

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

436 GRANT STREET, 401 COURTHOUSE ♦ PITTSBURGH, PENNSYLVANIA 15219-2489  
PHONE (412) 350-4377 ♦ FAX (412) 350-3312

Mr. Jayquon Massey  
HW-6337  
SCI Coal Township  
1 Kelley Drive  
Coal Township, PA 17866

August 17, 2016

In re: Open Records Appeal

Dear Mr. Massey:

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On August 12, 2016 I received a transferred appeal from the Office of Open Records in the case of *Massey v. Allegheny County, OOR Dkt. AP 2016-1203*. In your request to Allegheny County you were seeking:

1. Forensic Lab Reports of Case No. 07-LAB-11669 of Jayquon Massey.
2. Any and all Forensic Lab Reports in the above titled Name of Jayquon Massey dated on or about October 21, 2008.
3. Any and all notes concerning how many times testing was provided and results as to its testing.

As indicated in the Final Determination of the OOR, “the County denied the Request, stating that the requested materials are exempt under the Criminal History Record Information Act (“CHRIA”), 18 P.S. §§9101-9183; and under exemptions for records related to a criminal investigation, 65 P.S. §67.708(b)(16); and DNA records, 65 P.S. § 67.708(b)(19).”

As you know, 65 P.S. §67.708 (a)(16) exempts from disclosure:

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

\* \* \* \*

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

\* \* \* \*

(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.

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 your request. Please be advised that pursuant to 65 P.S. §67.1302 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

cc: Mr. Jerry Tyskiewicz, Open Records Officer