

OOB Holds that Police Departments Are Not Required to Disclose their Inventory of Weapons and Tactical Equipment

Articles, News, Right to Know Law Blog January 13, 2021

In *Scott v West Chester Borough Police Department*, AP 2020-1987, the Department denied a request for records identifying the weapons and other equipment possessed by the Department. The request sought documentation that:

shows the number and type of arms, weapons, guns, non-lethal weapons, ammo, Personal Protective Equipment, body armor, body cameras, vehicles, and equipment currently in possession of the ... Department.

The Department denied the request in its entirety on the basis that disclosure of such information would likely threaten public safety. Section 708(b)(2) of the RTKL exempts from disclosure “[a] record maintained by an agency in connection with ... law enforcement or other public safety activity that if disclosed would be reasonably likely to jeopardize or threaten public safety ... or public protection activity.” 65 P.S. § 67.708(b)(2). In order to withhold records under Section 708(b)(2) of the RTKL, the Department had to show: (1) the record at issue relates to law enforcement or public safety activity; and (2) disclosure of the record would be reasonably likely to threaten public safety or a public protection activity.

On appeal to the OOR, the Department acknowledged that it possessed a responsive inventory list, but submitted affidavits from its Chief of Police and a Lieutenant stating that these lists should not be made public because:

- Anyone who would have access to these inventory lists would be able to determine the capability, power, range, accuracy, and limitations of each weapon in use by the Department;
- Anyone who would have access to these inventory lists would know the capability and limitations of the ammunition, protective equipment, vehicles, and other law enforcement equipment in use by the Department; and
- When criminals and/or terrorists have direct knowledge pertaining to the equipment listed above, it provides a tactical advantage to those individuals, which would hinder the ability of the Department to prevent and deter crime in the Borough and maintain the public safety.

The OOR held that the Department satisfied its burden of demonstrating that releasing the inventory list of weapons and tactical equipment would be likely to jeopardize public safety. In reaching this decision, the OOR cited to its earlier decision in *Rome v. Exeter Borough*, AP 2018-1839 where it held that “weapon inventory lists and reports are not subject to public access because their release would threaten public safety.”

While the OOR found that a weapons inventory was exempt from disclosure, the OOR held that the Department had to disclose its inventory list of body cameras. In making this determination, the OOR first noted that body cameras are worn by police officers on the exterior of the uniform and in public, so there are no secrets as to the structure and the brand of the cameras. Perhaps more importantly, unlike weapons and tactical equipment, the OOR also found that the tactical nature of a body camera was not readily apparent and that the Department did not demonstrate that the disclosure inventory list information related to body cameras was likely to threaten public safety or a public protection activity.

Accordingly, the OOR denied the appeal with respect to inventory lists of weapons and tactical equipment but granted it as to inventory lists of body cameras.

If you have any questions or comments, please do not hesitate to contact Chris Voltz or any of the other Municipal and School Attorneys at Tucker Arensberg, P.C.