



pennsylvania

OFFICE OF OPEN RECORDS

AMENDED FINAL DETERMINATION

IN THE MATTER OF

**DARLENE MALEY,
Complainant**

v.

**GREENE COUNTY,
Respondent**

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Docket No. AP 2010-0065

INTRODUCTION

Darlene Maley (the “Requester”) submitted a request to Greene County (“County”) seeking the County prison policies and procedures on visitation pursuant to the Right-to-Know Law, 65 P.S. §§67.101 *et seq.*, (“RTKL”). The County advised the record does not exist in its files, and it does not know its whereabouts. 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 **granted**, and the County is required to take further action as directed.

FACTUAL BACKGROUND

On January 22, 2010, the Requester re-submitted a right-to-know request via e-mail seeking “a copy of the policy and procedure for the Greene County Prison for an inmate’s visitation and release information,” particularly if an inmate has an incident while incarcerated (the “Request”).

The County provided two pages regarding the visitation policy and advised the Requester that it can no longer honor e-mailed requests (“Denial”). The Requester appealed because the County did not provide any information regarding its inmate release policy as requested.

Although asked to state the basis for its partial denial, the County did not explain its grounds for withholding the policy/procedures pertaining to inmate release, particularly as affected by behavior. No additional material was submitted.

LEGAL ANALYSIS

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. §67.503(a). The County is a local agency subject to the RTKL that is required to disclose public records. 65 P.S. §67.302. Records of a local agency are presumed to be “public” unless the record is: (1) exempt under Section 708(b); (2) protected by a privilege; or (3) exempt from disclosure under any other Federal or State law or regulation or judicial order or decree. 65 P.S. §67.305. The County did not respond to the part of the Request that sought policies or procedures on release of inmates. As the County did not assert any basis to withhold such records and did not assert that responsive records do not exist, they are presumed public and must be provided.

CONCLUSION

For the foregoing reasons, the Requester’s Appeal is **granted**. The County is required to disclose the policy/procedure regarding inmate release, to include any policies that would change the release date due to inmate conduct within thirty (30) days.

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 Greene 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: February 22, 2010


LUCINDA GLINN, ESQ.
APPEALS OFFICER

Sent to: Darlene Maley; Cheryl Cowen, Esq. for County



pennsylvania
OFFICE OF OPEN RECORDS

February 24, 2010

Via U.S. Mail

Darlene Maley
141 Pine Street
Jefferson, PA 15344

Cheryl Cowen, Esq.
769 Lippencott Rd.
Waynesburg, PA 15370

Re: AP 2010-0065, *Maley v. Greene County Prison* (“County”)

CORRECTED CAPTION INDICATING PROPER YEAR FOR DOCKET #


Dear Parties:

Please see attached a corrected copy of the first page of the signed Final Determination for your records to indicate the proper docket number. Note that it signifies that the Final Determination has been “Amended.” The only change is from 2009-0065 to **2010-0065**. Kindly excuse any inconvenience this may have caused and note the proper docket number for appeal.

Please be advised that the corrected copy will be posted on the website, and does not alter the actual issuance and mailing date of **February 22, 2010** from which any appeal should be calculated.

Thank you for your kind attention to this matter.

Very truly yours,


Lucinda Glinn
Appeals Officer

Encl.



pennsylvania

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Do not use - Please see Amended Final Determination

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LUCINDA GLINN, ESQ.
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Sent to: Darlene Maley; Cheryl Cowen, Esq. for County