

STEPHEN A. ZAPPALA, JR.  
DISTRICT ATTORNEY



OFFICE OF THE DISTRICT ATTORNEY

# County of Allegheny

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October 31, 2018

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

In re: Open Records Appeal; William Cooper and McClymonds Supply & Transit Co., Inc.

Dear Ms. Milton and Director/Open Records Officer Tyskiewicz:

As you know, I am the Open Records Appeals Officer for the Office of District Attorney of Allegheny County, and have the responsibility under 65 P.S. §67.503 (d)(2) to “determine if the record requested is a criminal investigative record.” On October 25, 2018, I received an appeal from Ms. Milton from the decision of Allegheny County to deny access to the following:

As you are aware, our office represents the interests of William “Bill” Cooper and McClymonds for an accident that occurred on May 31, 2018, on the McKees Rocks Bridge, 275 McKees Rocks Plaza, McKees Rocks, PA, involving Sabrina H. Davenport. At this time, we are again requesting any and all un-redacted Police Reports, communications, records, investigative reports, notes, photographs, videos, recorded statements related to Case No. CR-001375-18/EVENT-010755-18. Thank You. P.S. Our request was initially denied on 8/3/18 and we missed the deadline to file an appeal, hence the filing of another request.

(See letter from Mr. Tyskiewicz, dated October 17, 2018).

At this point, I have until November 24, 2018 to make a final determination. See §67.1101(b)(1). In making that determination, §67.1102(a)(1) permits me to “[s]et a schedule for the requester and the open records officer to submit documents in support of their positions.” The present information in my possession gives little insight into what the County possesses, why they possess it, and why they should disclose it to the requester. In that vein I note that §67.1101 requires that an “appeal shall state the grounds upon which the requester asserts that the record is a public record ... and shall address any grounds stated by the agency for delaying or denying the request.” In this appeal, the requester has not given me any discussion in conformity with that requirement.

In order to resolve this appeal, I would respectfully request that by November 16, 2018, the requester explain why the requested items are not exempt as criminal investigative materials. Further, I would also respectfully request that by November 16, 2018, Open Records Officer Tyskiewicz indicate what materials his Agency possesses in regards to this request and a certified statement from an appropriate individual in that Agency asserting that the materials were prepared and collected in relation to, or in the course of, a criminal investigation. I will then be better able to decide this appeal. Thank you both, in advance, for your cooperation.

Very truly yours,

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Michael W. Streily  
Deputy District Attorney  
Open Records Appeals Office