

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. Randall Hockett  
#117576  
Allegheny County Jail  
950 Second Avenue  
Pittsburgh, PA 15219-3100

July 2, 2020

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

In re: Right to Know Law Appeal; OOR Dkt. AP 2020-0633

Dear Mr. Hockett and Open Records Officer Tyskiewicz:

I am the Open Records Appeals officer for Allegheny County. You are both familiar with the procedural posture of this case. On or about February 5, 2020 Mr. Hockett sought the following information from Allegheny County:

- a. All policies/records regarding Wilkinsburg Police Shooting. Officers involved. Dates and times.

b. Policies or reports on dashboard cameras to Wilkinsburg Police vehicles[,] the dates they were given dashboard cameras, etc.

c. G.P.S. records/information to all Police vehicles that responded to incident No. P189966020. Date 1/21/18 at 3:18 a.m. from all locations.

*See Exhibit A; Office of Open Records (hereinafter OOR).*

The request was subsequently denied for two reasons. First, because the records were exempt as “criminal investigative” materials under 65 P.S. §67.708 (b)(16). And second, because disclosure would violate the Criminal History Record Information Act (CHRIA). *See Exhibit C; OOR.* Although Mr. Tyskiewicz informed requester that the appeal based on the “criminal investigative” exemption should be filed with me, requester filed an appeal with OOR. Interestingly, OOR did not decide the issue involving CHRIA and instead, remanded the case to me to decide applicability of the criminal investigative exemption.

I must note that in none of the materials forwarded to me by OOR, does requester address the issue of why the materials are not exempt. 65 P.S. §67.1101 requires that an 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.”

As to exemptions for criminal investigative materials, 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.

I find that the materials are exempt from disclosure. 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,

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Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Officer