or Federal Law, including the Criminal History Records Information Act.

However, information related to motor vehicle accidents does not always or necessarily “relate to” or “result in” a criminal investigation such that they would be *per se* exempt from disclosure under the Right to Know Law. See Pennsylvania State Police v. Grove, ___ Pa. ___, 161 A.3d 877, 893 (2017). Moreover, 75 Pa.C.S.A. § 3751, of the Vehicle Code, titled, “Reports by police”, provides as follows:

(a) General rule. -- Every police department that investigates a vehicle accident for which a report must be made as required in this subchapter and prepares a written report as a result of an investigation either at the time and at the scene of the accident or thereafter by interviewing the participants or witnesses shall, within 15 days of the accident, forward an initial written report of the accident to the department. If the initial report is not complete, a supplemental report shall be submitted at a later date.

(b) Furnishing copies of report. --

(1) Police departments shall, upon request, furnish a certified copy of the full report of the police investigation of any vehicle accident to any person involved in the accident, his attorney or insurer, and to the Federal Government, branches of the military service, Commonwealth agencies, and to officials of political subdivisions and to agencies of other states and nations and their political subdivisions.

(2) Except as provided in paragraph (3), the cost of furnishing a copy of a report under this subsection shall not exceed \$15.

(3) In a city of the first class, the cost of furnishing a copy of a report under this subsection shall not exceed \$25.

(4) The copy of the report shall not be admissible as evidence in any action for damages or criminal

proceedings arising out of a motor vehicle accident.

(5) Police departments may refuse to furnish the complete copy of investigation of the vehicle accident whenever there are criminal charges pending against any persons involved in the vehicle accident unless the Pennsylvania Rules of Criminal Procedure require the production of the documents.

75 Pa.C.S.A. § 3751.

Because there is a specific statute concerning reports of motor vehicle code accident investigations, I need to know the parties positions with respect to this statute, and its effect on my decision. The statute seems to say that unless there are pending criminal charges pending against any person the department shall release a copy of the report to the parties.

Questions to Answer:

1) Are there criminal charges pending against any person, if so who has been charge and with what crimes?

2) If there are no criminal charges pending, is there an ongoing criminal investigation, which will result in the filing of criminal charges?

3) If there are no criminal charges pending, and no ongoing criminal investigation, does 75 Pa.C.S.A. § 3751 require the police report be released?

The Respondent should submit its response on or before August 3, 2018.

The Respondent should note: The Supreme Court has held that a Respondent is permitted to assert exemptions on appeal, even if the agency did not assert them when the request was originally denied. Levy v. Senate of Pennsylvania, 619 Pa. 586, 65 A.3d 361 (2013). **Merely citing exceptions to the required disclosure of public records or conclusory**

statements are not sufficient to justify the exemption of public records. Office of the Governor v. Scolforo, 65 A.3d 1095, 1103 (Pa. Cmwlth. 2013).

The Requester should submit its response on or before August 10, 2018.

The Requester should note: The Commonwealth Court has held that, pursuant to 65 P.S. § 67.1101(a), the appeal shall state the grounds upon which the Requester asserts that the record is a public record and shall address any grounds stated by the agency for denying the request. **When a Requester fails to state the records sought are public, or fails to address an agency's grounds for denial, the appeal may be dismissed.** Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013); Saunders v. Department of Correction, 48 A. 3d 540 (Pa. Cmwlth. 2012); Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011).

Any statements of fact must be supported by an Affidavit made under penalty of perjury by a person with actual knowledge. However, legal arguments and citation to authority do not require Affidavits. All parties must be served with a copy of any responses submitted to this appeal officer.

July 23, 2018 Letter of Chief Deputy District Attorney Nicholas J. Casenta, Jr.

On July 25, 2018, Sergeant Wayne O'Connell responded by email, stating the following:

The matter subject to this RTK is an open criminal matter where an arrest warrant has been issued (Extradition Nationwide per Charles Gaza) and additional investigative steps need to be taken once the defendant is in custody. I do believe I have already forwarded a copy of the initial accident report as well as the public criminal complaint to the requester prior to his filing for the RTK. I have attached the arrest warrant and accident for your review. Should you have any questions or need additional information, please let me know.

July 25, 2018 Email of Sergeant Wayne O'Connell.

Attached to the July 25, 2018 email were the initial accident report and the criminal complaint including the affidavit of probable cause filed against Nicomedes Sotelo. Commonwealth v. Sotelo, Docket Number: MJ-15207-CR-0000225-2017. On November, 16, 2017, Sotelo was charged with the following:

- 18 Pa.C.S.A. § 2702 (F1)
Aggravated Assault - 2 counts
- 18 Pa.C.S.A. § 2701 (M2)
Simple Assault - 2 counts
- 18 Pa.C.S.A. § 2705 (M2)
Recklessly Endangering Another Person - 2 counts
- 75 Pa.C.S.A. § 3732.1 (F3)
Aggravated Assault by Vehicle - 2 counts
- 75 Pa.C.S.A. § 3742 (F3)
Accidents Involving Death Or Personal Injury - 2 counts
- 75 Pa.C.S.A. § 3742.1 (F3)
Accident Involving Death/Injury - Not Properly Licensed
- 75 Pa.C.S.A. § 1501 (S)
Driving Without a License
- 75 Pa.C.S.A. § 1543 (S)
Driving While Operating Privilege Suspended or Revoked
- 75 Pa.C.S.A. § 1543 (S)
Driving While Operating Privilege Suspended or Revoked
Pursuant to §§ 3802/1547B1
- 75 Pa.C.S.A. § 3714 (S)

Careless Driving

November, 16, 2017 Criminal Complaint - Nicomedes Sotelo.

On July 27, 2018, Requester responded by letter, stating in part:

I understand that the West Pikeland Township Police Department conducted a thorough and professional investigation of the motor vehicle accident. According to the Arrest Warrant provided by Sgt. O'Connell, which included a Police Criminal Complaint and an Affidavit of Probable Cause, that investigation included at least the following:

1. Obtaining a copy of a home security video from the area of Art School Road which shows a white pickup truck traveling southbound on Art School Road with a time stamp of 16:37:43 hours. At 16:37:45 hours screams for help are heard on the video;
2. Obtaining a copy of a home security videos from an area of Yellow Springs Road approximately 3 miles from the crash scene recorded on two separate cameras showing a white 1998-2003 Chevrolet Silverado Crew Cab;
3. Still images produced by Chester County Detective Gary Lynch from the video taken from the Yellow Springs Road cameras;
4. Notes of a November 1, 2017 interview with Brad Forcine, owner of Porcine Concrete and Construction;
5. Obtaining a copy of an inventory of the Porcine Concrete and Construction vehicle inventory showing only two vehicles in service described as 1998-2003 Chevrolet Silverado Crew Cab pickup trucks;
6. Notes of a November 1, 2017 interview with Mr. Porcine and Marie Barth at Forcine Concrete and Construction;

7. Notes and/or photographs of observations made of one of the two Porcine Concrete and Construction 1998-2003 Chevrolet Silverado Crew Cab pickup trucks having damage consistent with being involved in a motor vehicle crash (i.e., having two dents on the front part of the hood, with what appeared to be dried blood on the grill and an additional dent below the grill, a damaged right front headlamp housing, and damage to the corner of the right front bumper);
8. A forensic examination of the vehicle conducted by Detective Lynch at the Chester County Public Safety Training Center;
9. Notes of a telephone interview with Gabriel Amoures;
10. Notes of a telephone interview with Bob Goliash; and
11. Notes of a telephone interview with Nicomedes Sotelo.

As your July 23, 2018 letter notes, “information related to motor vehicle accidents does not always ‘relate to’ or ‘result in’ a criminal investigation such that they would be per se exempt from disclosure under the Right to Know Law.” Here, the above information was gathered by the Respondent for dual purposes: a criminal investigation based on certain of Mr. Sotelo’s actions before and after the motor vehicle accident; and, an ordinary police crash investigation where one or more crash victims were seriously injured pursuant to 75 Pa.C.S.A. § 3751.

Further, Respondent denied my RTKL request citing § 708 (b)(16)(i) of the Right to Know Law (“Act”). Section 708 (b)(16)(i) of the Act provides an exception for records of an agency “relating to or resulting in a criminal investigation.” While the Act enumerates certain valid reasons for excluding “criminal investigation” records from production none applies here. For example, valid exclusions include records identifying a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been

promised, information made confidential by law or court order, victim information including information that might jeopardize the safety of the victim, a record that, if disclosed, would reveal the institution, progress or result of a criminal investigation or deprive a person of a fair trial or impartial adjudication, impair the ability to locate a defendant or codefendant, hinder an agency's ability to secure an arrest, prosecution, or conviction, or endanger the life or physical safety of an individual. See: 65 P.S. § 708 (b)(16)(ii)-(vi)(A-E).

The civil claims I am pursuing on behalf of the Hillegas family, and my use of such materials to pursue these civil claims, does not and will not implicate any of these concerns. Thus, refusal to produce the records does not advance any purpose of the Act. On the other hand, refusal to produce these critical records will compound the harm already inflicted upon the Hillegas family by depriving them of information required to pursue their civil claims which cannot be recreated or sourced elsewhere.

Finally, it is indisputable that these records are subject to discovery in any criminal proceedings. The Pennsylvania Rules of Criminal Procedure in relevant part provide:

Rule 573. Pretrial Discovery and Inspection

(B) DISCLOSURE BY THE COMMONWEALTH

(1) MANDATORY:

In all court cases, on request by the defendant, and subject to any protective order which the Commonwealth might obtain under this rule, the Commonwealth shall disclose to the defendant's attorney all of the following requested items or information, provided they are material to the instant case. The Commonwealth shall, when applicable, permit the defendant's attorney to inspect and copy or photograph such items.

- (a) Any evidence favorable to the accused that is material either to guilt or to punishment, and is within the possession or control of the attorney for

the Commonwealth;

(b) *any written confession or inculpatory statement, or the substance of any oral confession or inculpatory statement*, and the identity of the person to whom the confession or inculpatory statement was made that is in the possession or control of the attorney for the Commonwealth;

(c) the defendant's prior criminal record;

(d) *the circumstances and results of any identification of the defendant by voice, photograph, or in-person identification*;

(e) any results or reports of scientific tests, expert opinions, and written or recorded reports of polygraph examinations or other physical or mental examinations of the defendant that are within the possession or control of the attorney for the Commonwealth;

(f) *any tangible objects, including documents, photographs, fingerprints, or other tangible evidence*; and

(g) the transcripts and recordings of any electronic surveillance, and the authority by which the said transcripts and recordings were obtained.

234 Pa. Code § 573(B)(1) (emphasis added). The scope of discovery available under Rule 573(B)(1) certainly includes the above items 1-11 (witness interviews, Mr. Sotelo's telephone interview/confession, photographs, video, and forensic inspection of the pickup truck). Therefore, those items are not protected from disclosure under the Act.

July 27, 2018 Letter of Stuart S. Smith, at 1-4 (emphasis in original).

LEGAL ANALYSIS

The Chester County District Attorney's Office is authorized to hear appeals relating to access to criminal investigative records in the possession of a local agency located within Chester County. *See* 65 P.S. § 67.503, titled, "Appeals Officer". 65 P.S. § 67.503(d)(2), titled, "Law enforcement records and Statewide officials", provides as follows: "The district attorney of a county shall designate one or more appeals officers to hear appeals under Chapter 11 relating to access to criminal investigative records in possession of a local agency of that county. The appeals officer designated by the district attorney shall determine if the record requested is a criminal investigative record."

The West Pikeland Police Department ("Respondent") is a local agency subject to the RTKL that is required to disclose public documents. 65 P.S. § 67.302. Records of a local agency are presumed "public" unless the record: (1) is exempt under 65 P.S. § 67.708(b); (2) is protected by privilege; or (3) is exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. § 67.305. "Nothing in this act shall supersede or modify the public or nonpublic nature of a record or document established in Federal or State law, regulation or judicial order or decree." 65 P.S. § 67.306.

The Respondent bears the burden of proving, by a preponderance of the evidence, that the document requested is exempt from public access. 65 P.S. §

67.708(a)(1). A preponderance of the evidence standard is the lowest evidentiary standard. The preponderance of evidence standard is defined as the greater weight of the evidence, *i.e.*, to tip a scale slightly is the criteria or requirement for preponderance of the evidence. Commonwealth v. Brown, 567 Pa. 272, 284, 786 A.2d 961, 968 (2001), *cert. denied*, 537 U.S. 1187, 123 S.Ct. 1351, 154 L.Ed.2d 1018 (2003). “A ‘preponderance of the evidence’ is defined as ‘the greater weight of the evidence ... evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other....’ Black’s Law Dictionary 1301 (9th ed. 2009).” Mitchell v. Office of Open Records, 997 A.2d 1262, 1264 n.3 (Pa. Cmwlth. 2010); *See also* Commonwealth v. Williams, 532 Pa. 265, 284-286, 615 A.2d 716, 726 (1992) (preponderance of the evidence in essence is proof that something is more likely than not).

The issue in this appeal, as with all appeals pursuant to 65 P.S. § 67.503(d)(2), is whether or not the records requested are criminal investigative records, and therefore exempt for disclosure under the RTKL.

The RTKL provides that records of an agency relating to or resulting in a criminal investigation, such as investigative materials, notes, correspondence, videos, reports, and records, may be withheld as exempt. 65 P.S. § 67.708(b),

titled, "Exceptions for public records", provides in part as follows:

(b) Exceptions. -- Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

...

(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, correspondence, videos and reports.

(iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.

(iv) A record that includes information made confidential by law or court order.

(v) Victim information, including any information that would jeopardize the safety of the victim.

(vi) A record that, if disclosed, would do any of the following:

(A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(B) Deprive a person of the right to a fair trial or an impartial adjudication.

(C) Impair the ability to locate a defendant or codefendant.

(D) Hinder an agency's ability to secure an arrest, prosecution or conviction.

(E) Endanger the life or physical safety of an individual.

This paragraph shall not apply to information contained in a police blotter as defined in 18 Pa.C.S. § 9102 (relating to definitions) and utilized or maintained by the Pennsylvania State Police, local, campus, transit or port authority police department or other law enforcement agency or in a traffic report except as provided under 75 Pa.C.S. § 3754(b)(relating to accident prevention investigations).

65 P.S. § 67.708(b).

18 Pa.C.S.A. § 9102 (relating to definitions) states in part: “**Police blotter.**’

A chronological listing of arrests, usually documented contemporaneous with the incident, which may include, but is not limited to, the name and address of the individual charged and the alleged offenses.”

18 Pa.C.S.A. § 9102 (relating to definitions) states in part: “**Investigative information.**’ Information 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.”

In Pennsylvania State Police v. Office of Open Records, 5 A.3d 473 (Pa. Cmwlth. 2010), the *en banc* Commonwealth Court found an incident report exempt from disclosure pursuant to 65 P.S. § 67.708(b)(16). The Court held that the incident report was not a public record because the incident report was not the

equivalent of a police blotter under the RTKL and the Criminal History Records Information Act (“CHRIA”).

In Pennsylvania State Police v. Grove, 640 Pa. 1, 161 A.3d 877 (2017), the Supreme Court discussed the definition of “criminal investigative records”, in part, as follows:

The RTKL requires Commonwealth agencies to provide access to public records upon request. 65 P.S. § 67.301 (“A Commonwealth agency shall provide public records in accordance with this act.”). Section 102 of the RTKL defines a “public record” as: “A record, including a financial record, of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege.” 65 P.S. § 67.102. A “record” is further defined under the RTKL as:

Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

Id. There is no dispute that MVRs are public records of an agency as defined in the RTKL and thus subject to public disclosure unless some exemption applies. We consider whether MVRs generally, and the video portions of Trooper Vanorden and Trooper Thomas’s MVRs in this matter specifically, qualify under an enumerated exemption to disclosure described in Section 708(b)(16) of the RTKL regarding “criminal investigative records.”

The RTKL provides, “the burden of proving that a record of a

Commonwealth agency ... is exempt from public access shall be on the Commonwealth Agency ... receiving a request by the preponderance of the evidence.” 65 P.S. § 67.708(a)(1). The RTKL specifically exempts from disclosure to a requester such as Grove any agency record “relating to or resulting in a criminal investigation,” including “investigative materials, notes, correspondence, videos and reports.” 65 P.S. § 67.708(b)(16)(ii). We interpret these exemptions in a manner that comports with the statute’s objective, “which is to empower citizens by affording them access to information concerning the activities of their government.” SWB Yankees LLC v. Wintermantel, 615 Pa. 640, 45 A.3d 1029, 1042 (2012).

Moreover, when the General Assembly replaced the Right to Know Act in 2009 with the current RTKL, it “significantly expanded public access to governmental records ... with the goal of promoting government transparency.” Levy, 65 A.3d at 368 “Consistent with the RTKL’s goal of promoting government transparency and its remedial nature, the exceptions to disclosure of public records must be narrowly construed.” Office of Governor v. Davis, 122 A.3d 1185, 1191 (Pa. Cmwlth. 2015), *citing* McGill, 83 A.3d at 479.

Under the Statutory Construction Act, where the words or phrases at issue are undefined by the statute itself, we must construe the words and phrases according to their plain meaning and common usage. 1 Pa.C.S. § 1903(a). The RTKL does not define the central phrase “criminal investigation” as used in Section 708(16)(b)(ii). *The plain meaning of a “criminal investigation” clearly and obviously refers to an official inquiry into a possible crime. See, e.g.,* <https://www.merriamwebster.com/dictionary/criminal> (last visited Jan. 17, 2017) (“*relating to crime or to the prosecution of suspects in a crime*”); <https://www.merriamwebster.com/dictionary/investigation> (last visited Jan. 17, 2017) (“*to investigate*” is “*to observe or study by close examination and systematic inquiry,*” “*to make a systematic examination;*” or “*to conduct an official inquiry*”).

The Commonwealth Court has previously opined that material

exempt from disclosure as “criminal investigative information” under the RTKL 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. *See, e.g., Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Cmwlth. 2014) (criminal complaint file, forensic lab reports, polygraph reports and witness statements rise to level of criminal investigative information exempt from disclosure); *Coley*, 77 A.3d at 697 (witness statements compiled by District Attorney’s office are criminal investigative records exempt from disclosure); *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 478–79 (Pa. Cmwlth. 2010) (incident report prepared by police with notes of interviews of alleged victims and perpetrators assembled during investigation exempt as criminal investigative information); *Mitchell v. Office of Open Records*, 997 A.2d 1262, 1265–66 (Pa. Cmwlth. 2010) (record pertaining to PSP’s execution of search warrant was criminal investigation exempt from disclosure under Section 708 of the RTKL). With regard to the MVRs requested by Grove in this case, we must determine whether the video aspects generally depict a systematic inquiry or examination into a potential crime.

Grove at 24-26, 161 A.3d at 891–893 (emphasis added).

In Grove, as the RTKL does not specifically define “criminal investigation” as used in § 708(16)(b)(ii), the Supreme Court held that the term “criminal investigation” refers to an official inquiry into a possible crime. In Grove, the Supreme Court agreed with the Commonwealth Court and reaffirmed that witness interviews, interrogations, testing and other investigative work, are investigative information exempt from disclosure by § 708(b)(16) of the RTKL and CHRIA. The Supreme Court also cited Commonwealth Court cases as examples of “criminal investigative information” under the RTKL, which included, but is not

limited to: (1) statements compiled by district attorneys, (2) forensic reports, (3) police reports - including notes of interviews with victims, suspects, and witnesses assembled for the specific purpose of investigation, (4) criminal complaint file, (5) lab reports, (6) polygraph reports, (7) witness statements, and (8) records pertaining to execution of search warrant.¹

Pursuant to 65 P.S. § 67.708(b)(16), records of an agency are exempt from access by a requester if the records relate to or result in a criminal investigation. When a party seeks to challenge an agency's refusal to release information by appealing that party must address any grounds stated by the agency for denying the request. Department of Corrections v. Office of Open Records, 18 A.3d 429, 434 (Pa. Cmwlth. 2011); Padgett v. Pennsylvania State Police, 73 A.3d 644, 647-648 (Pa. Cmwlth. 2013). In Department of Corrections v. Office of Open Records, 18 A.3d 429 (Pa. Cmwlth. 2011), the Commonwealth Court stated in part:

Consequently, we agree with DOC that when a party seeks to challenge an agency's refusal to release information by

¹ See also 65 P.S. § 67.708(b) (i)-(vi) [A record of an agency relating to or resulting in a criminal investigation, includes: (i) Complaints of potential criminal conduct other than a private criminal complaint; (ii) Investigative materials, notes, correspondence, videos and reports; (iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised; (iv) A record that includes information made confidential by law or court order; (v) Victim information, including any information that would jeopardize the safety of the victim; (vi) A record that, if disclosed, would do any of the following - (A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges, (B) Deprive a person of the right to a fair trial or an impartial adjudication, (C) Impair the ability to locate a defendant or codefendant, (D) Hinder an agency's ability to secure an arrest, prosecution or conviction, (E) Endanger the life or physical safety of an individual.].

appealing to Open Records, that party must “address any grounds stated by the agency for ... denying the request.” This is a typical requirement in any process that aims to provide a forum for error correction. We do not see it as a particularly onerous requirement, whether the requester has the benefit of legal counsel or is *pro se*.

DOC v. OOR at 434.

When a party seeks to challenge an agency’s refusal to release information by appealing that party must address any grounds stated by the agency for denying the request. In his June 22, 2018 and July 27, 2018 letters, Requester set forth his responses to the grounds for denying the request for records and his reasons why he asserts his appeal should be granted. These reasons, set forth above, can be summarized as follows: (1) The Right to Know Law enumerates certain valid reasons for excluding “criminal investigation” records from production and that none applies here. (2) The requested records are needed by the victims of Nicomedes Sotelo to pursuant civil claims. (3) The requested records would be provided to Nicomedes Sotelo by way of discovery in his criminal case, and that records provided to criminal defendants by way of discovery should be made available to their victims. (4) Requester also states that he will safeguard and limit the use of the requested records.

It is important to note that a requester’s identity and motivation for making a request is not relevant, and his or her intended use for the information may not be grounds for granting or denying a request. *See* 65 P.S. § 67.301(b), 65 P.S. §

67.703. These principles are fundamental to the RTKL. In DiMartino v. Pennsylvania State Police, 2011 WL 10841570 (Pa. Cmwlth. 2011), the Commonwealth Court, in a memorandum opinion,² stated in pertinent part:

As a final point, we note that, the requester's status as representative of Decedent's family has no bearing on whether the requested records are accessible through a RTKL request. We agree with the OOR that the RTKL must be construed without regard to the requester's identity. *See, e.g.*, Section 301(b) of the RTKL, 65 P.S. § 67.301(b) (stating that an agency "may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law"); Weaver v. Dep't of Corr., 702 A.2d 370 (Pa. Cmwlth. 1997) (under the former Right-to-Know Act, the right to examine a public record is not based on whether the person requesting the disclosure is affected by the records or if her motives are pure in seeking them, but whether any person's rights are fixed); Furin v. Pittsburgh Sch. Dist., OOR Dkt. No. AP 2010-0181, 2010 PA OORD LEXIS 212 (Pa. OOR 2010) (finding records exempt under Section 708(b) regardless of status of person requesting them); Wheelock v. Dep't of Corr., OOR Dkt. No. AP 2009-0997, 2009 PA OORD LEXIS 725 (Pa. OOR 2009) (stating the only information available under the RTKL is a "public record" available to all citizens regardless of personal status or stake in requested information).

DiMartino at *6 (footnote omitted). *See also* Mahoney v. Pennsylvania State Police, 339 C.D. 2011, 2011 WL 10841247 (Pa. Cmwlth. 2011).

In Hunsicker v. Pennsylvania State Police, 93 A.3d 911 (Pa. Cmwlth. 2014),

² DiMartino v. Pennsylvania State Police, 340 C.D. 2011, 2011 WL 10841570 (Pa. Cmwlth. 2011) is an unreported panel decision of the Commonwealth Court. As such, it may be cited for its persuasive value, but not as binding precedent. *See* Section 414 of the Commonwealth Court's Internal Operating Procedures.

Requester (Hunsicker) appealed a Determination of the Office of Open Records denying her request under the RTKL for access to Pennsylvania State Police records regarding an investigation surrounding her brother's death. In affirming the denial, the Commonwealth Court stated in part:

Requestor appealed the PSP's denial to the OOR contending that she lived with her brother for 35 years, that she was not a member of the general public but his sister, and that she should have special access to the information. The OOR denied her appeal because it failed to address agency grounds for denial of access and the appeal did not challenge the confidentiality of the records under CHRIA. This appeal followed.

On appeal, Requestor first contends that the materials she is requesting are referred to as an "incident" report, not an "investigative" report, implying that those records fall outside of the investigative exemption. An incident report normally refers to a report filed by the responding officers, not the entire investigative file, although, here, it appears that the investigative report was filed at the incident report number. In any event, no matter what is contained in an incident report, incident reports are considered investigative materials and are covered by that exemption. Pennsylvania State Police v. Office of Open Records, 5 A.3d 473, 479 (Pa. Cmwlth. 2010), *appeal denied*, [621] Pa. [685], 76 A.3d 540 (2013).

Even if the requested records fall within the investigative exception, Requestor contends that she is entitled to those records because she has a special need for them because, as Mr. Rotkewicz's sister, she needs to know what her brother did to cause a PSP Trooper to shoot him and to investigate a possible PSP "cover up." While we are sympathetic to Requestor's desire to understand her brother's death, her status as his sister and her reasons for requesting the records do not render records that fall within the investigative exemption accessible. ***Under the RTKL, whether the document is accessible is based only on whether a document is a public record, and, if so, whether***

it falls within an exemption that allows that it not be disclosed. The status of the individual requesting the record and the reason for the request, good or bad, are irrelevant as to whether a document must be made accessible under Section 301(b). See 65 P.S. § 67.301(b) (stating that an agency “may not deny a requester access to a public record due to the intended use of the public record by the requester unless otherwise provided by law.”).

As a corollary to this argument, Requestor contends that the investigative file should be made accessible because portions of the withheld documents are already known to her, and that if any of the record contains information that falls within an exemption to disclosure, that information should be redacted and the records then be given to her. Again, for the reasons stated above, just because she purportedly knows some of the information contained in the documents is irrelevant as to whether a document must be made accessible. Moreover, her request that the documents be redacted to the extent the records contain exempt information is based on a premise that only certain information is exempt from disclosure when, under the investigative exemption, the entire investigative report falls within the investigative exemption. 65 P.S. § 67.706(b)(16); *see also Pennsylvania State Police.*

Finally Requestor contends that the PSP Trooper who investigated the incident assured her that she would receive that information. Even assuming that the assertion is true, an individual State Trooper does not have the authority to authorize the release of documents or make PSP RTKL determinations pursuant to Section 1102, 65 P.S. § 67.1102.

Hunsicker at 913-914 (footnote omitted) (emphasis added).

In UnitedHealthcare of Pennsylvania, Inc. v. Pennsylvania Dep't of Human Servs., 187 A.3d 1046 (Pa.Cmwlth. 2018), the Commonwealth Court stated in part:

We note that neither United Healthcare's interest in obtaining the requested records for its bid protests, nor the fact that it is a

competitor of the offerors whose proposals it seeks, is relevant to this RTKL appeal. The status of the party requesting the record and the reason for the request, good or bad, are irrelevant under the RTKL. Hunsicker v. Pennsylvania State Police, 93 A.3d 911, 913 (Pa. Cmwlth. 2014).

United Healthcare, at 1051 fn.4.

Under the RTKL, it is also irrelevant whether or not the investigation is ongoing or closed. In Barros v. Martin, 92 A.3d 1243 (Pa. Cmwlth. 2014), *appeal denied*, 626 Pa. 701, 97 A.3d 745 (2014), the Commonwealth Court stated in part:

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). *See* Coley v. Philadelphia Dist. Attorney's Office, 77 A.3d 694, 697 (Pa. Cmwlth. 2013); Mitchell v. Office of Open Records, 997 A.2d 1262, 1264 (Pa. Cmwlth. 2010). ***Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed.*** Sullivan v. City of Pittsburgh, Dep't of Pub. Safety, 127 Pa. Cmwlth. 339, 561 A.2d 863, 865 (1989).

Also, a record is not considered a public record under Section 102 of the RTKL if it is "exempt under any other State or Federal Law," including the CHRIA. *See* Coley, 77 A.3d at 697. Section 9106(c)(4) of the CHRIA, 18 Pa.C.S. § 9106(c)(4), provides 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." ***The CHRIA defines "investigative information" as "information 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."*** Section 9102 of the CHRIA, 18 Pa.C.S. § 9102.

Thus, the records requested by Barros - *i.e.*, the criminal

complaint file, forensic lab reports, any confession and record of polygraph of Quinones, the “Communication Center Incident Review,” the “Internal Police Wanted Notice,” “Reports on individual mistakenly apprehended,” and three signed witness statements - are protected from disclosure under both the RTKL and the CHRIA as records “relating to ... a criminal investigation” and “investigative information,” respectively.

Barros v. Martin at 1250 (emphasis added).

Under the RTKL, in addition to a requester’s identity and motivation for making a request not being relevant, and his or her intended use for the information not be grounds for granting or denying a request, the fact that the requested records may be available through other means in also not relevant. For example, although a criminal defendant may be entitled to receive certain criminal investigative records by way of discovery he or she would not be entitled to receive the same criminal investigative record by a RTKL request. Civil and Criminal discovery law is not relevant to RTKL requests.

In Padgett v. Pennsylvania State Police, 73 A.3d 644 (Pa. Cmwlth. 2013), the Commonwealth Court stated in part:

Pursuant to Section 1101(a) of the RTKL, “[t]he appeal shall state the grounds upon which the requester asserts that the record is a public record ... and shall address any grounds stated by the agency for delaying or denying the request.” 65 P.S. § 67.1101(a). When a requester fails to state the records sought are public, or fails to address an agency’s grounds for denial, the OOR properly dismisses the appeal. *See Saunders v. Dep’t of Corr.*, 48 A. 3d 540 (Pa. Cmwlth. 2012) (affirming OOR dismissal); *Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Cmwlth. 2011) (holding an appeal that fails to

sufficiently specify the reasons for appeal should be dismissed rather than addressed by OOR).

In Department of Corrections, we outlined the sufficiency requirements for an appeal under Section 1101(a) of the RTKL. At a minimum, a requester's appeal "must address any grounds stated by the agency ... for denying the request." Dep't of Corr., 18 A.3d at 434. We reasoned a minimally sufficient appeal is a condition precedent for OOR to consider a requester's challenge to an agency denial.

More recently, in Saunders, we explained Section 1101(a) of the RTKL requires a requester "to state why the records did not fall under the asserted exemptions and, thus, were public records subject to access." Id. at 543 (agency's citation to various subsections of the RTKL, without explanation or application of exceptions, triggers requester's burden to address exemption). Because Saunders failed to address the exemptions, we affirmed OOR's dismissal of the appeal.

In this case, Requester did not state the records are public, or address the exemptions PSP cited in its response and verification. Requester stated merely that the RTKL exceptions do not apply without further explication. That does not satisfy the requirements of Section 1101(a) as we interpret that provision. Id.

Requester also did not address the agency's cited exemptions pertaining to the police report. Most notably, Requester did not discuss CHRIA, which pertains to criminal records. In fact, when he explained the reason he sought the records, Requester described them as criminal investigation records.

Requester emphasized he is entitled to the records as a party involved in the criminal investigation to which his Request relates. However, a requester's motivation for making a request is not relevant, and his intended use for the information may not be grounds for denial. See Section 301(b) of the RTKL, 65 P.S. § 67.301(b); Section 703 of the RTKL, 65 P.S. § 67.703. An explanation of why a requester

believes an agency should disclose records to him does not satisfy the requirement in Section 1101(a) to explain why the requested records are public and available to everyone. To the contrary, Requester's explanation underscores PSP's criminal investigative defenses here.

We make no decision regarding Requester's alleged entitlement to the records under an alternate legal mechanism. Entitlement does not arise under the RTKL through which citizens have a right to access public records "open to the entire public at large." *See, e.g., Coulter v. Pa. Bd. of Prob. & Parole*, 48 A.3d 516, 519 (Pa. Cmwlth. 2012) ("home plans" of parolee requester are not accessible to her under RTKL though she is subject of records; to be accessible under the RTKL, identity of the requester is irrelevant).

Padgett at 647-648 (footnote omitted) (emphasis added).

Where a record falls within an exemption under 67.708(b), it is not a public record as defined by the RTKL, and an agency is not required to redact the record and provide the remainder. 65 P.S. § 67.706, titled, "Redaction", provides:

If an agency determines that a public record, legislative record or financial record contains information which is subject to access as well as information which is not subject to access, the agency's response shall grant access to the information which is subject to access and deny access to the information which is not subject to access. If the information which is not subject to access is an integral part of the public record, legislative record or financial record and cannot be separated, the agency shall redact from the record the information which is not subject to access, and the response shall grant access to the information which is subject to access. The agency may not deny access to the record if the information which is not subject to access is able to be redacted. Information which an agency redacts in accordance with this subsection shall be deemed a denial under Chapter 9. [65 P.S. § 67.901 *et seq.*]

65 P.S. § 67.706.

In Saunders v. Pennsylvania Department of Corrections, 48 A.3d 540 (Pa. Cmwlth. 2012), the Commonwealth Court stated in part:

Petitioner's first argument addresses the sufficiency of the Department's denial of his request. Petitioner contends that because the Department's denial merely parroted the statutory language he was unable to properly respond to the Department's assertion of exemption from disclosure. Section 903 of the RTKL, 65 P.S. § 67.903, states that a denial of access shall include, inter alia, a description of the record requested and the specific reasons for the denial, including a citation of the supporting legal authority. Correspondingly, Section 1101 of the RTKL, 65 P.S. § 67.1101, requires that a party appealing a denial shall "state the grounds upon which the requester asserts that the record is a public record ... and shall address any grounds stated by the agency for ... denying the request." *See Dep't of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Cmwlth. 2011).

The Department asserted that the requested records were exempt from disclosure under five different subsections of Section 708. Petitioner is correct in noting that the Department merely parroted the statutory language. However, the Department's citations to the various subsections of Section 708 were sufficient to give him notice of the grounds for denial. Once the Department asserted that the requested records were exempt from disclosure under Section 708, Petitioner was required by Section 1101 to state why the records did not fall under the asserted exemptions and, thus, were public records subject to access. Petitioner failed to do so.

Petitioner's argument that the Department was required to produce the requested records subject to redaction of the exempt information is without merit. Section 706 provides that if an agency determines that a public record contains information that is both subject to disclosure and exempt from the disclosure, the agency shall grant access and redact from the

record the information which is subject to disclosure. Pursuant to Section 706, the redaction requirement only applies to records that are determined to be “public records.” A “public record” is defined in part as “a record, including a financial record, of a Commonwealth ... agency that: (1) is not exempt under section 708.” Section 102, 65 P.S. § 67.102 (emphasis added). Thus, a record that falls within one of the exemptions set forth in Section 708 does not constitute a “public record.” Dept. of Health v. Office of Open Records, 4 A.3d 803 (Pa. Cmwlth. 2010).

Saunders at 542-543 (footnote omitted).

In Grove, both the Supreme and Commonwealth Courts discussed the purpose of MVRs. These Courts found that MVRs are created to document a trooper’s performance of their duties in responding to emergencies and in their interactions with members of the public, not merely or primarily to document, assemble or report on evidence of a crime or possible crime. Consequently, MVRs are not *per se* criminal investigation information. However, when an MVR captures criminal investigative information that can part can be redacted. However, it is important to note that redaction is only appropriate where a public record subject to disclosure is involved. Nothing in the Grove decisions changes the discussion above that where a record falls within an exemption under 67.708(b), it is not a public record as defined by the RTKL, and an agency is not required to redact the record and provide the remainder. *See* 65 P.S. § 67.706; Heavens v. Pennsylvania Department of Environmental Protection, 65 A.3d 1069, 1077 (Pa. Cmwlth. 2013); Saunders v. Pennsylvania Department of Corrections, 48

A.3d 540, 543 (Pa. Cmwlth. 2012).

A criminal investigative record is anything that contains information 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. The size, scope, or formality, of police inquiries are not relevant in determining if something is a criminal investigative record. Whether an arrest has occurred or whether a criminal investigation is ongoing or closed, are not relevant factors in determining if something is a criminal investigative record. Criminal investigative records remain exempt from disclosure under the RTKL even after the investigation is completed. Also, a record is not considered a public record if it is exempt under any other State or Federal Law, including the Criminal History Records Information Act.

A requester's identity and motivation for making a request is not relevant, and his or her intended use for the information may not be grounds for granting or denying a request.

The RTKL provides that records of an agency relating to or resulting in a criminal investigation may be withheld as exempt. 65 P.S. § 67.708(b). The Respondent bears the burden of proving, by a preponderance of the evidence, that the documents requested are exempt from public access. 65 P.S. § 67.708(a)(1). A criminal investigative record is anything that contains information 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. After reviewing all of the submissions of the parties, including the initial accident report and the criminal complaint filed against Nicomedes Sotelo, there is more than sufficient evidence to support the determination that the documents requested are criminal investigative records and exempt from disclosure.

CONCLUSION

For the foregoing reasons, the appeal is **DENIED**, and the Respondent is not required to take any further action. This Final Determination is binding on all parties. Within thirty (30) days of the mailing date of this Final Determination, any party may petition for review, to the Chester County Court of Common Pleas, pursuant to 65 P.S. § 67.1302(a). All parties must be served with a copy of the petition. The Chester County District Attorney's Office shall also be served with a copy of the petition, pursuant to 65 P.S. § 67.1303(a), for the purpose of transmitting the record to the reviewing court. See East Stroudsburg University Foundation v. Office of Open Records, 995 A.2d 496, 507 (Pa. Cmwlth. 2010).

FINAL DETERMINATION ISSUED AND MAILED ON: August 24, 2018

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Appeals Officer for DA’s Office of Chester County

APPENDIX “C” 06/29/2018 EMAIL from Requester

APPENDIX “D” 07/23/2018 Letter of CDDA Nicholas J. Casenta, Jr., Esquire
Appeals Officer for DA’s Office of Chester County

APPENDIX “E” 07/25/2018 EMAIL from Respondent with Attachments

APPENDIX “F” 07/27/2018 Letter from Requester