

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

September 10, 2015

In re: Open Records Appeal

Dear Mr. Dixon:

I am the Open Records Appeals Officer for the District Attorney of Allegheny County. On September 8, 2015 I received from you an appeal of a denial of a Right To Know Request. That denial was from Kevin F. McCarthy, Open Records Officer, District Attorney of Allegheny County. In your request you were seeking:

1. What ACJ Staff did with the bullet, and medical Records showing that they took a bullet out of me.

Mr. McCarthy denied your request based on Section 708 (b)(16) of the RTKL.

As you know, 65 P.S. §67.708 (b)(16) exempts from disclosure:

(16) A record of an agency relating to or resulting in a criminal investigation, including:

\* \* \* \*

(ii) Investigative materials, notes, correspondence, videos and reports.

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 an 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 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