



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

:

**JODIE NASH-ROTANZ,  
Requester**

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**v.**

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**Docket No: AP 2017-2072**

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**HATFIELD TOWNSHIP POLICE  
DEPARTMENT,  
Respondent**

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On November 8, 2017, Jodie Nash-Rotanz (“Requester”) submitted an appeal to the Office of Open Records (“OOR”), challenging the Hatfield Township Police Department’s (“Department”) purported denial of her request made pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* However, the Requester’s appeal submission did not include a copy of the request and the Department’s response pursuant to 65 P.S. § 67.1303(b).

On November 8, 2017, the OOR issued an Order notifying the Requester that the appeal was deficient because it failed to include a copy of the request and the Department’s response.<sup>1</sup> The OOR informed the Requester that she was required to cure the deficiency and directed her to file a copy of the request and the Department’s response pursuant to 65 P.S. § 67.1303(b). On November 9, 2017, the Requester provided a copy of the Department’s response, but explained

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<sup>1</sup> The Requester acknowledges in her appeal that she is seeking a police report connected to her son’s suicide, which have been found to be exempt under Section 708(b)(17). *See Dodson v. Caln Twp. Police Dep’t*, OOR Dkt. AP 2016-0107, 2016 PA O.O.R.D. LEXIS 220; *Baker v. Pa. State Police*, OOR Dkt. AP 2016-0686, 2016 PA O.O.R.D. LEXIS 693. However, “[a]n agency may exercise its discretion to make any otherwise exempt record accessible for inspection and copying.... *See* 65 P.S. § 67.506(c).

that she does not have a copy of the request because it was submitted to the Department by mail and she did not keep a copy. As the Requester has not provided a copy of the request, the Requester has not complied with the OOR's Order.

By failing to provide a copy of the request, the record in this appeal is not sufficient. Without this document, the OOR does not have a complete record upon which to base its determination. Additionally, the OOR would be unable to present a complete record on appeal to an appellate court as required by Section 1303(b) of the RTKL. As the Requester has failed to comply with the OOR's Order, this matter is **dismissed**.

For the foregoing reasons, the Department is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Montgomery 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 according to 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.<sup>2</sup> This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

**FINAL DETERMINATION ISSUED AND MAILED: December 6, 2017**

*/s/ Kelly C. Isenberg*

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APPEALS OFFICER  
KELLY C. ISENBERG, ESQ.

Sent to: Jodie Nash-Rotanz (via e-mail only);  
William Tierney, Chief of Police (via e-mail only)

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<sup>2</sup> See *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).