



undersigned appeals officer each sent correspondence to the Fire Department notifying the Fire Department of the appeal. The Fire Department was informed that it bears the burden of overcoming the presumption of openness for any records in its possession, and was invited to provide information in support of its position. No response was received by the Fire Department.

### **LEGAL ANALYSIS**

The OOR is authorized to hear appeals for all Commonwealth and local agencies. 65 P.S. §67.503(a). The Fire Department qualifies as a local agency subject to the RTKL and its obligations of mandatory disclosure. *See* 65 P.S. §67.102, §67.302. *See, e.g., Hanes v. Sugar Grove Vol. Fire Dept.*, OOR Dkt. AP 2009-1147; *Brown v. Frystown Community Fire Dept.*, OOR Dkt. AP 2009-0199). The rationale and holding in *Brown* are incorporated by reference. A record in possession of a local agency is presumed to be public unless it is exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. §67.305.

The Fire Department did not respond to the OOR or provide any grounds for withholding the record. Presuming that such a record exists within its possession or control, as an agency subject to the RTKL, the Fire Department must disclose it. Accordingly, the Appeal is granted.

### **CONCLUSION**

For the foregoing reasons, the Requester's appeal is **granted**, and the Fire Department is directed to provide its fire report, with any personal identification information redacted, to the Requester within thirty (30) days unless it can show that such a report is statutorily exempt.

This Final Determination is binding on the parties. Within thirty (30) days of the mailing date of this Final Determination, either party may appeal to the Fayette or Westmoreland County Court of Common Pleas. 65 P.S. §67.1302(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: March 22, 2010**

A handwritten signature in cursive script that reads "Lucinda Glinn".

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**LUCINDA GLINN, ESQ.  
APPEALS OFFICER**

Sent to: Carl Miller; Fire Department – ATTN: Records Officer