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DETERMINATION OF APPEAL FROM LOCAL LAW ENFORCEMENT AGENCY DENIAL OF REQUEST OF JIMMY ALTAMIRANO FOR INFORMATION UNDER THE RIGHT TO KNOW LAW.

FINDINGS:

1. The undersigned is responsible to make the determination in this matter pursuant to 65 P.S. 67.503(d)(2).

2. A request was submitted to the Borough of Berwick Police Department on behalf of Jimmy Altamirano on May 17, 2016 seeking "...any police reports, or police incident reports, involving Jimmy Altamirano from the years 2005 through 2007."

3. The designated representative of the Borough of Berwick Police Department issued a response on May 23, 2016 denying the request "...because records related to or resulting in a criminal investigation are exempt from disclosure pursuant to Exemption 16 of Section 708 of the Right-to-Know Law."

4. The requester submitted a timely appeal to the undersigned asserting, in pertinent part, the following:

> "The purpose of these exemptions is to protect the identity of the parties involved; however, since Mr. Altamirano was a victim of this crime he is already aware of the parties involved. Further, Mr. Altamirano is seeking this information for an immigration matter to protect himself and his children. This section of the law is intended to protect the civil liberties of citizens. The disclosure of the information requested by Mr. Altamirano will not violate anyone's civil liberties. Mr. Altamirano is simply seeking a copy of reports regarding the incidents of which he was involved. Therefore, the request for information should be granted and the documents disclosed to Mr. Altamirano."

DISCUSSION:

The law is clear that the mere fact a record has some connection to a criminal proceeding does not automatically exempt it from disclosure as investigative material under the Right to Know Law. Pennsylvania State Police v. Grove, 119 A. 3d 1102 (Pa. Cmwlth. 2015). It is equally clear, however, that virtually any information contained in

a police incident report is considered investigative material and, therefore, covered by the exemption of such material from disclosure under Section 67.708(b)(16). Hunsicker v. Pennsylvania State Police, 93 A. 3d 911 (Pa. Cmwlth. 2014). The original request itself identifies the material requested as 'police reports or police incident reports' which would clearly fall within the purview of the referenced exemption.

The requester also asserts that his request should be granted because he seeks the information to benefit his children and himself in connection with an immigration matter. The law is clear that whether or not the information is accessible is based solely on whether or not it is a 'public record' and, if it is, whether or not it falls within an exemption. Hunsicker, *Supra*. The status of the requester and the reason for the request is irrelevant to whether or not the information sought is accessible under the Right to Know Law. *Id.*

DECISION:

For the reasons set forth above, the appeal is denied and the decision of the Borough of Berwick Police Department to deny the request is affirmed.

Thomas E. Leipold
Columbia County District Attorney

Dated: July 14, 2016