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DISTRICT ATTORNEY



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Ms. Beth Simoni
2907 Brevard Ave.
Pittsburgh, PA 15227

January 11, 2018

Mr. George Zboyovsky
Open Records Officer
Brentwood Borough Municipal Building
3624 Brownsville Road
Pittsburgh, PA 15227

In re: Right to Know Law Appeal; Docket No. AP 2017-2258

Dear Ms. Simoni and Mr. Zboyovsky:

I am the Open Records Appeals officer for Allegheny County. On January 10, 2018 I received a transferred appeal from the Office of Open Records in the above referenced matter: *Beth Simoni v. Brentwood Borough*. You are both familiar with the procedural history of the case. Ms. Simoni has requested the following items:

All records, Transcripts, phone and 911 calls/reports, including criminal ticket related to my recent arrest by Officer Swick by mail on 8/8/2017-animal ordinance.

Given the provisions of The Right To Know Law, my responsibility (see 65 P.S. §67.503 (d)) is to determine whether these items are exempt from disclosure based

on §67.708 (b)(16) which exempts records “relating to or resulting in a criminal investigation.”

In an affidavit filed by Adam Zeppuhar, Chief of Police for Brentwood Borough, in the litigation before the Office of Open Records, Chief Zeppuhar identified five records responsive to this request: “(1) Case report, (2) Event Report, (3) Arrest Report, (4) a police log of the incident, and (5) a non-traffic citation. In arguing that the records are exempt, Brentwood Borough asserted the following:

27. The Case Report, Event Report, and Arrest Report, were all completed by a Police Department officer pursuant to his job duties, which include investigating complaints, accidents, and suspected crimes and determining the appropriate course of action.

28. Upon the officer’s arrival at Brevard Avenue, an investigation or detailed examination was commenced regarding the reported incident involving a pitbull dog at large digging in garbage cans, and subsequently the Case Report, Event Report, and Arrest Report were prepared regarding the investigation into said matter.

29. The Case Report, Event Report, and Arrest Report contain narrative information describing and documenting the officer’s investigation.

30. The police log of the incident indicates all the steps a police officer takes when investigating a complaint of criminal conduct. Thus, disclosure of the police log would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual, specifically responding police officers.

31. Moreover, the release of the police log would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection.

Chief Zeppuhar made similar representations in his affidavit (see Affidavit submitted to OOR). I find that the Case Report, Event Report, and Arrest Report are exempt from disclosure.

As to the police log, I adopt the statement of the OOR on p.6 fn.#3 of its Final Determination: “To the extent that the log referenced by Chief Zeppuhar is a police blotter, it would not be subject to the exemption.” I therefore direct Brentwood Borough to provide requester with a copy of the police log; albeit a copy that has

been redacted to remove any information that does not fit the definition of “police blotter” under 18 Pa.C.S.A. §9102.

Brentwood Borough makes no argument for not disclosing a copy of the non-traffic citation and I direct that a copy be provided to requester, even though she appears to have already been given a copy.

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