

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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Mr. Damon Grover  
CO-1856  
P.O. Box 9999  
50 Overlook Drive  
Labelle, PA 15450

October 14, 2015

In re: Open Records Appeal

Dear Mr. Grover:

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On October 8, 2015 I received from you an appeal of a denial of a Right To Know Request. That denial was from the City of Pittsburgh. In your request you were seeking:

The complete OMI file of Dennis Logan (redacted) any complaints, transcripts and or depositions involving: excessive force, fabrication of evidence and untruthfulness. The complete OMI file of Richard McDonald (redacted) any complaints pertaining to the following: excessive force, fabrication of evidence and untruthfulness and any transcripts or deposition proceeding involving the aforementioned.

You indicated that your request was denied by the City of Pittsburgh based on the following explanation: "the records you request are not public...[t]he records are investigatory in nature and therefore are exempt under the RTKL." You did not indicate the identity of the Open Records Officer nor did you indicate the section that the Officer relied upon in finding an exemption to disclosure. You also did not specifically address the grounds upon which the City relied. See 65 P.S. §67.1101(a).

The fact that the case is closed does not invalidate an exemption. As the Office of Open Records explained in *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP 2009-0196 records pertaining to a closed investigation remain protected because Section 708(b)(16) expressly protects records relating to the result of an 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). It would appear that either §67.708 (16) or (17) make these documents exempt.

Should you disagree with my disposition, be advised that appeals from my decisions are filed in the Court of Common Pleas pursuant to §67.1302 and should be filed within 30 days.

Very truly yours,

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Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Officer

cc: Ms. Celia B. Liss, Open Records Officer