



County of Passaic

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February 5, 2013

Thomas W. MacLeod, Esq.
Open Governance Attorney
American Civil Liberties Union of New Jersey
P.O. Box 32159
Newark, New Jersey 07012

Re: Open Public Records Act (OPRA) Request, January 10, 2013

Dear Mr. MacLeod:

Set forth below is our response to the six paragraphs listed in your OPRA request:

1. All policies and other general guidelines that address procuring, using or sharing ALPR technology, or storing, accessing or sharing ALPR data.

Response:

Guidelines and policies regarding ALPRs are contained in the attached "Attorney General Directive No. 2010-5." Further, attached is a memorandum of agreement (MOA) between this office and the local police agency(ies) using the ALPR. The MOA has been redacted to remove reference to the police agency and any specific security initiative, pursuant to the security measures and techniques exemption of OPRA, N.J.S.A. 47:1A-1.

2. With respect to procuring ALPR technology,
 - a. Records documenting the sources of funds that have been or will be expended to purchase ALPR units, including letters or notices awarding specific grants to your agency, budget documents, and other similar records;
 - b. Invoices for purchases completed or in process;
 - c. Official government approvals of purchases completed or in process, regardless of form, including statutes, ordinances, resolutions, and other similar records;

Response:

Regarding request #2a., the expenditure of funds for ALPRs was made under The Federal Emergency Management Agency's (FEMA) Homeland Security Grant Program. Information concerning the grant may be found at the FEMA website as follows:

https://www.rkb.us/archived_fema_grants.cfm. Because there is no stand-alone ALPRS grant program, this office does not maintain or possess documents responsive to the request.

As regards request #2b. and 2c., attached are invoices, purchase orders, and freeholder resolutions for ALPR expenditures that were made by this office.

3. With respect to using ALPR technology,
 - a. The number of license plates scanned per day, week and month since January 1, 2010, plus the total number of scans currently stored in your agency's ALPR system;
 - b. The number of ALPR units or systems acquired;
 - c. The number of vehicles equipped with such units or systems;
 - d. The number and physical locations of stationary units or systems;
 - e. The technical capabilities and specifications of each type of unit or system used, including manufacturer product sheets and other similar records;

Response:

As regards #3b. of the request, please see the attached invoices for the units/systems purchased by this office, as noted in the response to request #2.

We must deny access to records in regards to #3a., 3c., and 3d. of the request pursuant to the security measures and techniques exemption of OPRA, N.J.S.A. 47:1A-1 which states that "records related to security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software" are deemed confidential and not subject to OPRA. Law enforcement agencies use ALPR technology as part of their efforts to protect the safety and security of the people and property of New Jersey, and in particular, around critical infrastructure sites and key resources throughout the state. Disclosure of particular details, such as parameters of the scanned data, the number and physical location of stationary units or systems, would reveal information that is deemed confidential under OPRA. Such disclosure would be providing to those who wish to do harm a potential roadmap to areas that state and local law enforcement agencies deem to be at greater risk or more vulnerable to criminal activity.

As regards request #3e., this office does not possess documents responsive to the request. By way of reference, some information may be found on the website of the ALPR manufacturer, Federal Signal: http://pipstechnology.com/home_us/
http://pipstechnology.com/products/software_solutions/pagis_le/
http://pipstechnology.com/products/software_solutions/boss_le/

4. With respect to sharing ALPR technology, records documenting any other public agency's acquisitions and use of ALPR units purchased by your agency, regardless of form;

Response:

Please see the response to request #1, for documents addressing the use of ALPRs. We must otherwise deny this portion of your request, as it does not identify a specific

government record but rather, appears to request a category of records. OPRA does not require custodians to conduct research to discern items that may be responsive to a broad request for records. See MAG Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J.Super. 534, 546-47 (App.Div.2005); Bent v. Stafford Police Department, 381 N.J.Super. 30 (App.Div.2005).

5. With respect to storing, accessing, and sharing ALPR data:
- Sharing agreements and other similar records that identify which public or private individuals or entities have access to your agency's ALPR data (or provide your agency with access to their data), the procedures for gaining such access, the restrictions placed on subsequent data sharing, and other similar information;
 - Records documenting each instance that your agency's ALPR system was accessed from November 1, 2012 to present, including who accessed the stored data, for what purpose, and all other information required by the "ALPR data record keeping system" described in the Attorney General Guidelines for the Use of Automated License Plate Readers (ALPRs) and Stored ALPR Data (Guidelines, Section 5.2, pp. 6 & 7);

Response:

In regards to #5a., attached are Attorney General Directive No. 2010-5 and the MOU referenced in our response to request #1. In regards to request #5b., we must deny access to this request pursuant to the security measures and techniques exemption of OPRA, N.J.S.A. 47:1A-1 which states that "records related to security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software" are deemed confidential and not subject to OPRA.

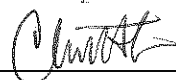
6. Training materials used to instruct members of your agency in ALPR technology use, data management, or operation of automated records systems containing ALPR data to which any member of your agency has access, including regional or shared databases.

Response:

ALPR training is provided directly by the manufacturer, Federal Signal; this office does not maintain or possess documents responsive to your request.

Very truly yours,

CAMELIA M. VALDES
PASSAIC COUNTY PROSECUTOR

By: 
Christopher W. Hsieh
Chief Assistant Prosecutor