

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. David Bayne
121 Crystal Drive
New Kensington, PA 15068

November 6, 2019

Mona Costanza
Agency Open Records Officer
Plum Borough
4575 New Texas Road
Pittsburgh, PA 15239

In re: Right to Know Law Appeal; Dkt. No. AP 2019-1617

Dear Mr. Bayne and Open Records Officer Costanza:

I am the Open Records Appeals officer for Allegheny County. As the parties know, the Office of Open Records referred the captioned case to me to determine whether the items sought by Mr. Bayne—location of all VASCAR areas used by the Borough and the location of the VASCAR used on Leechburg Road, should be disclosed. This isn't the first time I have had to deal with this same issue between these parties.

As to exempted documents and information, 65 P.S. §67.708(b)(16) provides in relevant part:

(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 find that the requested items are covered by the criminal investigation exemption, and I must deny access to them.

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