



CITY OF PHILADELPHIA

LAW DEPARTMENT
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March 6, 2015

VIA ELECTRONIC MAIL

Dustin Slaughter
PO Box 55819
Boston, MA 02205-5819
15746-03246749@requests.muckrock.com

Re: Slaughter CP 2015-0073

Dear Mr. Slaughter:

Thank you for writing to the City of Philadelphia (the “City”) Police Department (“PPD”) with your request for information pursuant to the Pennsylvania Right-To-Know Law, 65 P.S. § 67.101 *et seq.*, (the “Act” or “RTKL”).

On January 26, 2015, PPD received your request for a “log/database of all [PPD] automated license plate reader (ALPR) reads from” January 1, 2015 to January 14, 2015. You asked that PPD include “whether the read resulted in a hit/alarm, whether the hit/alarm was accepted, which hotlist(s) the hit/alarm corresponded to, whether the hit/alarm resulted in a vehicle stop, and whether the stop resulted in a citation, arrest or other action.”

On February 3, 2015, PPD informed you that it would require up to an additional thirty (30) days to respond to your request. On March 4, 2015, you agreed to a one-week extension of the deadline to respond to your request. This constitutes PPD’s response to your request.

At the outset, your request is insufficiently specific as it is subject to more than one reasonable interpretation. Both the Commonwealth Court and the Office of Open Records have held that a request is insufficiently specific when it is “subject to multiple interpretations as to what records [are] sought. . . .” *Pa. Hous. Fin. Agency v. Ali*, 43 A.3d 532, 535 (Pa. Commw. Ct. 2012); *accord Rhoads v. W.Berks Water Auth.*, O.O.R. Dkt. AP 2010-1184 (Pa. O.O.R. Jan. 13, 2011) (holding that when a request is “susceptible to two different meanings [. . .] the necessary clarity for providing responsive records is absent.”); 65 P.S. § 67.703.

To the extent that your request seeks aggregate data on PPD’s ALPR reads for the period of January 1, 2015 to January 14, 2015, *your request is granted*, to the extent that data is available. The City is not required to “create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format or organize the record.” 65 P.S. § 67.705; *see also Dep’t of Env’tl. Prot. v. Cole*, 52 A.3d 541, 548 (Pa.

Commw. Ct. 2012) (finding that under the current version of the RTKL an agency is not required to create a new document “because this would make public employees, in effect, the ‘agents’ of those seeking information and take them away from the jobs that they were hired to perform”); *Com. of Pa. Dep’t of Enviro. Prot. v. Cole*, 52 A.3d 541 (Pa. Commw. 2012) (“[T]he information contained in databases that is subject to disclosure under the Right-to-Know Law must simply be provided to requestors in the same format that it would be available to agency personnel.”). Moreover, it is not a denial of access under the Act if the records requested do not exist. *Cf. Jenkins v. Pennsylvania Dep’t of State*, AP 2009-0065 (Pa. OOR April 2, 2009).

Subject to and without waiving the foregoing, below, please find the data collected by PPD during the period specified in your request:

Number of Tags Read: 22,810,687
Terror Watch Reads: 77
Stolen Autos Recovered: 420
Stolen Plates Recovered: 23
Felony Arrests Made: 19
Misdemeanor Arrests Made: 9
Total Read Hours ALPR Fleet: 81,197

To the extent that your request seeks individual license plate readings or a log or database containing individual reading information, *your request is denied*. As noted above, your request is insufficiently specific as it is subject to more than one reasonable interpretation. 65 P.S. § 67.703. The City is not required to guess and provide a response for every possible interpretation of your request. Moreover, records “relating to or resulting in a criminal investigation” are exempt from disclosure under the Act, in particular “[i]nvestigative materials, notes, correspondence, videos and reports.” 65 P.S. § 67.708(b)(16)(ii). Such individual license plate readings and accompanying information are investigative materials that relate to individual criminal investigations, and, as your request indicates, these investigations may result in vehicle stops, arrests, or other police actions.¹ Therefore, the individual license plate reading data is exempt from disclosure under the Act.

Should you wish to contest any part of this decision, you may file an appeal with the Office of Open Records as provided for in 65 P.S. § 67.1101. You have 15 business days from the mailing date of this response to challenge the City’s response. Please direct any appeal to the Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225 and copy the undersigned open records officer.²

Please be advised that this correspondence will close your request with our office as permitted by law.

¹ To the extent such investigations are noncriminal in nature, records “relating to a noncriminal investigation” are exempt from disclosure under the Act, including “[i]nvestigative materials, notes, correspondence and reports.” 65 P.S. § 67.708(b)(17)(ii).

² To appeal the reservation of denial pursuant to 65 P.S. § 67.708(b)(16) regarding records relating to a criminal investigation, you may file an appeal with the Philadelphia District Attorney’s Office as provided in 65 P.S. § 67.1101 and 65 P.S. § 503(d)(2). You have 15 business days from the mailing date of the City’s response to challenge the response. Please direct any appeal to DA Appeals Officer, Attn: Priya Travassos, Three South Penn Square, Philadelphia PA 19107-3499 and copy the undersigned.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jeffrey Cohen', written in a cursive style.

Jeffrey Cohen
Assistant City Solicitor

cc: Lt. Edward Egenlauf, Open Records Officer, Philadelphia Police Department