

26 June 2009

The Honorable Robert E. Dalton, Jr.
President Judge, Tioga County Court of Common Pleas
4th Judicial District of Pennsylvania
118 Main Street
Wellsboro, PA 16901

Dear Judge Dalton:

The Pennsylvania Fire and Emergency Services Legislative Caucus is comprised of 115 members of the Pennsylvania House of Representatives, and is tasked with the mission of examining legislative proposals that benefit the emergency services community of our Commonwealth. In addition, our caucus monitors the implementation of a multitude of laws and programs associated with our emergency responders and our Commonwealth's emergency preparedness and response capabilities.

The membership of our caucus was very disheartened to learn that on April 3, 2009, the Pennsylvania Office of Open Records (OOR) issued a Final Determination that stated that volunteer fire companies are considered "local agencies" under the Right-To-Know-Law (RTKL) and are required to comply with all the provisions contained in the act.

The underlying premise that the OOR relied on in its decisions was that volunteer fire companies are subjected to the law because they are a "similar governmental entity" under the definition of a "Local agency."

We firmly contend that the passage of Act 3 of 2008 was not intended to capture our volunteer fire and emergency services companies. Volunteer fire and emergency services companies do not have the resources for this type of mandate, whether these resources are financial or human. Our volunteer emergency organizations should not be expending their resources under the provisions of a law never intended for them when they are already struggling to maintain recruitment and retention.

Our caucus has always viewed and categorized our volunteer fire companies as private entities performing a public service and not a government function. They are created and staffed by volunteers wishing to perform a type of public service.

The General Assembly has examined ways to best assist our volunteer fire and emergency services companies with their recruitment and retention needs. A review of this history and an examination of the legislative record and corresponding dialogue on the subject matter, demonstrates that these volunteer organizations were always recognized as strictly volunteer organizations struggling to provide a public service, a service many local municipalities across the Commonwealth are unable to provide because they lack the financial ability to do so. As a caucus, we feel that this fact cannot be ignored.

We do not believe that the passage of legislation to aid these non-profits, either by placing a duty upon the local municipalities to ensure public safety within their jurisdiction or by providing grant money or other administrative support was ever intended to transform these non-profits into “governmental entities.” Rather, these laws prevent struggling volunteer fire companies from closing their doors and risking public safety.

To that end, any funding or assistance that is provided to our emergency services organizations through local or state government entities will naturally be an open record under other laws, but the day to day operations and personal information of these non-profit chartered organizations, much like an American Legion Club or a Rotary Club, should not be made available for public disclosure.

Further, we do not see any credible justification for the need for such public disclosure of this private information. If the decision of the OOR stands, it will set a dangerous precedent across this state, leaving our volunteer fire and emergency services organizations subject to an unlimited amount of records requests under the RTKL and negatively impact our already struggling volunteer emergency services community.

Therefore, in our capacity as the co-chairs of the Pennsylvania Fire and Emergency Services Legislative Caucus, we respectfully submit this letter of support for the reversal of the April 3, 2009 ruling by OOR.

Thank you for your time, efforts and considerations on this important matter.

Sincerely,

TIM SOLOBAY
Co-chair

KEITH GILLESPIE
Co-chair