

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

IN THE MATTER OF:	:	
	:	
MICHELLE GROVE,	:	
	:	
Requester,	:	
	:	
v.	:	No. AP 2018-1288
	:	
GREGG TOWNSHIP,	:	
	:	
Respondent.	:	
	:	

RESPONDENT'S RESPONSE TO REQUESTER'S APPEAL

The Respondent, Gregg Township, hereby files this Response to Requester's Appeal, stating in support thereof as follows:

I. Factual Background

In this matter involving the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101 to 67.3104, Requester Michelle Grove ("Ms. Grove") filed a Standard Right-to-Know Request Form with Respondent Gregg Township ("Township") on June 8, 2018. Ms. Grove's request was as follows:

- * Surveillance footage of campaign sign being run over along School Street 10/10/2017 – 10/11/17, 10/15/17 - 10/16/17, 10/16/17 – 10/17/17, 11/1/17 – 11/2/17.
- * Include footage of sign being replaced.
- * Copies of any report made or letter sent to the police or Sheriff regarding the vandalism.
- * 10/1/2017 – 6/1/2018 Any emails/texts to/from township regarding the incidents. Search keywords: "sign" ELECTRONIC COPIES OR INSPECTION

Standard Right-to-Know Request Form (June 8, 2018).

Jennifer Snyder is the Right-to-Know officer for Gregg Township. In her attestation, Ms. Snyder confirms that she requested an extension of time to the request on June 18, 2018. Ex. 1,

Snyder Attestation ¶ 3. Ms. Snyder then responded to Ms. Grove’s request on July 16, 2018. *Id.* ¶ 4. In her response, Ms. Snyder indicated that the Township was denying Ms. Grove’s request. *Id.* ¶ 4. The Township’s reasons for denying the request are set forth below.

II. Legal Argument

A. The Appeal Should Be Denied Because the Request Requires the Township to Create a Record.

First, it is beyond cavil that “an agency shall not be required to create a record which does not currently exist or to compile, maintain, format or recognize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705. As noted in the Township’s response, Ms. Snyder must create a video recording to respond to Ms. Grove’s request. Because the video does not presently exist in a format that can be readily provided to Ms. Grove, the request should be denied.

B. The Appeal Should Be Denied Because the Security Camera Footage Is Exempt Under 65 P.S. § 67.708(b)(2).

Second, 65 P.S. § 67.708(b)(2) allows a local agency to withhold the following information:

A record maintained by an agency in connection with the military, homeland security, national defense, law enforcement or other public safety activity that, if disclosed, would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity or a record that is designated classified by an appropriate Federal or State military authority.

In this case, Ms. Grove has requested security footage from the Old Gregg School. The Old Gregg School is an open municipal building. As set forth in the Township’s response to the request, disclosing security footage of the Old Gregg School—even from the Old Gregg School’s security system—would require disclosure of sensitive information relating to the public safety

aspects of the facility and thereby make otherwise confidential information public. For these reasons, the appeal should be denied.

C. The Appeal Should Be Denied Because the Security Camera Footage Is Exempt Under 65 P.S. § 67.708(b)(3).

Third, 65 P.S. § 67.708(b)(3) allows a local agency to withhold “[a] record, the disclosure of which creates a reasonable likelihood of endangering the safety or the physical security of a building, public utility, resource, infrastructure, facility or information storage system.” For the reasons set forth above, disclosing the security footage of the Old Gregg School would create a reasonable likelihood of impairing and/or limiting the physical security of the building and its resources.

D. The Non-Video Records Sought Relate to a Criminal and/or Noncriminal Investigation.

Finally, as noted in Ms. Grove’s request, the Centre County Sheriff was involved with the matter referenced in the request. 65 P.S. § 67.708(b)(16) and (17) authorize the Township to withhold records relating to a criminal and noncriminal investigation, respectively. Any “report made or letter sent to the police or Sheriff regarding the vandalism” falls within the foregoing exceptions, since those communications involved providing information to law enforcement personnel about this incident. Moreover, as stated in Ms. Snyder’s attestation, the only communications relating to this incident were the same communications set forth above, again with law enforcement personnel. The same exceptions, therefore, apply to those communications.

III. Conclusion

For the reasons set forth above, the Respondent, Gregg Township, respectfully requests that the appeal filed by the Requester, Michelle Grove, be denied.

Respectfully submitted,



David S. Gaines, Jr.

Pa. I.D. No. 308932

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Counsel for Respondent

Dated: July 27, 2018

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

IN THE MATTER OF:

MICHELLE GROVE,

Requester,

v.

GREGG TOWNSHIP,

Respondent.

No. AP 2018-1288

ATTESTATION OF JENNIFER SNYDER

I, Jennifer Snyder, make the following attestation under the penalty of perjury:

1. I am the Right-to-Know Officer for the Respondent, Gregg Township.
2. I received a Standard Right-to-Know Request Form from Michelle Grove on June

8, 2018, which requested the following information:

- * Surveillance footage of campaign sign being run over along School Street 10/10/17-10/11/17, 10/15/17-10/16/17, 10/16/17-10/17/17, 11/1/17-11/2/17.
- * Include footage of sign being replaced.
- * Copies of any report made or letter sent to the police or Sheriff regarding the vandalism.
- * 10/1/2017-6/1/2018 Any emails/texts to/from township regarding the incidents. Search keywords: "sign" ELECTRONIC COPIES OR INSPECTION

3. On June 18, 2018, I provided a request to extend the time to respond to Ms. Grove's request by thirty days. A copy of that request to extend time is included with Ms. Grove's appeal.

4. I responded to the request on July 16, 2018. A copy of that response is included with Ms. Grove's appeal. The date on the letter sent to Ms. Grove was incorrect. It was inadvertently dated June 18, 2018 instead of the correct date of July 16, 2018.

I. Ms. Grove's Request for Surveillance Footage

5. The Township denied Ms. Grove's request for surveillance footage for several reasons.

6. First, the requested surveillance video does not exist, and the Township would be required to create a record to respond to Ms. Grove's request.

7. More specifically, the Township does not maintain the surveillance video in the manner requested by Ms. Grove—i.e., security footage from one specific time to another, in a continuous recording.

8. Instead, the Township's surveillance video automatically loops, and to remove the footage from that loop, the Township must undertake a series of "backup" steps.

9. In short, the Township would need to create the record requested by Ms. Grove.

10. Second, disclosing the requested surveillance video would jeopardize public safety.

11. The Old Gregg School is a former school building that the Township has converted into a community building.

12. The Old Gregg School is open to the public every day from 8:30 a.m. to 9:30 p.m.

13. The Township rents portions of the Old Gregg School to private groups, and allows the public to use the remaining portions of the building at its leisure.

14. For example, the Old Gregg School contains a gymnasium for athletic and entertainment events, and the basement of the Old Gregg School is used as a workout facility.

15. As the owner, landlord, and primary user of the Old Gregg School, the Township is responsible for ensuring public safety at the Old Gregg School.

16. The Township does not actively patrol the Old Gregg School for safety, meaning that the Township does not provide security services to ensure the safety of individuals in the Old Gregg School.

17. Instead, the Township relies on the relevant security cameras to ensure safety and verify that the public uses the Old Gregg School in an appropriate manner.

18. The Township installed the security cameras after a security assessment by, and at the recommendation of, local security officials, including a police lieutenant and the current Sheriff of Centre County.

19. After the aforementioned security assessment, the Township proceeded to install security cameras for safety and security reasons.

20. It was understood throughout the security assessment process that information relating to the cameras and other security equipment would be kept private.

21. While some of the security cameras are conspicuous to passive users of the building, other security cameras are not necessarily obvious to passers-by.

22. What is more, the extent to which the security cameras can capture the activities in the Old Gregg School is unknown to the public, meaning, for example, that users of the Old Gregg School are unaware of the width of the camera lenses' angles, especially as it relates to front door access.

23. All of the information set forth above, including the location of cameras and the extent to which the cameras can monitor the activities at the Old Gregg School, is confidential.

24. Neither Ms. Grove nor any member of the public knows the manner in which, or the extent to which, the front door security camera records people coming and going from the building.

25. Although Ms. Grove seeks surveillance footage from outside the building, the surveillance footage that she seeks will require the Township to provide footage from the entrance to the Old Gregg School.

26. For the foregoing reasons, disclosing the foregoing information would breach the Township's prior efforts to maintain the confidentiality of this important security system.

27. Third, disclosing the security footage would create a reasonable likelihood of endangering the safety or physical security of the Old Gregg School.

28. This reasoning is in line with the reasoning set forth above, namely that the security cameras are the primary means of ensuring safety at the Old Gregg School, which is left unmonitored on a daily and nightly basis.

29. Fourth, the records relating to the campaign sign being run over relate to a criminal and noncriminal investigation.

30. As noted in Ms. Grove's request, this matter involved the removal of a campaign sign in front of the Old Gregg School, which was later investigated—and may still be under investigation—by law enforcement personnel in Centre County.

II. Ms. Grove's Request for Reports to Police

31. In addition to the reasons set forth above, the Township denied the requested reports or letters to the police or sheriff because such records relate to a criminal and noncriminal investigation.

32. At the time, law enforcement personnel were investigating the incident that forms the basis of Ms. Grove's request.

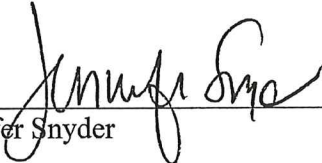
33. The Township is unaware whether or not those bodies are still investigating the matter.

III. Ms. Grove's Request for Emails and Text Messages Relating to the Foregoing Matters

34. The only emails or text messages relating to this incident involve communications with law enforcement.

35. For this reason, and similar to the matters set forth above, the Township withheld these records because they relate to a criminal and noncriminal investigation.

36. I hereby certify that the facts contained in the foregoing Attestation are true and correct to the best of my knowledge, information, and belief, and that I make this Attestation subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


Jennifer Snyder

Dated: July 27, 2017

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

IN THE MATTER OF:

MICHELLE GROVE,

Requester,

v.

GREGG TOWNSHIP,

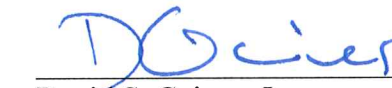
Respondent.

No. AP 2018-0605

CERTIFICATE OF SERVICE

I, David S. Gaines, Jr., hereby certify that a true and correct copy of this Response to Requester's Appeal was served by United States first-class mail, postage prepaid, on this twenty-seventh day of July, 2018, addressed as follows:

Michelle Grove
P.O. Box 253
Spring Mills, PA 16875



David S. Gaines, Jr.

Dated: July 27, 2018