



# pennsylvania

OFFICE OF OPEN RECORDS

## FINAL DETERMINATION

**IN THE MATTER OF**

**THOMAS WISNIEWSKI,  
Complainant**

**v.**

**DEPARTMENT OF CORRECTIONS,  
Respondent**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Docket No. AP 2010-0884**

## **INTRODUCTION**

Thomas Wisniewski (the “Requester”) submitted a request to the Department of Corrections (“DOC”) pursuant to the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, (“RTKL”), seeking commissary records and reports. DOC denied as to commissary reports, alleging non-existence. The Requester timely appealed to the Office of Open Records (“OOR”). For the reasons set forth in this Final Determination, the Requester’s appeal is **dismissed as moot**.

## **FACTUAL BACKGROUND**

On July 28, 2010, the Requester submitted a right-to-know request seeking commissary records, including a report showing the total number of rejected commissary orders from June 1 to July 31<sup>st</sup>, 2010 (the “Request”). After invoking a thirty-day extension, Andrew Filkosky, Open Records Officer (ORO), timely denied access under Section 705 stating that these records do not exist (“Denial”). The Requester timely appealed, arguing the information is public and the records exist electronically as part of a weekly scanning process that calculates the number of commissary orders rejected and accompanying reason.

During the pendency of the appeal, DOC noted that it denied the Request in error and provided 383 pages at no cost to the Requester showing the rejected orders and reasons for the rejection with corresponding dates (“Report”). The DOC submitted a copy of the Report to the OOR. There is no dispute regarding the public nature of the record.

### **LEGAL ANALYSIS**

Based upon the DOC’s submission of the Report, which shows the rejected orders and reasons for the corresponding dates as requested, the OOR finds that the Request has been satisfied. As there is no matter of dispute before it and responsive records have been supplied, the OOR dismisses the appeal as moot.

### **CONCLUSION**

For the foregoing reasons, the appeal is **dismissed as moot**. This Final Determination is binding on the parties. Within thirty (30) days of the mailing date of this Final Determination, either party may appeal or petition for review to the Commonwealth Court. 65 P.S. §67.1301(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 court rules. This Final Determination shall be placed on the website at: <http://openrecords.state.pa.us>.

**FINAL DETERMINATION ISSUED AND MAILED: October 26, 2010**



**LUCINDA GLINN, ESQ.  
APPEALS OFFICER**

Sent to: Thomas Wisniewski; Theron Perez, Esq. for DOC