

STEPHEN A. ZAPPALA, JR.
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

County of Allegheny

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Celia B. Liss
Open Records Officer
City of Pittsburgh
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

October 23, 2015

Dwayne Johnson
SCI Graterford
#AP9312
Route 29, Gravel Pike Road
Collegeville, PA 19426

In re: Right to Know Appeal

Dear Open Records Officer Liss and Mr. Johnson (Requester):

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On October 16, 2015 I received an appeal from Mr. Johnson from the decision of the City of Pittsburgh which reversed its prior decision to provide records to Mr. Johnson. Specifically, on February 4, 2015 the City, through its then-Open Records Officer Nicole D. Manison agreed to provide the following records to Mr. Johnson as long as he paid \$57.50 to cover the copying costs:

Copies of any and all police reports concerning the shooting death of Ann Bahorich, on or about December 28, 1984. Any and all forensic reports concerning the shooting death of one Ann Bahorich, on or about December 28, 1984, on the city's Northside.

(See letter dated 2/4/15 and signed by Ms. Manison). Ms. Manison indicated that there were 230 pages of requested records and that copying costs were .25 a page.

It appears that Mr. Johnson sent the City a check for \$57.50, which, pursuant to Ms. Manison's directive, was made payable to the "Treasurer, City of Pittsburgh." The City now has a

new Open Records Officer, Celia B. Liss. In a phone conversation with Ms. Liss this Officer was informed that the City now believes that Ms. Manison's decision to provide access to the records was in error, that the records are exempt from disclosure because they are criminal investigative records, and further covered by the restrictions in Criminal History Record Information Act, 18 Pa.C.S.A. §9101 et seq. Ms. Liss also stated that the \$57.50 which was deposited by Mr. Johnson had been returned to him.

I agree that the records would be exempt under 65 P.S. §67.708(b)(16)(ii):

(16) A record of an agency relating to or resulting in a criminal investigation, including:

* * * *

(ii) Investigative materials, notes, correspondence, videos and reports.

Mr. Johnson, I must deny your request. I would ask that you verify for me that the City has indeed, refunded your money. Please be advised that pursuant to Section 1302 you have 30 days to appeal my decision to the Court of Common Pleas of Allegheny County.

Very Truly Yours,

Michael W. Streily
Deputy District Attorney
Open Records Appeals Officer