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Sandy M. Glass
2525 Boyce Plaza Road, Apt.# 306
Pittsburgh, PA 15241

August 21, 2019

Honorable Jonathan E. Wharton
Chief of Police
Open Records Officer
Upper St. Clair Police Department
1820 McLaughlin Run Road
Upper St. Clair, PA 15241

In re: Right to Know Law Appeal

Dear Ms. Glass and Chief Wharton:

I am the Open Records Appeals officer for Allegheny County. I have received an appeal from Ms. Glass from a decision of Upper St. Clair Police Department to deny her access to certain records. From the materials that I have been provided, it appears as though Ms. Glass was seeking copies of police reports, at least one of which involved an alleged domestic dispute. In denying access, Chief Wharton relied upon Section 708(b)(16) which exempts disclosure of criminal investigative materials. (See Letter dated August 14, 2019.)

As to what materials an agency can refuse to disclose, 65 P.S. §67.708(b)(16) provides in relevant part:

- (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.

65 P.S. §67.1101 requires that “[t]he appeal shall state the grounds upon which the requester asserts that the record is a public record...and shall address any grounds stated by the agency for delaying or denying the request.” It would appear that police reports are prepared in the course of a criminal investigation and requester has not offered any reason to view them differently. The fact that a criminal investigation is closed is of no moment, because, as the Office of Open Records has explained, Section 708(b)(16) expressly protects [materials] relating to the result of a criminal investigation and those materials remain protected even after the investigation ends. See *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP2009-0196. See also *Sherry v. Radnor Twp. School District*, 20 A.3d 515 (Pa.Cmwlt. 2011).

As a result, I must deny the request for 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