



James A. Caruso
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The City of
TROY

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February 8, 2018

Adam Steinbaugh
c/o Foundation for Individual Rights in Education
510 Walnut Street
Suite 1250
Philadelphia, Pennsylvania 19106

RE: FOIL APPEAL

Dear Mr. Steinbaugh:

The Law Department of the City of Troy is in receipt of your Appeal, dated January 17, 2018, of the FOIL request denial by John Salka, the City of Troy's Deputy Director of Public Information. As the Freedom of Information Law ("FOIL") Appeals Officer for the City of Troy, New York, I am hereby providing you with the City of Troy's response to your FOIL Appeal.

By FOIL request dated November 8, 2017, you made a written request to the City of Troy's Records Access Officer seeking records "For the period of September 1, 2017 to the present date, any records of communication or correspondence between the Troy Police and Rensselaer Polytechnic Institute, or representatives or employees thereof, concerning a demonstration during October 12 or 13, 2017." You also requested "... a copy of any photographs or videos taken or possessed by the Troy police which depicts a demonstration at Rensselaer or about October 12 or 13, 2017." Finally, you requested "...any records of police reports or complaints concerning a demonstration at Rensselaer on or about October 12 or 13, 2017."

Subsequent to that date, you made an additional request for "A copy of any contract, agreement, memorandum of understanding, request, or other document which identifies the relationship between Rensselaer Polytechnic Institute, including its agents and affiliated entities, and the Troy Police Department, including its individual officers", as well as "Any memorandum of understanding, contract, or agreement between the Troy Police Department and Rensselaer Polytechnic Institute (including its agents and affiliated entities) which is now in force or was in force on October 13, 2017."

By response dated December 13, 2017, Mr. Salka responded and advised you that a search of the Troy Police Department records returned no results relative to your request for "a copy of any contract, agreement, memorandum of understanding, request, or other document which identifies the relationship between Rensselaer Polytechnic Institute, including its agents and affiliated entities, and the Troy Police Department, including its individual officers," as well as "Any memorandum of understanding, contract, or

agreement between the Troy Police Department and Rensselaer Polytechnic Institute (including its agents and affiliated entities) which is now in force or was in force on October 13, 2017.”

By response dated December 19, 2017, Mr. Salka advised you that your requests “for the period of September 1, 2017 to the present date, any records of communication or correspondence between the Troy Police and Rensselaer Polytechnic Institute, or representatives or employees thereof, concerning a demonstration during October 12 or 13, 2017,” and “... a copy of any photographs or videos taken or possessed by the Troy police which depicts a demonstration at Rensselaer or about October 12 or 13, 2017,” were denied pursuant to New York Public Officers Law Section 87 (2) (e) (iv) as it pertains to Troy Police Department security operations.

The instant Appeal followed.

For the following reasons, your Appeal is granted, in part, and denied, in part.

Pursuant to New York Public Officers Law Section 87 (2) an “... agency may deny access to records or portions thereof that... (e) are compiled for law enforcement purposes and which, if disclosed, would :...(iv) reveal criminal investigative techniques or procedures, except routine techniques and procedures...”

In the instant matter, in light of the fact that the Troy Police Department already revealed its video of the October 13, 2017 demonstration at RPI to Michael Arno, Director of Student Rights, Responsibilities, and Judicial Affairs at RPI, there is no reasonable or legitimate basis upon which to claim that the provision of same at this point in time would reveal criminal investigative techniques or procedures.


Thus, that portion of the FOIL request denial is reversed.

Turning to the balance of the records that you sought, Mr. Salka previously advised you that those records do not exist. Clearly, the City of Troy has no obligation to provide documents that do not exist. Moreover, you have acknowledged that you are already in possession of a billing statement from the Troy Police Department to RPI.

Thus, that portion of Mr. Salka’s FOIL request denial is hereby affirmed.

Accordingly, as discussed above, your FOIL Appeal is hereby granted, in part, and denied, in part.

DATED: Troy, New York
February 8, 2018



JAMES A. CARUSO, ESQ.
City of Troy Corporation Counsel
and FOIL Appeals Officer