

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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Mr. Troy Maxwell  
2525 Hilltop Road  
Oakdale, PA 15071

July 24, 2020

Ms. Valerie Salla  
Open Records Officer  
Collier Township  
2418 Hilltop Road  
Presto, PA 15142

In re: OOR Docket No. AP 2020-0877

Dear Mr. Maxwell and Ms. Salla:

I am the Open Records Appeals officer for Allegheny County. On April 5, 2020, I received a transferred appeal from the Office of Open Records. Requester had sought the following information concerning an incident that occurred April 11, 2020 at 2525 Hilltop Road:

All calls that came into dispatch regarding this incident including timeliness and audio of the calls. Also, requesting all police reports related to this incident.

The affidavit of Chief Craig Campbell, Township of Collier Police Department indicates that any and all documents in the possession of the police department in regards to this incident were prepared in the course of a criminal investigation and relate to that investigation. (See Exhibit C).

Section 67.708(b)(16), of Title 65, exempts the following from disclosure:

- (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).

I have come to disagree with many of the limitations of the RTKL, especially in situations such as the present when police have been called and a victim or potential subject of that investigation wants documentation of an incident. But I have no power in equity. 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,

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Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Officer