

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS**

RYAN BAGWELL	:	
Complainant,	:	
	:	
v.	:	DOCKET # AP 2013-1586
	:	
PHILADELPHIA DISTRICT	:	
ATTORNEY'S OFFICE,	:	
Respondent.	:	

**THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE'S
MOTION FOR RECONSIDERATION**

The Philadelphia District Attorney's Office ("DA's Office"), by and through undersigned counsel, hereby moves the Office of Open Records ("OOR") to reconsider its decision, issued November 4, 2013, granting the appeal of Ryan Bagwell relating to the Right to Know Law ("RTKL") request he submitted to the DA's Office on July 22, 2013. In support of its motion, the DA's Office states the following:

1. As the DA's Office plainly stated in its Sur-Reply in Opposition to the RTKL Appeal of Ryan Bagwell submitted on September 30, 2013, after conducting a reasonable search, the DA's Office does not possess any documents that would be responsive to the RTKL request.
2. Thus, even if Mr. Bagwell's request were deemed to be sufficiently specific and to seek public records of the DA's Office under the RTKL, the DA's Office does not possess any responsive documents.¹ Furthermore, the DA's Office could not provide an index of withheld

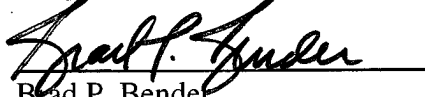
¹ Additionally, the DA's Office respectfully submits that the OOR misconstrued its argument regarding "public records." The DA's Office was not suggesting that emails are not, per se, public records; rather, that any emails here would not be public records of the DA's Office because the DA's Office has not conducted any business with any of the named individuals. Stated yet another way, if there are emails that may be responsive to the request,

documents because, as it expressly stated in its September 30, 2013 submission, it does not possess any responsive documents.

3. To ensure that OOR fully considers this previously-asserted statement, the DA's Office hereby submits a sworn declaration that is attached hereto as Exhibit "A" and incorporated by reference herein.

4. Based on this sworn declaration, the DA's Office respectfully requests that the OOR reconsider its decision. Indeed, the DA's Office is unable to take any further action in response to the decision given that it does not possess any records that would be responsive to the request.

Respectfully submitted,



Brad P. Bender

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Date: November 6, 2013

such emails would be in the possession of some other agency, but the DA's Office has no responsive records.

EXHIBIT A

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DECLARATION OF ASSISTANT DISTRICT ATTORNEY BRAD P. BENDER
IN SUPPORT OF THE MOTION FOR RECONSIDERATION

I, Assistant District Attorney Brad P. Bender, intending to be legally bound and subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), declare as follows:

After conducting a reasonable search, the Philadelphia District Attorney's Office does not possess any documents that would be responsive to the Right to Know Law request submitted by Ryan Bagwell.

I declare under penalty of perjury under the laws of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Date: November 6, 2013



Brad P. Bender