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August 15, 2022

Jessica Garofolo, Director
Open Records Officer
Allegheny County Dept. of Administrative Services
202 Courthouse
436 Grant Street
Pittsburgh, PA 15219

In re: Vanessa Laveing v. Saurabh Tripathi; Final Response #10201

Dear Attorney Sanders and Open Records Officer Garofolo:

I am the Open Records Appeals officer for Allegheny County. On August 12, 2022, I received the current appeal. As the parties are aware, requester sought the following from the Agency:

All witness interview notes; transcript of wiretap on cell phone of civil defendant; lie detector test results of civil defendant (Saurabh Tripathi).

See Right to Know Request Form dated August 1, 2022.

The Agency granted the request in part and denied it in part. The Agency provided requester with a copy of the general report. It refused to provide further requested items asserting that these items were exempt from disclosure under 65 P.S. §67.708(b)(16)(ii) due to the fact that they were prepared as part of a criminal investigation. See *Letter of Ms. Garofolo dated August 4, 2022*.

Requester asserts entitlement to access based on the following:

We believe that the Denial was in error because the criminal investigation has been completed based upon statements made by Detective Bloom to our client and based upon the District Attorney's decision not to file criminal charges against Saurbh Tripathi.

See *Letter of Counsel Sanders dated August 10, 2022*.

I have no equity powers and cannot consider the motivations of a requester.

The Right to Know Law exempts certain materials from disclosure and in regards to those exemptions, 65 P.S. § 67.708(b)(16) provides as follows:

- (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.

As the Office of Open Records explained in *Jones v. Pennsylvania Game Commission*, OOR Dkt. AP 2009-0196 records pertaining to a closed criminal investigation remain protected because Section 708(b)(16) expressly protects records relating to the result of a criminal 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).

As a result, I must decline the request and affirm denial of 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