



CITY OF DUBOIS, PENNSYLVANIA

PO BOX 408 16 W. SCRIBNER AVE. DUBOIS, PENNSYLVANIA 15801

TELEPHONE: 814-371-2000

FAX: 814-371-1290

PUBLIC RECORD REVIEW/DUPLICATION REQUEST

Print Legibly, unreadable requests cannot be processed.

Requester's Name: Judy Suplizio Date of Request: 9/20/2024

Requester's Address: _____

Requester's Telephone No. _____ Fax No. _____

I request: Review Duplication (Check applicable Box) of the following records:

IMPORTANT: You must identify or describe the records with sufficient specificity to enable the City of DuBois to determine which records are being requested. Use additional sheets if necessary. A fee of .25¢ per page will be charged for duplication services.

In July 2020, the DuBois City Solicitor sent a request to the State of Pennsylvania Authorities

regarding an anonymous concerned citizen's advisement of threats and potential harm to the

City Manager and those close to him by a local citizen. Please provide a copy of the City's

investigation request to the state authorities, the investigatory response and a copy of the

referenced hate notification letter.

Judy Suplizio

Signature of Requester

This request may be submitted in Person, by Mail to:

Shawn Arbaugh, City Manager

City of DuBois

16 W. Scribner Ave

PO Box 408

DuBois, PA 15801

By Fax: (814) 371-1290

(or)

By Email: info@duboispa.gov

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.
ATTORNEYS AT LAW

RONALD N. REPAK, PARTNER
MATHEW P. GIEG, ESQUIRE

313 WEST HIGH STREET,
SUITE 209
EBENSBURG, PA 15931
PHONE: (814) 478-2220

OTHER OFFICES:
BUTLER OFFICE:
128 WEST CUNNINGHAM ST.
BUTLER, PA 16001
PHONE: (724) 283-2200

CRANBERRY OFFICE:
600 CRANBERRY WOODS DR.,
SUITE 175
CRANBERRY TWP., PA 16066
PHONE: (724) 776-6644

September 27, 2024

Judy Suplizio

Re: Right to Know Request dated September 20, 2024

Dear Ms. Suplizio,

This office represents the City of DuBois ("the City"). This letter is a formal written response to the Right to Know Request ("the request") you submitted to the City dated September 20, 2024. The request states the following:

"In July 2020, the DuBois City Solicitor sent a request to the State of Pennsylvania Authorities regarding an anonymous concerned citizen's advisement of threats and potential harm to the City Manager and those close to him by a local citizen. Please provide a copy of the City's investigation request to the state authorities, the investigatory response and a copy of the referenced hate notification letter."

Before turning to and responding to the substantive aspects of the above-quoted request, the City emphasizes that the request is facially deficient under the Right to Know Law ("RTKL"), 65 P.S. § 67.101 et seq.; specifically, section 703 of the RTKL provides, in pertinent part, 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 **and shall include the name and address to which the agency should address its response**". Here, the request contains the requester's name, date of request, and several sentences under the section of the standard RTK request form relative to the identification of the records requested. The request does **not** provide, as required by section 703 of the RTKL, the requester's "address to which the agency should address its response", nor does the request include an email to which the City could provide its response. The use of the word "shall" in section 703 of the RTKL as to a requester's obligation to include an address to which the agency should send its response is mandatory; consequently, the request does not constitute a "written

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request” under the RTKL, and, therefore, the request, as a matter of law, is not a “written” request. Because one of the conditions precedent to an agency’s duty to respond to a RTK request is that the request be “written”, the City is not required to process and formally respond to the request.

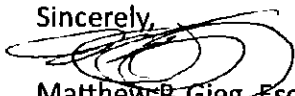
While maintaining that the City has not received a “written” request in this matter and consequently has no legal obligation to respond to the same, the City denies the request. As stated in the request, the requester seeks “a copy of the City’s investigation request to the state authorities, the investigatory response and a copy of the referenced hate notification letter”.

Section 708(b)(16)(ii) of the RTKL exempts from the definition of a public record “[a] record of an agency relating to or resulting in a criminal investigation, including . . . [i]nvestigative materials, notes, correspondence, videos and reports”. The request seeks access to and duplication of the City’s “investigative request” – i.e., investigative correspondence; “the investigatory response” – i.e., investigative reports; and a copy of the “hate notification letter” – i.e., correspondence allegedly relating to or resulting in a criminal investigation.

Regarding the subject matter and incident to which the request relates, the City is in possession of only one document, namely, an incident report of the City of DuBois Police Department in which an alleged victim is identified. In *Pa. State Police v. Office of Open Records*, 5 A.3d 473 (Pa. Commw. 2010), the Commonwealth Court addressed a request under the RTKL which sought, among other documents, a complete incident report, including the names of the victims. In *Pa. State Police*, the Court agreed with the Pennsylvania State Police’s assertion that “[i]ncident [r]eport[s] [are] wholly exempt from disclosure because [they are] criminal investigative record[s], which contain[] investigative materials and victim information”. *Id.* at 477. More specifically, the Court held that incident reports “fall within the exemption at Section 708(b)(16)(ii) and [are] not . . . public record[s]; therefore, [they] are not subject to disclosure”. *Id.* at 479. Thus, police incident reports fall within the criminal investigative record exemption *as a matter of law*. The incident report of which the City is in possession is not subject to disclosure under the RTK law and controlling legal precedent.

For the reasons set forth above, the request dated September 20, 2024, is denied in its entirety.

Sincerely,



Matthew P. Gieg, Esquire

Cc: City of DuBois