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Mr. Rob Medonis
728 Shady Lane
Pittsburgh, PA 15228

November 24 2020

Celia B. Liss, Esquire
Open Records Officer
City of Pittsburgh Department of Law
Third Floor, City-County Building
414 Grant Street
Pittsburgh, PA 15219

In re: Right to Know Law Appeal; 183-03-2020

Dear Mr. Medonis and Open Records Officer Liss:

I am the Open Records Appeals officer for Allegheny County. On November 19, 2020, I received an appeal from the decision of the City of Pittsburgh denying requester's request for the following documents:

Vandalism/Property destruction/Looting reports from Hill District businesses damaged during the Martin Luther King riots in April 1968. The riots lasted from April 5-11, 1968.

See letter of Ms. Liss dated November 5, 2020. In denying the request Ms. Liss stated, *inter alia*,

Upon investigation I have determined that the records you have requested are exempt from production under RTKL and your request is denied in its entirety. RTKL states that investigative reports and other records associated with a criminal investigation are not subject to release. See 65 P.S. §§67.708(b)(16)(ii). Further, to the extent that this request is protected under the Criminal History Record Information Act, 18 PA.C.S. §9101 *et seq.*, the City is prohibited from forwarding this information to you.

See letter of Ms. Liss dated November 5, 2020.

In this appeal Mr. Medonis seeks to amend his “request to only include police blotters and exclude any records related to murder[.]” See letter of Mr. Medonis dated November 16, 2020. Mr. Medonis also seeks to use this appeal to “request copies of any records that the DA’s office has concerning the riots in the Hill District, excluding murder, for the period April 5-11, 1968[.]” *Id.*

Requester is reminded that the Right to Know Law exempts certain materials from disclosure and 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.

I can understand requester's frustration, given the time lapse, but 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). And the law does not only apply to violent felonies. It applies to all types of criminal investigations.

I cannot now permit an amendment of the request, because I am reviewing the request as it was presented to Ms. Liss. In focusing on "police blotters," requester may have hit on a category of information that might not be exempt. See 18 Pa.C.S.A. §9104. But in fairness to Ms. Liss, that request would have to be made to the City of Pittsburgh in a new request. Also, any request for information in the possession of the Office of District Attorney would have to be made to Mr. Kevin F. McCarthy, Open Records Officer, Office of District Attorney, 401 Courthouse, 436 Grant Street, Pittsburgh PA 15219.

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