

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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PHONE (412) 350-4377 ♦ FAX (412) 350-3312

Kristopher M. Heggins  
EK-7139  
1111 Altamont Boulevard  
Frackville, PA 17931-2601

June 18, 2015

In re: Open Records Appeal

Dear Mr. Heggins:

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On June 16, 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, relative to the case of *Commonwealth v. George Lawrence Robinson, Nos. CC 2001065705 (sic), 200100244, 200103473*:

1. All omnibus motions pre-trial;
2. Preliminary hearing;
3. Suppression hearing transcripts
4. Trial transcripts;
5. Search warrants/Inventory List;
6. Prior Criminal Record.

Your request was denied by Ms. Celia B. Liss, Open Records Officer for the City of Pittsburgh based on her determination “that the City is not in possession of the requested documents and your request is denied in its entirety. To the extent anything requested does not exist, the RTKL instructs that the City is not required to create records which do not currently exist.”

Unfortunately, Ms. Liss directed you to file an appeal with the District Attorney’s Office. With all due respect to Ms. Liss, I believe that she provided you with inaccurate information as to your appeal. The District Attorney’s appeal officer only hears appeals “relating to access to criminal investigative records in possession of a local agency of that county.” See 65 P.S. §67.503(d)(2). The City did not deny access based on a finding that the records would disclose or

were related to, criminal investigative matters. The City denied your request without characterizing the requested materials as anything except items that the City does not have in its possession. The City did not invoke an exemption under §67.708 (16) (“A record of an agency relating to or resulting in a criminal investigation”). It is my humble opinion that I do not have jurisdiction over this appeal and that your appeal should be filed with the Office of Open Records. I have provided the address below:

Erik Arneson  
Executive Director  
Commonwealth of Pennsylvania  
Office of Open Records  
Commonwealth Keystone Building  
400 North Street, 4<sup>th</sup> Floor  
Harrisburg, PA 17120-0225

Mr. Heggins, I would encourage you to file an immediate appeal with the Office of Open Records and attach this letter to your appeal so that the Office will understand the reason for your delay. Should you disagree with my disposition, be advised that appeals from my decisions are normally filed in the Court of Common Pleas pursuant to §67.1302 and should be filed within 30 days. Again, however, given the reasons supplied by the City’s Open Records Officer for denying your request, I do not believe that I have jurisdiction to hear your appeal.

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