



CITY OF PHILADELPHIA

POLICE DEPARTMENT
HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA 19106

RICHARD J. ROSS, JR.
Commissioner

May 22, 2017

Curtis Waltman
Muckrock.com
411 A Highland Avenue
Somerville, MA 02144
35617-86985604@requests.muckrock.com

RE: Pennsylvania Right-To-Know Act (RTKA) Request

Dear Mr. Waltman,

Your Pennsylvania Right-To-Know Act request dated 04-11-17 was received by this office on 04-13-17 for records of “[f]acial recognition systems [...] utilized by law enforcement agencies [which would allow] officers to quickly identify persons of interest through the use of an extensive database [including]:

1. Any contractual documents including purchase orders, delivery orders, bids, quotes, RFPs responses to RFPs, invoices and contracts with facial recognition companies like FaceFirst Inc., Face Searcher by Allevate Limited, Face-VACS by Cognitec Systems GmbH, First Line Facial Recognition by Blue Line Technology, any products by Animetrics, SCRAM remote breath by Alcohol Monitoring Systems, or MegaMatcher by Neurotechnology. Other systems may also be used, such as the system developed by the FBI.
2. Any policies or guidelines about the use of facial recognition technology[.]
3. Any grant applications or reports to any oversight bodies[.]
4. The total number of individuals who have been identified through the use of facial recognition systems over the last three years[.]”

On 04-21-17, correspondence was sent to you acknowledging receipt of your request and also stated that the City asserted its right to (up to) an additional 30 days to:

- a. to ascertain if the requested record does exist,
- b. for legal review to determine whether the record(s) is a record(s) subject to access under the Act,
- c. to determine if the request requires the redaction of a public record(s), and
- d. for bona fide staffing limitations (in retrieving and reviewing the record(s) requested).

After processing your request, the Philadelphia Police Department’s (“PPD” or “the Department”) determination is as follows:

Your request is *misdirected, cannot be granted in part* and *denied in part*.

At the outset your request is *misdirected*. Your request appears to seek records that may be under the custody and control of the Pennsylvania Justice Network (“JNET”). PPD does not possess the records requested, and thus *cannot grant* the request. 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*, O.O.R. Dkt. AP 2009-0065 (Pa. O.O.R. April 2, 2009). However, the Department reserves its rights to assert bases for denial if additional responsive records are located after a review of such records.

By way of further response and without waiving the foregoing, you may be able to send your request to JNET directly. As a courtesy to you, please follow this link for further information.

<http://www.pajnet.pa.gov/Contact%20Us/Pages/default.aspx#.VxjqJtOrLGg>

Lastly, the request seeks records regarding criminal investigative tools. Such records, if they existed in the Department’s possession, may be exempt from disclosure as:

- Records maintained in connection with homeland security, law enforcement, or other public safety activity that, if disclosed, “would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection activity,” which are exempt from disclosure pursuant to 65 P.S. § 67.708(b)(2). Such portions include the specific functioning and procedures of law enforcement activities that, if disclosed, would hinder such law enforcement activities and allow individuals to mitigate or circumvent such law enforcement activities. The hindering, mitigation, or circumvention of law enforcement activities jeopardizes public safety.
- Records that, if disclosed, would “[h]inder an agency’s ability to secure an arrest, prosecution or conviction[,]” which are exempt from disclosure pursuant to 65 P.S. § 67.708(b)(16)(vi)(D). Such portions include the specific functioning and procedures of law enforcement activities that, if disclosed, would hinder such law enforcement activities and allow individuals to mitigate or circumvent such law enforcement activities.
- Records relating to criminal or noncriminal investigations exempt pursuant to 65 P.S. §§ 67.708(b)(16), (b)(17), or “investigative information” and as “intelligence information” exempt from disclosure pursuant to the Commonwealth’s Criminal History Record Information Act (“CHRIA”), 18 Pa.C.S. §§ 9101 *et seq.*

Please note that to the extent portions of your request seek records of specific criminal and/or noncriminal investigations, they are denied pursuant to 65 P.S. §§ 67.708(b)(16), (b)(17), or as “investigative information” and “intelligence information” exempt from disclosure pursuant to CHRIA.

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 the City’s response to challenge the 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.

Please be sure to copy Mr. Russell Crotts, Assistant City Solicitor for the City of
Philadelphia Law Department on your appeal, located at One Parkway Building, 17th Floor,
1515 Arch Street, Philadelphia, PA 19102.

Be advised that if no appeal is made within the listed period, then this response will serve
to close this particular request with our office as permitted by law. Thank you for contacting the
Philadelphia Police Department's Open Records Office.

FOR THE POLICE COMMISSIONER

Sincerely,

A handwritten signature in black ink that reads "Lt. Barry Jacobs #97". The signature is written in a cursive, slightly slanted style.

Lieutenant Barry Jacobs
Open Records Officer
Philadelphia Police Department
750 Race Street, Room 203
Philadelphia, PA 19106
FAX: 215-686-1183
Email: police.righttoknow@phila.gov