

Mariko Hirose

From: Thruway Foil Requests [thruwayfoil@thruway.ny.gov]
Sent: Thursday, August 28, 2014 1:00 PM
To: Mariko Hirose
Subject: [GRAYMAIL] FOIL Request No. F14-0004
Attachments: 2012 E-Z Pass Requests_Redacted.pdf; 2013 E-Z Pass Requests_Redacted.pdf; 2014 E-Z Pass Requests_Redacted.pdf

Follow Up Flag: Follow up
Flag Status: Completed

August 28, 2014

Ms. Mariko Hirose
Staff Attorney
New York Civil Liberties Union
125 Broad St., 19th Floor
New York, New York 10004
Via Email: mhirose@nyclu.org

Re: FOIL Request No. F14-0004

Dear Ms. Hirose:

This letter is in response to item eight (8) of Mr. Vogel's 10-part Freedom of Information request, seeking:

"8. All documents, redacted as necessary and permitted under law, describing or containing law enforcement requests to NYSTA for information gathered from E-ZPass Readers in New York since January 1, 2012, including the NYSTA's response to the requests."

We have performed a diligent search for the records you request and have located three (3) responsive records. The documents are being provided to you electronically.

The TRANSMIT system is to be used for traffic management purposes only, and not for any law enforcement purposes. Privacy is guaranteed through the anonymity built into the basic system design, functions and operations. At all TRANSMIT locations, except those at toll collection points, the TRANSMIT system uses a completely different set of readers from the E-ZPass toll collection system. Whereas the toll system needs to know the identity of the vehicle, TRANSMIT does not. TRANSMIT is concerned with movements of statistically significant aggregations of vehicles -- not individual movements. Further, the TRANSMIT system scrambles the identity of each E-ZPass tag, and the system then disposes of the scrambled tag number when the vehicle leaves the system. As such, this information is not amenable to a subpoena by law enforcement.

Please be advised that certain information has been redacted pursuant to Public Officers Law §87(2)(a) as the information is "specifically exempted from disclosure by state or federal statute" [Including, but not limited, to Rule 6(e) of the Federal Rules of Criminal Procedure and NYS Criminal Procedure Law §190.25(4)(a), which establish rules for grand jury secrecy]; §87(2)(b) which, if disclosed, "would constitute an unwarranted invasion of personal privacy;" and §87(2)(e) which, is

“compiled for law enforcement purposes and which, if disclosed, would: i. interfere with law enforcement investigations or judicial proceedings; ii. deprive a person of a right to a fair trial or impartial adjudication; iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures.” Information that has been determined to be non-responsive to this request has also been redacted.

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to make a written appeal of this determination. Appeals should be made in writing and sent to:

FOIL Appeals Officer
New York State Thruway Authority
Legal Department
P.O. Box 189
200 Southern Boulevard
Albany, New York 12201-0189

At this time, your request is considered a closed file.

Regards,
Jill Brennan Warner

Records Access Officer
New York State Thruway Authority
200 Southern Boulevard
Albany, New York 12209
518-471-5995
518-433-4962
ThruwayFOIL@thruway.ny.gov



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