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OF ELK COUNTY**
RIDGWAY, PENNSYLVANIA
15853-0448

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November 15, 2014

Mrs. Leanne R. Nedza, Esq.
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199 W. DuBois Avenue
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Re: Nedza v. St. Marys Police Department, AP 2014-1486
PA Office of Open Records' Decision dated October 17, 2014

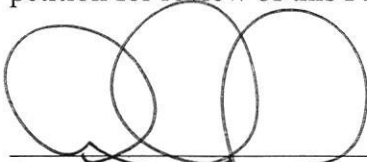
FINAL DETERMINATION

Please allow this to serve as a Final Determination by Shawn T. McMahon, Esq., Elk County District Attorney, designated appeals officer for the Office of the Elk County District as the same relates to your open records requests to the City of St. Marys Police Department dated September 10, 2014 wherein you requested "police report, incident report and other documentation regarding incident(s) in May and/or June 2014 regarding statements John McMurray made about Michelle Muccio including but not limited to threats and/or derogatory statements." On September 12, 2014 City of St. Marys Police Chief Todd Caltagarone denied your request for the aforesaid records. Procedurally it should be noted, despite the procedures provided by §1101 of the Right To Know Law (regarding filing an appeal) and the exception contained therein under §503(d) (regarding law enforcement records and the district attorney or designee hearing appeals) you appealed directly to the Pennsylvania Office of Open Records as oppose to the Office of the Elk County District Attorney. It is also noted that Kathleen A. Higgins, Esq., Appeals Officer, Pennsylvania Office of Open Records, issued a Final Determination dated October 17, 2014 which the Office of the Elk County District Attorney received a copy of the same from you on October 22, 2014 by letter dated October 17, 2014 wherein your appeal was granted in part and dismissed based upon lack of jurisdiction as the Elk County District Attorney or designee was required to make a determination as to whether the records you are requesting are or are not criminal investigative records.

Pursuant to §1102 of the Right To Know Law I've decided not to hold a hearing on this matter notwithstanding I've reviewed the relevant documents as provided to my office by the City of St. Marys Police Department, namely the documents being requested including City of St. Marys Inclusive Case Report dated June 3, 2014 as supplemented on August 6, 2014, City of St. Marys Inclusive Case Report dated May 31, 2014, and Witness Statement dated May 30, 2014 whereby I've determined the subject documents, including "police report, incident report and other documentation regarding incident(s) in May and/or June 2014 regarding statements John McMurray made about Michelle Muccio including but not limited to threats and/or derogatory statements" are documents under §708(b)(16) of the Right To Know Law that are records of an agency relating to or resulting from a criminal investigation such that the same are exempt from disclosure. Secondly such documents being

requested implicate §708(b)(5) regarding medical, psychiatric or psychological history or disability status of an individual such that the same are exempt from disclosure. In consideration thereof, your requests for City of St. Marys Inclusive Case Report dated June 3, 2014 as supplemented on August 6, 2014, City of St. Marys Inclusive Case Report dated May 31, 2014, and Witness Statement dated May 30, 2014 as well as “police report, incident report and other documentation regarding incident(s) in May and/or June 2014 regarding statements John McMurray made about Michelle Muccio including but not limited to threats and/or derogatory statements” from the City of St. Marys Police Department is denied as any such documents are determined to be exceptions or exempt to the disclosure of public records under §708(b)(16) as the same are records of an agency relating to or resulting from a criminal investigation and secondarily under §708(b)(5) as the same implicate medical, psychiatric or psychological history or disability status of an individual.

Pursuant to §1302(a) within Thirty (30) Days of the mail date of this Final Determination you may file a petition for review of this Final Determination with the Elk County Court of Common Pleas.



Shawn T. McMahon, Esq.
Elk County District Attorney
Designated Appeals Officer

Decision Date: **November 15, 2014**
Mail Date: November 17, 2014

Sent To:

Leanne R. Nedza, Esq. (via USPS First Class Mail Postage Prepaid and E-mail)

Todd Caltagarone, City of St. Marys Police Department (via USPS First Class Mail Postage Prepaid and E-mail)