

Franklin Township Police Department



Lawrence W. Roberts
Chief of Police

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Office of the Chief

August 15, 2012

VIA FACSIMILE: 973-642-6523

AND FIRST CLASS MAIL

Thomas W. MacLeod

American Civil Liberties Union of New Jersey

P.O. Box 32159

Newark, NJ 07102

**Re: Township of Franklin
Open Public Records Request, Dated 7/30/2012
Requester: ACLU of New Jersey**

Dear Mr. MacLeod:

Your request seeking documentation regarding automatic license plate recognition (ALPR) technology was received by the Township on July 30, 2012. Please accept this letter in response.

A request pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA") must identify the records sought with specificity. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). "Wholesale requests for general information to be analyzed, collated and compiled by the responding government entity are not encompassed" within the Open Public Records Act. See MAG Entertainment, LLC vs. Division of Alcohol Beverage Control, 375, N.J. Super. 534, 549 (App. Div. 2005). OPRA "is not intended as a research tool litigants may use to force government officials to identify and siphon useful information." Id. at 546; see also, Bent v. Stafford Twp. Police Dept., 381 N.J. Super. 30, 37-39 (App. Div. 2005) (noting that OPRA allows requests for specific records, not requests for information, data or statistics). As such, requests for "any and all" documents on a specific subject are considered overly broad. Bent, supra, 381 N.J. Super. at 37. Moreover, a custodian may reject a request that is overly broad or vague so as to prevent identification of the records sought. New Jersey Builders Ass'n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 172 (App. Div. 2007).

In recognition of the above principles of law, and incorporating them herein, we have addressed each request individually below:

1. All policies, procedures, and other general guidelines for procuring and using ALPR technology, and for storing, accessing and sharing data scanned with ALPR technology;

Please be advised that your request is objectionable, and subject to denial because it is overly broad, and fails to request a specifically identifiable record. Furthermore, N.J.A.C. 13:1E-3.2(a)(1), exempts from release under OPRA a law enforcement agency's standard operating procedures and training manuals.

Notwithstanding, the objectionable nature of your request, the Township has identified the following documents believed to be responsive to your request:

- a. Attorney General Directive No. 2010-5, which directive incorporates and includes the "Attorney General Guidelines for the Use of Automated License Plate Readers and Stored ALPR Data" (hereinafter "Attorney General Guidelines") (dated December 3, 2010). This document consists of 21 pages, and may be provided for the statutory fee of one dollar and five cents (\$1.05).
- b. Franklin Township Police Department Operations Order No. O.O. 1101, issued January 14, 2011. This document consists of 5 pages, and may be provided for the statutory fee of twenty five cents (\$0.25).

2. With respect to *procurement* of ALPR technology, all:

- a. Records detailing the sources of funds that have been or will be expended for this purpose, including, but not limited to grant award letters and budget documents;
- b. Invoices for purses completed or in process;
- c. Official government approvals of purchases completed or in process;
- d. Fact sheets and other materials describing the products of vendors, suppliers and prospective suppliers.

Please be advised that your request is objectionable, and subject to denial because it is overly broad, and fails to request a specifically identifiable record. Notwithstanding, the objectionable nature of your request, the Township has identified the following documents believed to be responsive to your request:

- a. Township Resolution #10-236 signed May 25, 2010. This is a one page document and may be provided for the statutory fee of five cents (\$.05)

3. With respect to *use* of the ALPR technology, records detailing:

- a. All types of data scanned, recorded, or otherwise captured;
- b. The number of license plates scanned per day, week, month and year, and the average numbers for each period;
- c. The number of units or systems acquired;
- d. The number of vehicles equipped with such units or systems;
- e. The number and physical locations of stationary units or systems;

f. All technical capabilities and specifications of each type of unit or system used;

OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC vs. Division of Alcohol Beverage Control, 375, N.J. Super. 534, 546 (App. Div. 2005). This request fails to identify with specificity the documents sought. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). Because this is a request for information and not a request for specific, identifiable records, this request is improper under OPRA, and must be denied.

Specifically, and in supplement to this general denial, with respect to Requests numbered 3(a) and 3(b), the Attorney General Guidelines provide that “[s]tored ALPR data shall be treated as “criminal investigatory records” within the meaning of N.J.S.A. 47:1A-1 *et seq.*, and shall not be released in the absence of a subpoena or court order. Regardless, all of Franklin Township’s data is stored in a shared server with Somerset County. Our system administrator only has access to the previous day’s number of license plates scanned. After that, the information is archived and intermingled in the shared server. The only way to retrieve this data would be a hand search through every license plate in the shared server to determine if it was scanned by a Franklin Township Unit. To provide you with this data would require an extremely extensive and labor intensive search of the documentation and then create a document not normally maintained by this agency.

To the extent information responsive to Requests numbered 3(c) through 3(f) is contained in procurement documents provided in response to Requests numbered 1 and 2, please see the documents provided in response to those requests.

Please be advised however that N.J.S.A. 47:1A-1.1, exempts from disclosure “security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software.” The release of information regarding the Franklin Township police department’s surveillance capabilities could compromise its ability to protect the safety of persons and property. Release of surveillance information is also prohibited by N.J.A.C. 13:1E-3.2(a)(3).

- 4. With respect to *storage of data* scanned with ALPR technology, records detailing:**
- a. All types of data stored for any period longer than one hour;**
 - b. The length of time that each type of data is stored;**
 - c. The number of individual license plate scans currently stored by your agency;**
 - d. The length of time after which data may be discarded;**
 - e. The length of time after which data must be discarded;**

OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC vs. Division of Alcohol Beverage Control, 375, N.J. Super. 534, 546 (App. Div. 2005). This request fails to identify with specificity the documents sought. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super.

445, 451 (App. Div. 2009). Because this is a request for information and not a request for specific, identifiable records, this request is improper under OPRA.

Specifically, and in supplement to this general denial, with respect to Requests numbered 4(a), 4(b), and 4(c), the Attorney General Guidelines provide that “[s]tored ALPR data shall be treated as “criminal investigatory records” within the meaning of N.J.S.A. 47:1A-1 et seq., and shall not be released in the absence of a subpoena or court order. Regardless, all Franklin Township ALPR data is stored and managed by the Somerset County Prosecutor’s office, and is not maintained in any Township system.

Notwithstanding the objectionable nature of this request, information relevant to Requests numbered 4(a), 4(b), 4(d), and 4(e) may be found in the documents referenced in response to Request number 1. The Township has no records responsive to Request number 4(c), as all records are stored and maintained by the Somerset County Prosecutor’s office.

5. With respect to *accessing* ALPR data, records detailing:

- a. All purposes for which the data *may* be accessed;**
- b. All purposes for which the data *cannot* be accessed;**
- c. Who may access the data, what legal justification is required to obtain access, what procedures must be followed, and who must authorize access;**
- d. All systems or methods used to record who accesses the data, and under what circumstances;**

OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC vs. Division of Alcohol Beverage Control, 375, N.J. Super. 534, 546 (App. Div. 2005). This request fails to identify with specificity the documents sought. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). Because this is a request for information and not a request for specific, identifiable records, this request is improper under OPRA.

Specifically, and in supplement to this general denial, the Attorney General Guidelines provide that “[s]tored ALPR data shall be treated as “criminal investigatory records” within the meaning of N.J.S.A. 47:1A-1 et seq., and shall not be released in the absence of a subpoena or court order. Regardless, all Franklin Township ALPR data is stored and managed by the Somerset County Prosecutor’s office, and is not maintained in any Township system.

Notwithstanding the objectionable nature of this request, it appears that all of the information sought in Request number 5 is contained in the documents referenced in response to Request number 1.

6. With respect to *sharing* ALPR data, records detailing:

- a. All types of data shared by and with your agency;**
- b. All public or private individuals or entities that have access to your agency’s ALPR data, the procedures they must follow to gain such access, and the restrictions placed on them with respect to further sharing of data, including**

but not limited to sharing agreements and other documents identifying the databases to which your agency supplies data;

- c. All public or private individuals or entities that provide your agency with access to ALPR data, the procedures your agency must follow to gain such access, and the restrictions placed on your agency with respect to further sharing of data, including but not limited to sharing agreements and other documents and other documents identifying the databases from which your agency receives data;

OPRA “is not intended as a research tool litigants may use to force government officials to identify and siphon useful information.” MAG Entertainment, LLC vs. Division of Alcohol Beverage Control, 375, N.J. Super. 534, 546 (App. Div. 2005). This request fails to identify with specificity the documents sought. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). Because this is a request for information and not a request for specific, identifiable records, this request is improper under OPRA.

Specifically, and in supplement to this general denial, the Attorney General Guidelines provide that “[s]tored ALPR data shall be treated as “criminal investigatory records” within the meaning of N.J.S.A. 47:1A-1 et seq., and shall not be released in the absence of a subpoena or court order. Regardless, all Franklin Township ALPR data is stored and managed by the Somerset County Prosecutor’s office, and is not maintained in any Township system.

Notwithstanding the objectionable nature of this request, it appears that all of the information sought in Request number 6 is contained in the documents referenced in response to Request number 1.

7. All training materials used to instruct members of your agency in ALPR technology use, data management, or operation of automated records systems containing ALPR data to which any member of your agency has access, including regional or shared databases.

This request fails to identify with specificity the documents sought. Bart v. Passaic County Pub. Hous. Agency, 406 N.J. Super. 445, 451 (App. Div. 2009). It is overly broad in scope and so vague as to prevent identification of the records sought. New Jersey Builders Ass’n v. New Jersey Council on Affordable Housing, 390 N.J. Super. 166, 172 (App. Div. 2007). Therefore, the request is improper under OPRA.

In addition, N.J.S.A. 47:1A-1.1, exempts from disclosure “security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software.” The release of information regarding the Franklin Township police department’s surveillance techniques could compromise its ability to protect the safety of persons and property. Release of surveillance, security, or investigative techniques is also prohibited by N.J.A.C. 13:1E-3.2(a)(3). Furthermore, N.J.A.C. 13:1E-3.2(a)(1), exempts from release under OPRA of a law enforcement agency’s standard operating procedures and training manuals.

Notwithstanding the objectionable nature of this request, it appears that the documents referenced in response to Request number 1 are also responsive to this request.

Please feel free to contact us with any questions or concerns.

Respectfully

A handwritten signature in black ink, consisting of a stylized 'P' and 'J' followed by a long horizontal line.

Sgt Philip J. Rizzo
Professional Services Division
Bureau of Community Affairs

C: Ann Marie McCarthy – Township Clerk
Louis Rainone – Township Attorney
Chief Lawrence W. Roberts.
Lt. Kristen Durham
File