

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. Edward Schelb  
419 Stafford Avenue  
Bridgeville, PA 15017

January 9, 2023

Valerie Salla  
Right to Know Officer  
Township of Collier  
2418 Hilltop Road  
Presto, PA 15142

In re: Right to Know Law Appeal; Request No. 120922-01

Dear Mr. Schelb and Ms. Salla:

I am the Open Records Appeals officer for Allegheny County. On January 4, 2023, I received an appeal from Mr. Schelb from the decision of Collier Township, denying access to certain documents. Specifically, Mr. Schelb had sought the following:

Investigative reports pertaining to Nos. 20200430M0014 and 20221126M0015

*See Right to Know Law Request as well as Current Appeal Request.*

The request was denied based upon "Section 708(b)(16)(i) and (ii)." See *Denial of Township of Collier.*

In this appeal Mr. Schelb asserts: "Please allow me to file an appeal with you in writing for the denial of Criminal Records' information regarding my right to know in my case of harassment. The information I am requesting to review are the two investigative reports #20200430M0014 and #20221126M0015." See *Request to Appeal*.

Both parties are well aware that I have no power in equity and must apply the law as written and elaborated on by the appellate courts. I mention that because Mr. Schelb appears to want criminal investigative material that involved him in some manner: "my case of harassment." See *Current Appeal Request*. The exemptions in the Right to Know Law apply to all citizens making a request for information, regardless of whether they are defendants, victims, or just interested members of the public.

65 P.S. §67.1101 **Filing of appeal** places a burden on a requester to: "state the grounds upon which the requester asserts that the record is a public record...and ... address any grounds stated by the agency for delaying or denying the request."

Requester is reminded that the Right to Know Law exempts certain materials from disclosure and 65 P.S. § 67.708(b)(16) makes the following documents unavailable to public access:

- (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 deny the request and affirm denial of access to the police report. 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