

OFFICE OF THE
DISTRICT ATTORNEY OF LUZERNE COUNTY

STEFANIE J. SALAVANTIS
District Attorney

Samuel M. Sanguedolce
First Assistant



LUZERNE COUNTY COURTHOUSE
200 North River Street
Wilkes-Barre, PA 18711
(570) 825-1674 or 825-1675
FAX (570) 825-1572
TDD (570) 825-1860

August 29, 2017

Stephen Schwicka
87 Peatmoss Rd.
White Heaven, PA 18661

Re: Right-To-Know Request (RTK-023-2017)

Dear Mr. Schwicka:

This letter is in response to your Right-To-Know Law (RTKL) request, which was received by the Open Records Officer of the Luzerne County District Attorney's Office (DAO) on August 29, 2017. You requested:

" #1. Per Fara act 1938 foreign agent's registration requirements, [I] require evidence of FARA registration for each registered bar association member serving as a Court Officer in the County of Luzerne for any past and current cases involving the defendant Stephen John Schwicka. (Note the current cases are required first within the required time frame or 10 days all past cases are required in thirty days.)

#2. [I] require the mandatory IRS- Political sub-division status conformation left for each County of Luzerne department, or other having a W-9. [I] require both the official department names and title of the corporate for each separate (sub-division) department including LCCF. This requirement will be considered satisfied by providing a certified copy the mandatory instrumentality letter from the IRS. If the requested documents are not supplied in the time provided the requestor will accept this a your tacit confirmation that these document do not exist and therefor will consider all pending Luzerne County alleged Court matters to be immediately terminated due to your failure to appropriately respond. This will lead to a default in this matter"

This constitutes the DAO's final response to your request.

Your request is DENIED for the following reason(s):

This office has no requirement under the RTKL to create records in order to respond to a RTKL request. 65 P.S. §67.705. Section 705 of the RTKL provides that '[w]hen responding to a request for access, an agency shall not

be required to create a record which does not currently exist or to compile, maintain, format, or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.’ 65 P.S. § 67.705.

and/or

The records you seek are “criminal investigative records” under Section 708(b)(16) of the RTKL. The RTKL contains a broad exemption for any records “relating to or resulting in a criminal investigation.” 65 P.S. § 67.708(b)(16); *see, e.g., Barros v. Martin*, 92 A.3d 1243, 1250 (Pa. Commw. 2014) (“[I]f a record, on its face, relates to a criminal investigation, it is exempt under the RTKL pursuant to Section 708(b)(16)(ii).”). That exemption remains even after an investigation is completed. *See Coley v. Philadelphia Dist. Attorney’s Office*, 77 A.3d 694, 697 (Pa. Commw. 2013) (“[C]riminal investigative records are still exempt from disclosure under the Right-to-Know Law after the investigation is completed[.]”); *Pennsylvania State Police v. Office of Open Records*, 5 A.3d 473, 479 (Pa. Commw. 2010) (en banc) (holding that criminal-investigative-record exemption of RTKL exempts records of “whether certain investigative tasks have been carried out or whether certain information was discovered”). The records you seek would plainly “[r]eveal the . . . result of a criminal investigation” insofar as they concern the aggravating circumstances supporting decisions to seek the death penalty. *See* 65 P.S. § 67.708(b)(16)(vi)(A).

Your request will be forwarded to Jaqueline Musto Carrol, Assistant County Solicitor and Right to Know Officer as we do not have any information regarding FARA Act 1938 foreign agent’s registration requirements and IRS Political sub-division status confirmation.

If you should have any further questions/requests, please contact me at your convenience.

Respectfully,



THOMAS J. HOGANS, ESQUIRE
Luzerne County District Attorney
Right to Know Officer

CC/Attorney Carrol
Assistant County Solicitor
Right to Know Officer

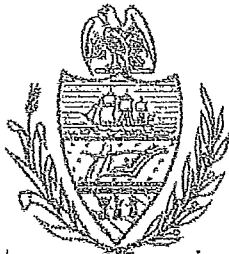
Denied 8-29-17...

OFFICIAL USE ONLY

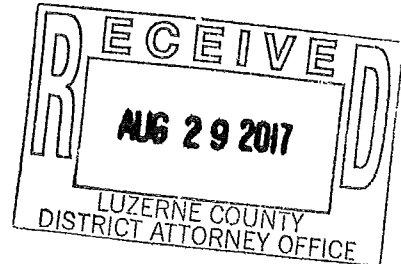
RTK-023-2017
RTK REQUEST NUMBER

8-29-17
DATE RECEIVED

9-6-17
5 DAY RESPONSE DATE
working Days
1 Holiday



COUNTY OF LUZERNE



RIGHT TO KNOW LAW REQUEST FORM

NAME OF REQUESTER: Schwicks, Stephen John
(PLEASE PRINT CLEARLY) LAST FIRST MI

MAILING ADDRESS: 87 PEATMOSS ROAD
STREET / P.O. BOX

WHITE HEAVEN PENNA. 18661
CITY STATE ZIP CODE

PHONE # 570-443-7892 FAX#

EMAIL ADDRESS:

SIGNATURE: [Signature] DATE: 8/29/17

RECORDS REQUESTED - Requesters MUST specify the document(s) sought. Please use additional pages if necessary.
SEE ATTACHED

PLEASE CHECK ONE OF THE FOLLOWING:
 I AM ONLY REQUESTING ACCESS TO THE DOCUMENT(S)
 I AM REQUESTING A HARD COPY OF THE DOCUMENT(S) (PAPER, CD, etc...)
 I AM REQUESTING AN E-FILE OF THE DOCUMENT(S) (IF AVAILABLE) (PDF, EXCEL SPRDSHT, etc...)

PLEASE NOTE: LUZERNE COUNTY IS NOT REQUIRED TO CREATE A RECORD WHICH DOES NOT CURRENTLY EXIST OR TO COMPILE, MAINTAIN, FORMAT OR ORGANIZE A RECORD IN A MANNER IN WHICH THE AGENCY DOES NOT CURRENTLY COMPILE, MAINTAIN, FORMAT OR ORGANIZE THE RECORD

Right to know request

#1. Per FARA act 1938 foreign agent's registration requirements, I require evidence of FARA registration for each registered bar association member serving as a Court Officer in the County of Luzerne for any past and current cases involving the defendant STEPHEN JOHN SCHWICKA. (Note the current cases are required first within the required time frame or 10 days all past cases are required in thirty days.)

#2. I require the mandatory IRS- Political sub-division status confirmation letter for each County of Luzerne department, or other having a w-9. I require both the official department name and title of the corporate officer for each separate (sub-division) department including LCCF. This requirement will be considered satisfied by providing a certified copy the mandatory instrumentality letter issued from the IRS. If the requested documents are not supplied in the time provided the requestor will accept this as your tacit confirmation that these document do not exist and therefor will consider all pending Luzerne County alleged Court matters to be immediately terminated due to your failure to appropriately respond. This will lead to a default in this matter.

8/29/17

RTK REQUEST NUMBER

Sandy,

RESPONSE DATE

this gentleman dropped
this off @ the annex



RIGHT TO KNOW LAW REQUEST FORM

NAME OF REQUESTER:
(PLEASE PRINT CLEARLY)

Schwicky

Stephen

John

LAST

FIRST

MI

MAILING ADDRESS:

87 PEATMOSS ROAD
STREET / P.O. BOX

WHITE HEAVEN
CITY

PENNA.
STATE

[18661]
ZIP CODE

PHONE #

570-443-7892

FAX#

EMAIL ADDRESS:

SIGNATURE:

My agent Stephen John

DATE:

8/29/17

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Right to know request

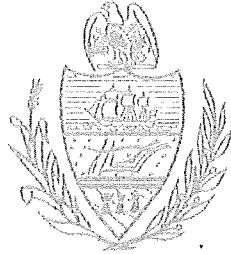
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RTK REQUEST NUMBER

DATE RECEIVED

5 DAY RESPONSE DATE



COUNTY OF LUZERNE

RIGHT TO KNOW LAW REQUEST FORM

NAME OF REQUESTER: Schwicksa Stephen John
(PLEASE PRINT CLEARLY) LAST FIRST MI

MAILING ADDRESS: 87 PEATMOSS ROAD
STREET / P.O. BOX

WHITE HAVEN PENNA 18661
CITY STATE ZIP CODE

PHONE # 570-443-7892 FAX# _____

EMAIL ADDRESS: _____

SIGNATURE: _____ DATE: _____

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