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DISTRICT ATTORNEY



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County of Allegheny

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Mr. James Bentley
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Boynton Beach, Florida 33426

April 8, 2020

Mr. Jerry Tyskiewicz
Director/Open Records Officer
Department of Administrative Services
202 Courthouse
436 Grant Street
Pittsburgh, PA 15219

In re: OOR Docket No. AP 2020-0143

Dear Mr. Bentley and Mr. Tyskiewicz:

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:

[A]ll copies of cop car videos with report for incident at 312 Elliott Rd.
Monroeville on 8/15/2007 around 6 pm[.]

The affidavit of Chief Kenneth Cole, Monroeville Police Department as well as the affidavit of attorney Louis C. Blauthm Jr., Allegheny County Police, indicate that the videos relate to a criminal homicide investigation. (See Exhibits C and D).

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).

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