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YuYu Li
4595 McKnight Road
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January 13, 2020

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

In re: Right to Know Law Appeal

Dear Requester Li and Attorney Liss:

I am the Open Records Appeals officer for Allegheny County. On January 10, 2020, I received an appeal from Requester Li. Requester had sought the following documents:

Police Reports: 19-85433; 19-98728, & 19-103708

See Request Form dated 11/19/19.

Open Records Officer Liss provided Requester with three relevant police incident reports and stated that “any other records you seek are exempt from production under RTKL.” *See letter dated December 23, 2019.* Attorney Liss

referred to the criminal investigative nature of the reports and the exemption provided in 65 P.S. §67.708(b)(16).

Section 67.708(b)(16), of Title 65, exempts the following from disclosure:

- (16) A record of an agency relating to or resulting in a criminal investigation, including:
 - (i) Complaints of potential criminal conduct other than a private criminal complaint.
 - (ii) Investigative materials, notes, correspondence, videos and reports.
 - (iii) A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentiality has been promised.
 - (iv) A record that includes information made confidential by law or court order.
 - (v) Victim information, including any information that would jeopardize the safety of the victim.
 - (vi) A record that if disclosed, would do any of the following:
 - (A) Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
 - (B) Deprive a person of the right to a fair or an impartial adjudication.
 - (C) Impair the ability to locate a defendant or codefendant.
 - (D) Hinder an agency's ability to secure an arrest, prosecution or conviction.
 - (E) Endanger the life or physical safety of an individual.

As the Office of Open Records explained in *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP 2009-0196 records pertaining to a closed criminal investigation remain protected because Section 708(b)(16) expressly protects records relating to the result of a criminal investigation and thus remain protected even after the investigation ends. See also, *State Police v. Office of Open Records*, 5 A.3d 473 (Pa. Cmwlth. 2010); *Sherry v. Radnor Twp. School District*, 20 A.3d 515 (Pa. Cmwlth. 2011).

As a result, I must decline the request and affirm denial of access. Please be advised that pursuant to Section 65 P.S. §67.1302 the parties 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