



PENNSYLVANIA STATE POLICE
Bureau of Records & Identification
RIGHT-TO-KNOW OFFICE
1800 Elmerton Avenue
Harrisburg, PA 17110

Mailing Date: August 19, 2013

Sent via electronic mail only.

Ryan Bagwell
5219 Shorecrest Drive
Middleton, Wisconsin

OOR Docket No.: AP 2013-0879

Dear Mr. Bagwell:

On July 31, 2013, the Pennsylvania State Police (PSP) provided you with a correspondence describing our efforts to ascertain the existence of emails and to secure records in accordance with the Final Determination of Appeals Officer Kyle Applegate, Esquire, dated July 1, 2013. In response, on August 4, 2013, you sent PSP an email requesting "greater efforts" to comply with your initial request for records.

Although the PSP's efforts to locate these records has been satisfied in accordance with the spirit of the Right to Know Law, the PSP has once again taken necessary actions to attempt to secure the records.

To that extent, in reference to the single correspondence dated January 13, 2012, Commissioner's log # 41482, which was addressed to the Office of the Attorney General and copied to PSP, the PSP Bureau of Criminal Investigation (BCI) once again has gone through its filings and determined the correspondence was not in its files. Further BCI's Administrative Officer contacted the Director of BCI and the Director of Special Investigations regarding the existence of the document. Neither PSP official had the document. Finally, an investigator who had knowledge of the Sandusky investigation was contacted and, again, he advised that he did not possess the document.

Additionally, upon further review, the Commissioner's log indicates the correspondence logged under #41482 was **from** an individual to Attorney General Kelly, (PSP carbon copied) **regarding** Louis Freeh. Accordingly, the document itself may not even be within the scope of your initial request.

PSP disagrees that the holding in *Edinboro University of Pennsylvania v. Bret Ford*, 18 A.3d 1278 (Pa. Commw. Ct. 2011), requires the PSP to attempt to obtain the correspondence from the Office of Attorney General, another independent

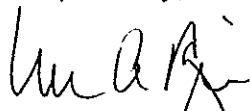
Commonwealth agency which may or may not invoke various RTKL exemptions in releasing the document, even if it possesses the document. Regardless, it is unclear what legal authority would compel the Office of the Attorney General to comply with a PSP demand for the document.

Likewise, in regards to searching for emails that may have been sent to the PSP from Louis Freeh, Omar McNeil, Tom Cloud or Greg Paw, since no identified person was named as a receiver of the emails, and no subject was provided, PSP once again contacted the likely recipients, the Director of BCI, the Director of Special Investigation and those involved in the Sandusky investigation for further corroboration. Once again, those individuals stated they never received nor possessed any emails from the named individuals. Further, the PSP once again sought the assistance of the Office of Administration, in particular, Mr. Glenn Burkhart, Manager of Enterprise Messaging. Mr. Burkhart reiterated his previous conclusion in direct response to your direction to access emails. Mr. Burkhart again stated,

"Message tracking logs are not kept forever due to available storage capacity. The message tracking logs for items sent that long ago have been deleted to ensure there is enough disk capacity to track current message flow. As for exporting the mail as the attachment describes, without the message tracking logs, we have no indication of which mailbox contains the email in question to export."

Therefore, the PSP has once again made a dutiful attempt to locate the document and emails requested in your original RTKL request. With this, the PSP has satisfied its obligation under the RTKL and will take no further action unless otherwise directed by the Office of Open Records.

Respectfully,



William A. Rozier, J.D.
Agency Open Records Officer
Pennsylvania State Police
Bureau of Records & Identification
Right-to-Know Office
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110
1.877.785.7771 (Main)
717.525.5795 (Fax)

cc: Appeals Officer Kyle Applegate, Esquire
Pennsylvania Office of Open Records.