

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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Jerry Tyskiewicz  
Director/Open Records Officer  
Department of Administrative Services  
202 Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

July 1, 2014

Stuart E. Savage, Esquire  
Goldberg, Kamin and Garvin LLP  
1806 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219

In re: Right to Know Appeal-Golan Barak

Dear Open Records Officer Tyskiewicz and Attorney Savage (Requester):

I am the Open Records appeals officer for the District Attorney of Allegheny County. On June 30, 2014 I received an appeal from attorney Savage on behalf of Golan Barak from the decision of the County of Allegheny, denying his request for documents which he filed under Pennsylvania's Right to Know Law.<sup>1</sup> Specifically, on June 18, 2014 Golan Barak, through attorney David A. Wolf requested the following records:

Review and copy of video and audio tape of the Court House corridor entering from Grant Street and the area located to the right and surrounding the metal detector.

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<sup>1</sup> Under 65 P.S. §67.1101 (b)(1) I must make a final determination within 30 days (July 30, 2014) unless the requester agrees to an extension of time. Attorney Savage has asked that the review be expedited so that he has time to seek other remedies prior to the preliminary hearing, should his appeal be denied. I am expediting this appeal as a result.

Date of the incident: June 6, 2014  
Time of the incident: Between 9:00-10:00 am

Also identification of County's employees working on or around the metal detector at the date and time of the incident set forth above.

(See Right to Know Request).

On June 30, 2014 Allegheny County, through its Open Records Officer, Jerry Tyskiewicz, acknowledged receipt of the request and granted it in part and denied it in part:

Your request is granted in part and denied in part for the reasons set forth below.

The County is providing a document which identifies the County employees working on or around that metal detector on June 6, 2014 between 9:00 a.m.-10:00 a.m. The employees are identified with marks to the left of their name. The responsive document is attached in electronic format.

The remainder of your request is denied as permitted by Section 708(b)(16) (ii) & (vi)(A) of the Act.

Section 708. Exceptions for public records.

(b) Exceptions. Except as provided in subsections (c) and (d), the following are exempt from access by a requester under this act:

(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:

Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.

(See response filed June 30, 2014).

Requester filed the instant appeal from the decision of Allegheny County. Requester, through attorney Savage, contacted this appeals officer, briefly discussed the nature of the appeal, and asked for expedited review. It is apparent that requester is charged with violating 18 Pa.C.S. §913 **Possession of firearm or other dangerous weapon in court facility**. As a result of the brief discussion with attorney Savage, it is clear to this appeals officer that counsel believes that the video and audio tapes relate to the criminal investigation/prosecution of Mr. Barak and are relevant to the *prima facie* determination of criminal liability that is to be made at the preliminary hearing. As such, the items are classic 708(b)(16) materials and are exempt from disclosure. The decision of Allegheny County is affirmed.

The parties have 30 days to appeal this decision to the Court of Common Pleas of Allegheny County. See 65 P.S. §67.1302.

Very Truly Yours,

Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Officer