

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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Darnell Dixon  
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SCI-Dallas  
1000 Follies Road  
Dallas, PA 18612-9515

May 27, 2016

In re: Open Records Appeal

Dear Mr. Dixon:

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On May 23, 2016 I received from you an appeal of a denial of a Right To Know Law Request. That denial was from Kevin F. McCarthy, Open Records Officer, District Attorney of Allegheny County. In your request you were seeking:

Any and all medical records pertaining to requester when housed at the Allegheny County Jail during the months of Nov[ember] of 2008 through June of 2009, any and all doctors who [were] in care of requester during that period of time.

Mr. McCarthy denied your request based on Section 708 (b)(16) of the RTKL as well as the fact that the Office of District Attorney did not possess those records.

As you know, 65 P.S. §67.708 (b)(16) exempts from disclosure “[a] record of an agency relating to or resulting in a criminal investigation[.]” I respectfully disagree with the finding of Mr. McCarthy that records concerning medical treatment of a defendant while incarcerated at the jail would necessarily relate to a criminal investigation. I do however agree that an Agency cannot provide records that it does not possess when there is no contractual relationship with the party that possesses them. See 65 P.S. §67.506 (d). There is no contractual relationship between the Office of District Attorney and the Jail as it relates to medical treatment and storage of inmate medical records. Mr. McCarthy indicated in his letter that he forwarded your request to the Allegheny County Jail. If you have not heard from the jail, I would recommend that you file a Right to Know Law request with them. The Allegheny County Jail is the Agency that controls your medical records, not the District Attorney of Allegheny County.

As a result, I must decline your request. Please be advised that pursuant to Section 1302 of the RTK law you have 30 days to appeal my decision to the Court of Common Pleas of Allegheny County.

Very truly yours,

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Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Officer

cc: Mr. Kevin F. McCarthy, Open Records Officer