



PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

Mailing Date: February 5, 2024

AJ Vicens
MuckRock News
DEPT MR 156385
263 Huntington Avenue
Boston, Massachusetts 02115

PSP/RTKL Request N° 2023-2610

Dear Mr. Vicens:

On December 28, 2023, the Pennsylvania State Police (PSP) received your request for information pursuant to Pennsylvania's Right-to-Know Law (RTKL), 65. P.S. §§ 67.101-67.3104, wherein you request:

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:
any and all documents, memos, text messages, presentations, calendar entries, and emails (including attachments) related to the unauthorized access to the Municipal Water Authority of Aliquippa discovered on Nov. 25. Please include any records from Nov. 25 to the date of this request's processing.

A copy of your request is enclosed. By letter dated January 4, 2024, you were notified in accordance with RTKL section 67.902(b), that PSP required an additional thirty days to prepare this final response to your request.

Your request is respectfully denied to the extent that the responsive record you seek is not accessible to the public. The RTKL defines a "public record" as "[a] record . . . of a Commonwealth or local agency that: (1) is not exempt under section 708; (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or (3) is not protected by a privilege." 65 P.S. § 67.102.

Under the first limitation on the public record definition, PSP General Offense Report No. PA 2023-1547845 (formerly referred to as "PSP Incident Report") details a PSP investigation into a complaint of criminal activity. Thus, the report and each of its components is "[a] record of an agency relating to or resulting in a criminal

investigation,” which is exempt from public disclosure under RTKL section 67.708(b)(16). Furthermore:

- The report contains “[c]omplaints of potential criminal conduct other than a private criminal complaint[.]” and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
- Because they reflect the findings and conclusions, as well as the actions, observations and notes of investigating troopers, the report’s components constitute “[i]nvestigative materials, notes, correspondence, . . . and reports,” all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).
- In its entirety, as well as in its components, the report is “[a] record that, if disclosed, would . . . [r]eveal the institution, progress, or result of a criminal investigation,” and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
- The report also contains personal identifying information, all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
- The report “[i]ncludes . . . victim information,” (e.g., the victim’s full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).
- Yet, none of the report’s components comprises original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other “information contained in a police blotter as defined in 18 Pa. C.S. § 9102” that would be accessible to the public.

Pa. State Police v. Office of Open Records, 5 A.3d 473, 478 n.4 (Pa. Commw. Ct. 2010) (en banc). A supporting verification accompanies this letter.

Following the second limitation, disclosing the report or its components to you would violate Pennsylvania’s *Criminal History Record Information Act* (CHRIA), 18 Pa. C.S. §§ 9101-9183, which prohibits criminal justice agencies from disseminating investigative information, except to other criminal justice agencies. 18 Pa.C.S. § 9106(c)(4). CHRIA defines “investigative information” as “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing.” *Id.* § 9102. Therefore, PSP is barred by CHRIA from providing you with access to the records you have requested. See *McGarvey v. Pa. State Police*, Dkt. AP 2009-0522 (Glenn) (CHRIA section 9106 protects criminal investigation report, in its entirety, from public disclosure).

With regard to request for "memos," "text messages," "presentations," "calendar entries," "emails (including attachments)," the PSP has determined it does not have any records such as you described in its possession, under its custody or control. A verification to this effect accompanies this letter. Pursuant to the decision in *Jenkins vs. Pennsylvania Department of State*, OOR Dkt N° AP 2009-0065,: "It is not a denial of access when an agency does not possess records and [there is no] legal obligation to obtain them (see, e.g. Section 67.506 (d)(1))." Please note, Troop D – Beaver, a potential custodian of the requested records, conducted a comprehensive search for responsive records with negative results.

Outside the RTKL and without waiving any exemptions, you may try contacting The Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, DC 20528 or by calling 202-282-8000 for additional information. Please be advised, the investigation was turned over to the Department of Homeland Security for further investigation.

To the extent that your request seeks or may be construed to seek records pertaining to covert law enforcement investigations, including, intelligence gathering and analysis, the PSP can neither confirm nor deny the existence of such records without risk of compromising investigations and imperiling individuals. Under No Circumstances, therefore, should this final response be interpreted as indicating otherwise. In all events, should such records exist, they are entirely exempt from public disclosure under the RTKL and Criminal History Record Information Act, 18 Pa. C.S. §§ 9101-9183.

In closing, you have a right to appeal this response in writing to the Office of Open Records, 333 Market Street, 16th Floor, Harrisburg, Pennsylvania 17101-2234. The appropriate OOR appeal form is available for your use at, <https://www.openrecords.pa.gov/Appeals/AppealForm.cfm>. If you choose to appeal, you must do so within 15 business days of the mailing date of this response and send to the OOR: 1) this response; 2) your request; 3) the reason or reasons why you think PSP wrongfully denied your access to the requested records. (*a statement identifying any flaws in the reasons provided above as to why a requester is not subject to access the requested records under the RTKL*).

If you have any questions, please feel free to contact our office at the telephone number listed below.

Sincerely,



Brittany Sultzaberger
Deputy Agency Open Records Officer

Pennsylvania State Police
Bureau of Records & Identification
Right-to-Know Law/Subpoena Section
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110
Email: RA-psprighttoknow@pa.gov
1.877.785.7771 (Main); 717.525.5795 (Fax)

Enclosures: PSP/ RTKL Request N° 2023-2610
Sultzaberger Verification

PENNSYLVANIA STATE POLICE
DEPARTMENT HEADQUARTERS

VERIFICATION OF
BRITTANY SULTZABERGER
DEPUTY AGENCY OPEN RECORDS OFFICER

I, Brittany Sultzaberger, Deputy Agency Open Records Officer of the Pennsylvania State Police (variously, PSP or Department), am authorized to prepare this verification in response to PSP/RTKL Request N° 2023-2610. Accordingly, on this 5th day of February, 2024, I verify the following facts to be true and correct, to the best of my knowledge or information and belief:

1. I am familiar with PSP/RTKL Request N° 2023-2610, which is attached to this verification.
2. Utilizing the information provided, I searched all Departmental databases, to which I have access, for evidence of any PSP records that may respond.
3. As a result of my searches, I identified and retrieved the responsive PSP record: PSP General Offense Report No. PA 2023-1547845 (formerly referred to as "PSP Incident Report").
4. I personally examined this report and found it to be manifestly related to a criminal investigation. PSP General Offense Report No. PA 2023-1547845 and its supporting attachments, is a multiple page record assembled by Trooper Clayton McGeary on or after November 25, 2023, as a result of an investigation into a criminal incident or an allegation of criminal wrongdoing. Furthermore:
 - a. The report contains "[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing," 18 Pa. C.S. § 9102, and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(i).
 - b. The report's component records reflect the findings and conclusions, as well as the actions, observations

and notes of investigating troopers, thus constituting “investigative materials, notes, correspondence, . . . and reports,” all of which are exempt from public disclosure under RTKL section 67.708(b)(16)(ii).

- c. Based on its content, the report is clearly “a record that, if disclosed, would reveal the institution, progress, and result of a criminal investigation,” and, therefore, exempt from public disclosure under RTKL section 67.708(b)(16)(vi)(A).
 - d. The report contains personal identifying information, all of which are exempt from public disclosure under RTKL section 67.708(b)(6)(i)(A).
 - e. The report “[i]ncludes . . . victim information,” (e.g., the victim’s full name, birth date, residential address and telephone number) and, thus, is exempt from public disclosure under RTKL section 67.708(b)(16)(v).
 - f. Yet, none of the report’s components comprises original records of entry, a chronology of arrests, the identification of arrested individuals, the specification of criminal charges or any other “information contained in a police blotter as defined in 18 Pa. C.S. § 9102.”
5. Furthermore, disclosing the report or its components to you would violate Pennsylvania’s Criminal History Record Information Act (CHRIA), Pa. C.S. §§ 9101-9183, which prohibits criminal justice agencies from disseminating investigative information, except to other criminal justice agencies.
6. With regard to request for “memos,” “text messages,” “presentations,” “calendar entries,” “emails (including attachments),” the PSP has determined it does not have any records such as you described in its possession, under its custody or control.
7. Requestor was advised, Troop D – Beaver, a potential custodian of the requested records, conducted a comprehensive search for responsive records with negative results.

8. Accordingly, I withheld this record from public disclosure.
9. Outside the RTKL and without waiving any exemptions, the requestor was advised to contact the Department of Homeland Security. Requestor was advised the investigation was turned over to the Department of Homeland Security for further investigation.

I understand that false statements made in this verification are subject to penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



Brittany Sultzaberger
Deputy Agency Open Records Officer
Pennsylvania State Police

Capurro, Kaitlyn

2023-2010

1/4/24

From: 156385-03736880@requests.muckrock.com
Sent: Thursday, December 28, 2023 1:23 PM
To: SP, PSP RIGHT TO KNOW
Subject: [External] Pennsylvania Right to Know Act Request: PA - CA
Attachments: PA_Right_to_Know_Request_Form.pdf

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown senders. To report suspicious email, use the Report Phishing button in Outlook.

Pennsylvania State Police
RTK Office
1800 Elmerton Avenue
Harrisburg, PA 17110

December 28, 2023

To Whom It May Concern:

2023 DEC 28 P 2:04
RIGHT TO KNOW OFFICE

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:

any and all documents, memos, text messages, presentations, calendar entries, and emails (including attachments) related to the unauthorized access to the Municipal Water Authority of Aliquippa discovered on Nov. 25. Please include any records from Nov. 25 to the date of this request's processing.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 5 business days, as the statute requires.

Sincerely,

AJ Vicens

View request history, see one related attachment, upload responsive documents, and report problems here:
https://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fpennsylvania-state-police-435%252Fpa-ca-156385%252F%253Femail%253DRA-psprighttoknow%252540pa.gov&url_auth_token=AAAbocQ80qRW9wDDtV5qG7GFkKE%3A1rlv2M%3AjwM3QNYq0uXrbp-LzmoiTYzikZZIiw2Pd_Tw6xtEUfk

If prompted for a passcode, please enter:
KCHXCYN

2023-2010

Attachments:

- PA Right to Know Request Form

Filed via MuckRock.com

E-mail (Preferred): 156385-03736880@requests.muckrock.com

PLEASE NOTE OUR NEW ADDRESS

For mailed responses, please address (see note):

MuckRock News
DEPT MR 156385
263 Huntington Ave
Boston, MA 02115

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.



2023 DEC 28 P 2:04
RIGHT TO KNOW SERVICE

2023 - 2610



pennsylvania

OFFICE OF OPEN RECORDS

STANDARD RIGHT-TO-KNOW REQUEST FORM

DATE REQUESTED: 2023-12-28

REQUEST SUBMITTED BY: E-MAIL U.S. MAIL FAX IN-PERSON

REQUEST SUBMITTED TO (Agency name & address): Pennsylvania State Police

1800 Elmerton Avenue, Harrisburg, PA 17110

NAME OF REQUESTER : AJ Vicens

STREET ADDRESS: DEPT MR 156385, 263 Huntington Ave

CITY/STATE/COUNTY/ZIP(Required): Boston, MA 02115

TELEPHONE (Optional): _____ EMAIL (optional): 156385-03736880@requests.muckrock.com

RECORDS REQUESTED: **Provide as much specific detail as possible so the agency can identify the information. Please use additional sheets if necessary*

See Attached

DO YOU WANT COPIES? YES NO

DO YOU WANT TO INSPECT THE RECORDS? YES NO

DO YOU WANT CERTIFIED COPIES OF RECORDS? YES NO

DO YOU WANT TO BE NOTIFIED IN ADVANCE IF THE COST EXCEEDS \$100? YES NO

**** PLEASE NOTE: RETAIN A COPY OF THIS REQUEST FOR YOUR FILES ****
**** IT IS A REQUIRED DOCUMENT IF YOU WOULD NEED TO FILE AN APPEAL ****

FOR AGENCY USE ONLY

OPEN-RECORDS OFFICER:

I have provided notice to appropriate third parties and given them an opportunity to object to this request

DATE RECEIVED BY THE AGENCY:

AGENCY FIVE (5) BUSINESS DAY RESPONSE DUE:

***Public bodies may fill anonymous verbal or written requests. If the requestor wishes to pursue the relief and remedies provided for in this Act, the request must be in writing. (Section 702.) Written requests need not include an explanation why information is sought or the intended use of the information unless otherwise required by law. (Section 703.)*

RECEIVED
2023 DEC 28 P 2:14
OFFICE OF OPEN RECORDS