

**Brawley, Maryanne**

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**From:** Bill White [whitelyte@whitelyte.com]  
**Sent:** Wednesday, October 27, 2010 4:32 PM  
**To:** DC, OpenRecords  
**Subject:** RTKL AP 2010-0856 Request for Reconsideration  
**Attachments:** header.htm; editdata.mso

PENNSYLVANIA OFFICE OF OPEN RECORDS

William D. White,

Complainant,

vs.

Pennsylvania State Police,

Respondent.

AP 2010-0855

AP 2010-0856

Complainant's  
Request for Reconsideration

-

-

Filed on behalf of Complainant,

William D. White

William D. White, **PRO SE**  
16 East Manilla Avenue  
Pittsburgh, PA 15220-3306  
412-922-3834

PENNSYLVANIA OFFICE OF OPEN RECORDS

William D. White,

Complainant,

vs.

Pennsylvania State Police,

Respondent.

AP 2010-0855

AP 2010-0856

Complainant's  
Request for Reconsideration

Complainant's Request for Reconsideration

1. Complainant, William D. White, requests Reconsideration of the Final Determinations in this matter.
  - a. Respondent has acted in Bad Faith, providing false information in response to the RTKL requests, and misleading this appeal.
  - b. The words "compile", "format" and "list" are Terms of Art and have been misconstrued.
  - c. The substitution of a non-RTKL or 'courtesy' response defeats the purpose of RTKL, and is a denial of access, as this appeal failed to produce the requested public records, and validated a fraudulent response.

ARGUMENT

2. Respondent has acted in Bad Faith, preparing an incompetent and false Affidavits and lists, and withholding the responsive documents. **Complainant's Exhibit 1**
- a. The verification that PSP did not have a record of police departments and dates of service was misleading and false. A **Change In Status form SP-8 502** is **required** to be filed with MPOETC within ten days for any hiring **or** separation, and MPOETC/PSP has provided the SP-8 502 **hiring** forms from Whitaker and Braddock, among several others, for Bielich. The SP-8 502 form contains the name of the employing police department, and the date of hire or separation, the exact information requested, and is signed by the officer and the Chief of that department authorizing certification/de-certification of the officer within that jurisdiction. Police powers are not authorized until MPOETC actually issues a certificate to the officer **after** receiving the completed SP-8 502. The officer is required to surrender their certificate with the separation SP-8 502 to MPOETC/PSP. PSP/MPOETC had at all relevant times the responsive records being sought.
- b. **Braddock Borough denies that the subject is presently employed by them**, and has not been for over six months. **Complainant's Exhibit 2**. Respondent has provided the previous hiring SP-8 502, **Complainant's Exhibit 3**, but has not provided the separation SP-8 502 from Braddock Borough or the returned certificate, and Ofc. Leader has falsely stated that Bielich is presently employed by Braddock. There is no current hiring SP-8 502, nor a separation SP-8 502 and certificate for the second stint of employment. Further, it appears that Bielich failed to surrender his certificate in 2006, and did not re-apply in 2009. The Borough confirms that it has no "Application by the Chief of Police for certification of Mr. Bielich." and cannot provide it in response to an RTKL request.
- c. **Whitaker Borough also denies that Bielich is presently employed by them**, and has not been for over six months. Respondent has provided the hiring SP-8 502, **Complainant's Exhibit 4**, but has not provided the separation SP-8 502 from Whitaker Borough or the returned certificate, and Ofc. Leader has falsely stated that Bielich is presently employed by Whitaker. Whitaker has also denied a request for "all" public records of Bielich. **Complainant's Exhibit 5**.
- d. **Glassport Borough** states "there are no public records in the possession of the Borough of Glassport with regard to crime victims' compensation" in response to a request for "all public

information regarding Nicholas Bielich”, and fails to provide confirmation of employment or certification of Bielich.

- e. **Washington Township** will only state “Nicholas Bielich was a township police officer for a period of time” in response to a request for “all public information regarding Nicholas Bielich”, and fails to provide confirmation of employment or certification of Bielich.
- f. **Elizabeth Borough** denies the request for “all public information regarding Nicholas Bielich” as failing to conform to Section 703 as not specific enough, and fails to provide confirmation of employment or certification of Bielich.
- g. **Braddock Hills Borough claims they have no records of any kind** although they acknowledge through counsel that Bielich was voted to be employed by their Council. They have offered, and have been requested, certified copies of the council meeting minutes, but I have never received them, and their attorney threatens legal reprisal if I keep asking for different kinds of records, some of which are general in nature, such as the Borough’s employee moonlighting policy or insurance coverage, and which response they could limit to only that which applies to Bielich. They do not provide any records of any kind, baiting a general appeal to OOR, delaying and obstructing access to official government information, keeping secret or concealing Bielich’s public record or what happened to it if it truly does not exist. RTKL must find out what happened to the public record in Braddock Hills.
- h. The Affidavit and list by Ofc. Leader is not a response as contemplated by RTKL. RTKL is intended to provide prompt access to the actual records containing the information requested. Any response other than to produce the requested public record is a denial of the request for access. In this case, copies of **all** SP-8 502 Change in Status forms would be completely responsive to the request for a ‘list’ of **all** departments/dates of employment. The Affidavits and list by the Leader/Young collaborations are not a substitute for an SP-8 502, which must be signed by the Chief of Police and the officer, nor would MPOETC issue or recover any certificate based on the Affidavits. The Affidavits contains false, misleading or fraudulent information and are not “official government information” as contemplated by RTKL. The Affidavits are completely spurious and a decoy to conceal and keep secret the actual status or qualifications of a public employee in defiance of RTKL.

- i. The Affidavit and list by Ofc. Leader defeats the purpose of RTKL.
  - i. The RTKL is “designed to promote access to official government information in order to prohibit secrets” Ofc. Leader was insubordinate, and obstructed access when he elected to “gather information...and create a list” rather than provide the SP-8 502’s that contained the exact information requested, albeit in a different format than requested. He was not requested, expected nor required to ‘create’ a list, and kept secret the SP-8 502’s containing the official government information requested.
  - ii. The RTKL is “designed to...scrutinize the actions of public officials”. Ofc. Leader concealed and kept secret the official actions taken by the local departments, particularly in Whitaker and Braddock, and conceals the failure of MPOETC/PSP to decertify Bielich or recover his certificates for Whitaker & Braddock, and Ms. Young’s Affidavit conceals and keeps secret Bielich’s actual qualifications regardless of where or when he worked, and if certificates were properly issued or recovered.
  - iii. The RTKL is “designed to...make public officials accountable for their actions”. Ofc. Leader and Ms. Young concealed and kept secret the actual status and qualifications of Bielich, and if an SP-8 502 & certificate were received from either Borough, or if MPOETC has failed to process them. Public Officials cannot be held accountable if their actions are concealed and kept secret, or if false information as to their activities is put forth. Ofc. Leader and Ms. Young must be held accountable for obstructing RTKL requests and unsworn falsification.
- j. The Affidavit and list by Ofc. Leader is fraudulent, as Ofc. Leader fabricated the information that Bielich was currently employed at any department.
  - i. Ofc. Leader, as Open Records Officer, is not competent to attest to the current employment status of Bielich, or prepare a list of departments and dates of employment, or create any such records, as he is not MPOETC, exercises none of their powers, and cannot interpret their records for them. His authority is limited to responding to RTKL requests by providing the actual records, not creating new ones beyond his authority. He can only attest to the existence of a record at MPOETC, not interpret its content or create a new record that only MPOETC can

generate. Ms. Young has apparent authority as Administrative Officer of MPOETC to make an Affidavit as to Bielich's current status and qualifications, Ofc. Leader does not.

ii. Ofc. Leader intentionally fabricated false information. SP-8 502's only indicate a change in status, not the nature or duration of employment. Current employment cannot be inferred from the hiring SP-8 502, and requires a completely separate inquiry to determine status if a separation SP-8 502 had not been received by MPOETC. Ofc. Leader has no basis for stating that Bielich is presently employed by any department, particularly Braddock and Whitaker, as that information is not contained in the records he examined and there is no basis for any assumption that Bielich remained employed for any length of time at any department.

3. The words "list", "compile" and "format" are Terms of Art and have been misconstrued.

- a. "list" is a Term of Art in reference to a database, and is the inevitable result of any search of the database. The database itself is a list containing all records in the database. Any search for a particular record results in a 'list' that always consists of {}, {FALSE}, or {TRUE}, i.e., no search results are returned, the result contains no records, or the result contains the record(s). In this case, the 'list' consists of the collection of SP-8 502's with Bielich's name on them that contain a department name and the date of change in employment status.
- b. "list" has been misconstrued to mean reformat the information, which MPOETC/PSP is not required to do, and is an unreasonable interpretation of the record request. The raw SP-8 502's, without any alteration or collection of new information, completely satisfy the request for a 'list' of employing departments and dates of employment, albeit formatted other than a list on a single page.
- c. "Compile" means to gather anew. RTKL does not require the gathering of new information into the database. In this case, the badge number of the officer is not currently maintained by PSP/MPOETC and they do not have to compile a record containing badge numbers. The existing information is not 'compiled' unless it is altered in some way, creating new information. For example, the SP-8 502 contains the officer's social security number. The record is not 'compiled' if this information is redacted, since it has not been altered. The record is 'compiled' if another number is substituted, like a badge number, creating a new record. The record is also 'compiled'

if it did not contain an ID number and one is added. One further example, if badge number were maintained on another document, providing both documents would not be 'compiling' the record, and combining the two documents is reformatting, not compiling.

- d. "format" means to change items from their native form into a pre-defined form. For example, this electronically generated text is formatted as the Times New Roman font. This text is formatted in the Courier New font. Formatting does not alter content, only appearance. RTKL does not require reformatting such as restructuring a form or altering fonts so long as the content is not altered and is intelligible. RTKL does require reformatting to the extent of rendering a record accessible, such as expanding and printing a microfilm image, or printing an electronic document in black ink on white paper, not black paper.
  - e. "format" has been misconstrued to mean "compile & reformat". In this case, PSP objects that it does not have to assemble a 'list' of employers/dates, since it does not already do so. However, as defined above, the stack of native format SP-8 502's is inherently that 'list' and is already maintained by PSP/MPOETC, and does not require gathering new information or reformatting to respond to the request.
4. Ofc. Leader has engaged in wordplay to obfuscate and delay these matters. SP-8 502 forms are completely responsive to the request for a listing of employment, and do not have to be altered in any way to accurately and completely respond to the request for records. Rather than provide the records, Ofc. Leader "gathered information ...created a list", and has not provided SP-8 502's for separation from Whitaker or Braddock, while fabricating that Bielich is still employed at both, concealing his actual status and the negligence of MPOETC to administer officer certification.
  5. Ofc. Leader has deliberately falsified an Affidavit and list in response to the request, and must be held accountable for obstruction and perjury. More to the point, Bielich is obviously not qualified as a police officer if no certification records exist or he has not complied with the various training requirements, or if he is not currently employed. Rather than address the deficiencies in Bielich's records, Ofc. Leader has concealed those deficiencies and fabricated false records to frustrate the RTKL request.
  6. The Affidavit from Ms. Young is also fraudulent, in that it substitutes her opinion for the actual records being sought. In this case, MPOETC is required to collect certifications in the various elements

necessary to be certified as a police officer, and those records are the ones being sought. Ms. Young conceals the information, such as when and where, and by whom, a certification was issued. The various proctors must be approved by MPOETC, and their credentials are also public record, but Ms. Young's affidavit conceals all such information contained on the certificates themselves. In particular is a requirement in training and qualification under 18 P.C.S. §212(a) that there appears to be no record of what-so-ever, and Ms. Young appears to be fabricating qualification by claiming Bielich meets all requirements without any proof that he has.

7. MPOETC must provide the separation SP-8 502's from Braddock and Whitaker or explain why they are not being provided in response to this request.
8. MPOETC must provide the certificates and other records proving the qualifications of Bielich.

/s/ William D. White

William D. White  
16 East Manilla Avenue  
Pittsburgh, PA 15220-3306

PENNSYLVANIA OFFICE OF OPEN RECORDS

William D. White,

Complainant,

vs.

Pennsylvania State Police,

Respondent.

AP 2010-0855

AP 2010-0856

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I, William D. White, affirm a true and correct copy of the foregoing REQUEST FOR RECONSIDERATION has been served, by email on October 26, 2010, on

Jonathan Leader  
Deputy Agency Open Records Officer  
Pennsylvania State Police  
Bureau of Records and Identification  
Right-To-Know Office  
1800 Elmerton Avenue  
Harrisburg, PA 17110

on counsel  
kneary@state.pa.us

by

/s/ William D. White

\_\_\_\_\_  
William D. White,  
16 E Manilla Ave  
Pittsburgh, PA 15220-3306  
412-922-3834

021610021610



Pennsylvania State Police  
Bureau of Records & Identification  
RIGHT-TO-KNOW OFFICE



**pennsylvania**

OFFICE OF OPEN RECORDS  
MPOETC

STANDARD RIGHT-TO-KNOW REQUEST FORM

AUG 10 2010 PM 2:19

entirely  
Record

appeal  
records,  
Pittsburgh,  
on the  
appeal,  
use and

DATE REQUESTED: August 10, 2010

REQUEST SUBMITTED BY:

E-MAIL



NAME OF REQUESTOR : William D. White

STREET ADDRESS : 16 E Manilla Ave.

CITY/STATE/COUNTY (Required): Pittsburgh, PA, Allegheny Co.

TELEPHONE (Optional): 412-922-3834

RECORDS REQUESTED:

List of all police depts. including dates of service, for Nicholas Bielich. Include Badge number issued by local agency.

DO YOU WANT COPIES?

YES

Email copy will be acceptable. Send to whitelyte@whitelyte.com

DO YOU WANT TO INSPECT THE RECORDS?

NO

DO YOU WANT CERTIFIED COPIES OF RECORDS?

NO

RIGHT TO KNOW OFFICER: Jonathan Leader

DATE RECEIVED BY THE AGENCY: August 10

AGENCY FIVE (5)-DAY RESPONSE DUE: August 17

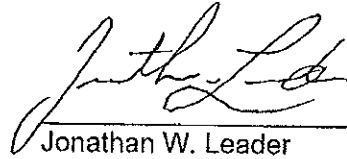
PSP RTKL Request, N° 2010 - 0370

Final Response Due: Before the 17th day of September

*\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

I understand that false statements made in this verification are subject to the penalties under 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

(AO:  
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2010  
follo  
infor



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Jonathan W. Leader  
Deputy Agency Open Records Officer  
Pennsylvania State Police  
Bureau of Records & Identification





**pennsylvania**

OFFICE OF OPEN RECORDS

Braddock Borough & Police Department

**STANDARD RIGHT-TO-KNOW REQUEST FORM**

DATE REQUESTED: October 14, 2010

REQUEST SUBMITTED BY: [REDACTED] U.S. MAIL [REDACTED] [REDACTED]

NAME OF REQUESTOR: William D. White

STREET ADDRESS: 16 E Manilla Ave

CITY/STATE/COUNTY (Required): Pittsburgh, PA Allegheny Co

TELEPHONE (Optional): 412-922-3834

**RECORDS REQUESTED:**

*\*Provide as much specific detail as possible so the agency can identify the information.*

All public record information regarding Nicholas Bielich, specifically to include, but not limited to, any 18 P.C.S. §11.212(a) training or instruction concerning crime victims' compensation, and how Braddock Borough insured that Nicholas Bielich was familiar with crime victim's compensation.

DO YOU WANT COPIES?  YES

DO YOU WANT TO INSPECT THE RECORDS?  YES  NO

DO YOU WANT CERTIFIED COPIES OF RECORDS?  YES  NO

RIGHT TO KNOW OFFICER: Paul Leger, Borough Manager

DATE RECEIVED BY THE AGENCY: 10-18-2010

AGENCY FIVE (5)-DAY RESPONSE DUE: 10-22-2010

**\*\*Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the rolloff and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)**

Jesse Brown, *President*  
Matthew Thomas, *Vice President*  
Mildred Devich  
Tina Doose  
Milan Devich  
William Zachery



John Fetterman, *Mayor*  
M. Lawrence Shields, *Solicitor*  
Ella B. Jones, *Administrator*  
Stephan J. Pichura, *Code Enforcement Officer*  
Pauline Abdullah, *Tax Collector*

## Borough of Braddock

415 Sixth Street  
Braddock, Pennsylvania 15104  
412-271-1018 Fax: 412-271-7414

October 19, 2010

William D. White  
16 E. Manila Avenue  
Pittsburgh, PA 15220-3306

**RE: Request for information received October 18, 2010**


Dear Mr. White:

In response to your Pennsylvania Right-to-Know request for information regarding records related to former Braddock Police Officer Nicholas Beilich, I am providing the following:

There is no record of any training on 18 P.C.S., Subsection 11.212(a) or instruction concerning crime victims' compensation, and how Braddock Borough insured that Nicholas Bielich was familiar with crime victims' compensation.

Employment dates with Braddock Borough for former Officer Bielich are from 11-10-2009 to 5-19-2010.

Sincerely,

  
Paul Leger  
Interim Borough Manager

CC: Request for Information File

Paul Leger, Interim Borough Manager  
Borough of Braddock  
415 Sixth Street  
Braddock, PA 15104

October 21, 2010

RE: RTKL request re: Nicholas Bielich

Dear Mr. Leger,

Thank you for your prompt response to my request. However, there is a problem, in that you did not provide any records, and I take exception to your failure to provide any records.

Please be advised that, according to the State Police, Nicholas Bielich is currently employed at your department, as well as Whitaker, Glassport, Clairton and Elizabeth. FYI, Whitaker also denies that Bielich is currently employed by them.

Please be advised that, according to the State Police, Nicholas Bielich was also employed by Braddock Borough 4-26-06 to 12-24-06.

Please provide "all public records" re: Nicholas Bielich by **October 25, 2010**. This includes both his applications for employment, application by your Chief for his certification, insurance riders, payroll, duty rosters, or any other proof he actually served at any time as a police officer or in any other capacity.

Please be advised that Nicholas Bielich may have impersonated a Braddock Borough police officer September 26, 2006, appearing in police uniform on that date to testify against myself in a private matter not within the jurisdiction of Braddock, PA or its police department. Be further advised that Mr. Bielich assaulted and seriously injured me November 3, 2005, and may have impersonated a Braddock Borough police officer as described above in relation to that incident. Be advised that Nicholas Bielich did impersonate a Braddock Hills police officer on January 19, 2006, appearing in police uniform to offer false testimony against me in relation to the above matter, to wit, he falsely accused me of assaulting him and resisting arrest after he and Vincent Pascerella assaulted and seriously injured me.

Provide a copy of your moonlighting policy re: police officers.

Provide a duty roster for Sept. 26, 2006 showing all officers on duty that day, and who Mr. Bielich's immediate supervisor was on that date even if he was not on duty.

Sincerely,

*WOW* FAX'ed 10-21-10  
William D. White  
16 East Manilla Avenue  
Pittsburgh, PA 15220-3306

CC: PA OOR AP 2010-0856  
PSP/MPOETC

SP 8-502 (9-2004)

COMMONWEALTH OF PENNSYLVANIA  
CHANGE OF STATUS NOTICE  
MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

8002 Bretz Drive  
Harrisburg, Pennsylvania 17112-9748

600-342-0658 or 717-346-4086  
Fax: 717-346-7782

INSTRUCTIONS - THIS FORM MAY BE USED TO REPORT:

- When a certified officer who is presently employed as a police officer in one or more departments gains employment in another department.
- When employing an applicant who has been a certified officer in Pennsylvania within two years prior to the date of employment.
- When employing an applicant who was a sworn member of the Pennsylvania State Police for at least ten years and was given an honorable discharge within two years prior to the date of employment.
- When a certified officer separates from a department.
- When a certified officer's name changes.
- When a certified officer is arrested and/or convicted for a misdemeanor or felony.
- When a replacement municipal police I.D. card is needed.

DO NOT USE THIS FORM IF THE APPLICANT HAS BEEN SEPARATED FOR MORE THAN TWO YEARS OR HONORABLY DISCHARGED FROM THE PENNSYLVANIA STATE POLICE MORE THAN TWO YEARS PRIOR TO THE APPLICANT'S DATE OF EMPLOYMENT WITH THE APPLYING DEPARTMENT.

CHECK THE APPROPRIATE BOX(ES) AND FILL IN ALL NECESSARY INFORMATION.

**EMPLOYMENT OF CERTIFIED OFFICER (COMPLETE REVERSE SIDE)**  
Date officer was hired in your department 01-26-06

**Employment of an officer previously certified within two years of date of hire. (COMPLETE REVERSE SIDE)**  
Date officer was hired in your department \_\_\_\_\_

**Employment of a former sworn member of the Pennsylvania State Police for at least ten years and honorably discharged.**  
Date of Enlistment in Pennsylvania State Police \_\_\_\_\_ Officer's Drivers License # \_\_\_\_\_  
Date of Discharge from Pennsylvania State Police \_\_\_\_\_  
Submit one Pennsylvania State Police Applicant Fingerprint card (Form SP 4-124) showing the contributor as PAPSP0100, MPOETC, Hershey, PA, one FBI Applicant Fingerprint card (Form FD-258) showing the contributor as PAPSP0100, MPOETC, Hershey, PA, current certification in CPR and First Aid, one Psychological Examination (Form SP 8-3000), documentation of Pennsylvania State Police service for a minimum of ten years, and documentation of current firearms qualification and honorable discharge from the Pennsylvania State Police with this form. Former Pennsylvania State Police Officers without ten years of service and an honorable discharge must submit the best application.

**NAME CHANGE**  
Previous Name \_\_\_\_\_ Current Name \_\_\_\_\_

**CRIMINAL ARREST/CONVICTION**  
Date of Arrest \_\_\_\_\_ Disposition (if available) \_\_\_\_\_  
Charge(s) \_\_\_\_\_ Arresting Department \_\_\_\_\_

**LOST OR DAMAGED CERTIFICATION CARD**

**SEPARATION FROM DEPARTMENT (ATTACH CERTIFICATION CARD)** DATE OF SEPARATION 1 / 1

**OTHER, EXPLAIN:** \_\_\_\_\_

2006 MAY 10 PM 1:14

|  |  |                                       |                                      |
|--|--|---------------------------------------|--------------------------------------|
| CERTIFIED POLICE OFFICER'S LAST NAME<br><u>Bielish</u>         | FIRST NAME<br><u>Nicholas</u>                      | MIDDLE NAME<br><u>P</u>               | ROOM/ASSIGNMENT NUMBER<br>[REDACTED] |
| NAME OF POLICE DEPARTMENT<br><u>Braddock Police Department</u> |  |                                       |                                      |
| STREET ADDRESS<br><u>639 Cory Ave 15104</u>                    |  | CITY/TWP./COUNTY<br><u>PA</u>         | STATE ZIP CODE<br><u>15104</u>       |
| TELEPHONE NO. (AREA CODE)<br><u>412-331-5400</u>               | FAX NO.<br><u>412-271-0199</u>                     | FEDERAL ID NUMBER<br><u>25-000286</u> |                                      |
| POLICE DEPARTMENT EMAIL (IF ANY)                               |  |                                       |                                      |
| PRINT AGENCY HEAD NAME<br><u>Frank DeBarra</u>                 | SIGNATURE - AGENCY HEAD<br><u>Frank J. DeBarra</u> | DATE SUBMITTED<br><u>05-02-06</u>     |                                      |

SP 8-502 (8-2004)

COMMONWEALTH OF PENNSYLVANIA  
CHANGE OF STATUS NOTICE  
MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION  
www.mpoetc.state.pa.us

8002 Brett Drive  
Harrisburg, Pennsylvania 17112-9748

800-342-0858 or 717-348-4089  
Fax: 717-348-7782

INSTRUCTIONS - THIS FORM MAY BE USED TO REPORT:

- When a certified officer who is presently employed as a police officer in one or more departments gains employment in another department.
- When employing an applicant who has been a certified officer in Pennsylvania within two years prior to the date of employment.
- When employing an applicant who was a sworn member of the Pennsylvania State Police for at least ten years and was given an honorable discharge within two years prior to the date of employment.
- When a certified officer separates from a department.
- When a certified officer's name changes.
- When a certified officer is arrested and/or convicted for a misdemeanor or felony.
- When a replacement municipal police I.D. card is needed.

DO NOT USE THIS FORM IF THE APPLICANT HAS BEEN SEPARATED FOR MORE THAN TWO YEARS OR HONORABLY DISCHARGED FROM THE PENNSYLVANIA STATE POLICE MORE THAN TWO YEARS PRIOR TO THE APPLICANT'S DATE OF EMPLOYMENT WITH THE APPLYING DEPARTMENT.

CHECK THE APPROPRIATE BOX(ES) AND FILL IN ALL NECESSARY INFORMATION.

- EMPLOYMENT OF CERTIFIED OFFICER (COMPLETE REVERSE SIDE)  
Date officer was hired in your department 12/9/09
- Employment of an officer previously certified within two years of date of hire. (COMPLETE REVERSE SIDE)  
Date officer was hired in your department \_\_\_\_\_
- Employment of a former sworn member of the Pennsylvania State Police for at least ten years and honorably discharged.  
Date of Enlistment in Pennsylvania State Police \_\_\_\_\_ Officer's Drivers License # \_\_\_\_\_  
Date of Discharge from Pennsylvania State Police \_\_\_\_\_  
Submit one Pennsylvania State Police Applicant Fingerprint card (Form SP 4-124) showing the contributor as PAPSP0100, MPOETC, Hershey, PA, one FBI Applicant Fingerprint card (Form FD-268) showing the contributor as PAPSP0100, MPOETC, Hershey, PA, current certification in CPR and First Aid, one Psychological Examination (Form SP 8-300D), documentation of Pennsylvania State Police service for a minimum of ten years, and documentation of current firearms qualification and honorable discharge from the Pennsylvania State Police with this form. Former Pennsylvania State Police Officers without ten years of service and an honorable discharge must submit the basic application.
- NAME CHANGE  
Previous Name \_\_\_\_\_ Current Name \_\_\_\_\_
- CRIMINAL ARREST/CONVICTION  
Date of Arrest \_\_\_\_\_ Disposition (if available) \_\_\_\_\_  
Charge(s) \_\_\_\_\_ Arresting Department \_\_\_\_\_
- LOST OR DAMAGED CERTIFICATION CARD
- SEPARATION FROM DEPARTMENT (ATTACH CERTIFICATION CARD) DATE OF SEPARATION 1 1
- OTHER, EXPLAIN: \_\_\_\_\_

|  |   |                                   |                                      |
|--|---|-----------------------------------|--------------------------------------|
| CERTIFIED POLICE OFFICER'S LAST NAME<br><u>Bielich</u> | FIRST NAME<br><u>Nicholas</u>                 | MIDDLE NAME<br><u>P</u>           | SOCIAL SECURITY NUMBER<br>[REDACTED] |
| NAME OF POLICE DEPARTMENT<br><u>Whitaker Police</u>    |   |                                   |                                      |
| STREET ADDRESS<br><u>124 Grant St</u>                  | CITY, TWP, COUNTY<br><u>Whitaker</u>          | STATE<br><u>PA</u>                | ZIP CODE<br><u>15120</u>             |
| TELEPHONE NO. (AREA CODE)<br><u>412-461-6622</u>       | FAX NO.<br><u>412-462-7454</u>                | FEDERAL ID NUMBER                 |                                      |
| POLICE DEPARTMENT EMAIL (if any)                       |   | DATE SUBMITTED<br><u>12/29/09</u> |                                      |
| PRINT AGENCY HEAD NAME<br><u>JOHN D. VARGO</u>         | SIGNATURE - AGENCY HEAD<br><u>[Signature]</u> |                                   |                                      |

## Borough of Whitaker

(412) 462-8940 \* (412) 243-1652 (FAX)

MAILING ADDRESS: 1001 Ardmore Blvd., Suite 100,  
Pittsburgh, PA 15221-5233

October 21, 2010

Mr. William D. White  
16 E. Manilla Avenue  
Pittsburgh, PA 15220

Re: **Right-to-Know Request**

Dear Mr. White:

This is in response to your Right-to-Know Law request dated October 14, 2010 (faxed and received by the Borough of Whitaker on October 18, 2010). In that letter, you made the following request:

*All public record information regarding Nicholas Bielich, specifically to include, but not limited to, any 18 P.C.S. §11.212(a) training and instruction concerning crime victims' compensation, and how Whitaker Borough insured that Nicholas Bielich was familiar with crime victim's compensation.*

Your request seeking "all public record information" is not very clear and could possibly include an unknown number of documents. Thus, the Borough will construe your request as seeking: 1) public records dealing with any training or instruction that Nicholas Bielich had concerning crime victims' compensation; and 2) any training and instruction provided by Whitaker Borough to Nicholas Bielich regarding crime victims' compensation under 18 P.C.S. §11.212(a). If the Borough has misinterpreted your request, then please provide clarification.

The Borough must deny your request for these records because it has no public records responsive to your request. Section 705 of the Right-to-Know Law provides in part that "any agency shall not be required to create a record which does not currently exist." Since the Borough does not have any public record information regarding any training or instruction that Nicholas Bielich had concerning crime victims' compensation; and any training and instruction provided by the Borough to Nicholas Bielich regarding crime victims' compensation under 18 P.C.S. §11.212(a), it cannot provide such records to you.

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By way of further response to your request, the Borough would call your attention to the Whitaker Borough Police Department Manual. Whitaker Borough Council adopted this Manual for its Police Department pursuant to Resolution 16 of 2008 on October 8, 2008. Chapter 9, Section 02 of the Manual, which is entitled "Knowledge of Laws and Ordinances", states, "All officers shall familiarize themselves with the relevant laws of the Commonwealth of Pennsylvania and the United States of America and the ordinances of the Borough of Whitaker."

Because this letter is a denial of your Right-to-Know Law request, you have a right to appeal this decision. If you wish to appeal, you must file a written appeal within fifteen (15) business days of the mailing date of this response. Under Section 1101 (a) of the Right-to-Know Law, you must state that grounds upon which you assert that the record that you requested is a public, legislative or financial record, and you must address the grounds stated for the denial of your request. You must send your appeal to the following:

Office of Open Records  
Commonwealth Keystone Building  
400 North St., 4th Floor  
Harrisburg, PA 17120-0225

Sincerely,



Jean Warren  
Right-to-Know Officer

Jean Warren, Right-To-Know Officer  
Borough of Whitaker  
1001 Ardmore Boulevard, Suite 100  
Pittsburgh, PA 15221-5233

October 25, 2010

RE: RTKL request

Dear Ms. Warren,

I take exception to your claim that a request for "all public record information" is not very clear. I specifically stated "all", meaning just that, and that the request was not limited to only 18 P.C.S. §11.212(a) records.

You have misconstrued the request for 18 P.C.S. §11.212(a) records. It is the Borough's responsibility to insure that any police officer it employs has received that training, not necessarily provide it. What records show that the Borough complied with 18 P.C.S. §11.212(a) for any officer, in particular, Mr. Bielich? The reference to the police manual is vague and entirely unresponsive as it addresses the officer's responsibility, not the Borough's.

Be advised that, according to the State Police and MPOETC, Nicholas Bielich is presently employed as a police officer by Whitaker Borough. At the very least, you should have responsive records known as an SP-8 502 Change in Status form, signed by your Chief, one for hiring, and another for separation. Mr. Bielich is required to surrender his police certificate when separating, and you apparently still have the SP-8 502 and certificate for Ofc. Bielich. I want a copy.

Also be advised that the State Police show Ofc. Bielich currently employed by Glassport, Elizabeth, Braddock and Clairton, although Braddock also denies he is currently employed there. Provide a copy of your moonlighting policy.

You have narrowly and incorrectly construed the 18 P.C.S. §11.212(a) request to deny the entire request, i.e., lack of a particular record is not a reason to deny the entire request. As we discussed, I seek any and all records, including paychecks, duty rosters, police blotter information, anything that actually is a record of Nicholas Bielich as an employee and police officer for Whitaker Borough. It appears you have not responded in Good Faith to the request for records and have acted in Bad Faith in denying the request by your preposterous interpretation of the request.

You are misconstruing the RTKL. All records are presumed public, and you qualify your response as the Borough has "no public records" responsive to the narrowly and incorrectly construed 18 P.C.S. §11.212(a) request. Any record that exists is a public record unless you claim it to be exempt or privileged from an RTKL request. You must identify all records that you are withholding and why you will not provide them. You also misconstrue "...create a record which does not currently exist". You are not required to gather new information, thus 'creating' a record. You are required to produce copies in legible form of any record that exists. For example, an electronic record must be printed out by 'creating' a copy from the existing information, even though a paper copy does not currently exist. So long as the information is in your database, you must provide the record. If you did not provide any 18 P.C.S. §11.212(a) training, then what records otherwise show that the Borough complied with 18 P.C.S. §11.212(a) with regards to Nicholas Bielich or any other officer or employee?

Sincerely,

William D. White  
16 East Manilla Avenue  
Pittsburgh, PA 15220-3306  
412-922-3834

cc: OOR  
MPOETC



**pennsylvania**  
OFFICE OF OPEN RECORDS

November 3, 2010

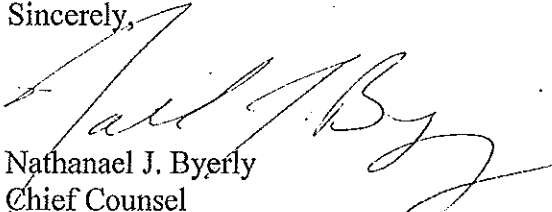
William D. White  
16 East Manilla Avenue  
Pittsburgh, PA 15220-3306

RE: Petition for Reconsideration received October 27, 2010, OOR Dkt. AP 2010-0855 and 856

Dear Mr. White:

We are in receipt of your Petition for Reconsideration that was received by this office on October 27, 2010 in connection with the Office of Open Records Final Determinations in *White v. Pennsylvania State Police*, OOR Dkt. AP 2010-0855 and 2010-0856. We hereby deny your Petition.

Sincerely,

  
Nathanael J. Byerly  
Chief Counsel

cc: Terry Mutchler, Executive Director, Office of Open Records  
Jonathan W. Leader