

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Richard Crawford,	:
	: No. 1905 C.D. 2012
Petitioner	: Submitted: June 14, 2103
	:
v.	:
	:
District Attorney of	:
Bedford County, PA,	:
	:
Respondent	:

BEFORE: HONORABLE DAN PELLEGRINI, President Judge  
HONORABLE MARY HANNAH LEAVITT, Judge  
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY SENIOR JUDGE FRIEDMAN

FILED: July 11, 2013

Richard Crawford petitions for review, *pro se*, of the September 7, 2012, final determination of the Office of Open Records (OOR), which dismissed Crawford’s appeal from the decision of the Bedford County Office of the District Attorney (District Attorney) denying his request for records under the Right-to-Know Law (Law).<sup>1</sup> We affirm.

On August 17, 2012, pursuant to the Law, Crawford mailed a request to the District Attorney seeking criminal investigative records relating to his criminal prosecution in 2005. In a letter dated August 23, 2012, the District Attorney denied

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<sup>1</sup> Act of February 14, 2008, P.L. 6, 65 P.S. §§67.101-67.3104.

the request, stating that the documents were not subject to disclosure under the Law. Crawford appealed to the OOR.

On September 7, 2012, the OOR issued a final determination dismissing the appeal, stating that the “OOR lacks jurisdiction over local agency criminal investigative records.” (OOR Final Determination, 9/7/12, at 1.) Crawford filed a petition for review with this court.<sup>2</sup>

Crawford maintains that the District Attorney erred in determining that the requested records were exempt under the Law and that the OOR merely rubber-stamped the District Attorney’s refusal to produce the records. We agree with the OOR, however, that it lacked jurisdiction and that the OOR, therefore, properly dismissed Crawford’s appeal.

The procedure for filing an appeal from the denial of a request for records is set forth in section 1101(a) of the Law, which provides:

### **Filing of appeal**

#### **(a) Authorization.—**

(1) If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) within 15 business days of the mailing date of the agency’s response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester

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<sup>2</sup> “The issues presented involve statutory interpretation and are pure questions of law over which our standard of review is *de novo* and our scope of review is plenary.” *Hearst Television Inc. v. Norris*, \_\_\_ Pa. \_\_\_, \_\_\_, 54 A.3d 23, 29 (2012).

asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.

(2) Except as provided in section 503(d), in the case of an appeal of a decision by a Commonwealth agency or local agency, the Office of Open Records shall assign an appeals officer to review the denial.

65 P.S. §67.1101(a).

Pursuant to section 503(d)(2) of the Law, 65 P.S. §67.503(d)(2), the District Attorney must appoint an appeals officer to hear and consider appeals relating to requests for criminal investigative records. Section 503(d)(2) of the Law provides:

**(d) Law enforcement records and Statewide officials.—**

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(2) 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.

65 P.S. §67.503(d)(2).

Here, rather than appealing to the appeals officer designated by the District Attorney, Crawford erroneously appealed to the OOR. Because the OOR did not have jurisdiction over Crawford's request for criminal investigative records, the

OOR could not consider the merits of Crawford's appeal and, therefore, it properly dismissed the appeal.

Accordingly, we affirm the final determination of the OOR.

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ROCHELLE S. FRIEDMAN, Senior Judge

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ORDER

AND NOW, this 11<sup>th</sup> day of July, 2013, the September 7, 2012, final determination of the Office of Open Records, is hereby affirmed.

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ROCHELLE S. FRIEDMAN, Senior Judge