

COMMONWEALTH COURT OF PENNSYLVANIA

SOUTHEAST PENNSYLVANIA
TRANSPORTATION AUTHORITY,

Petitioner,

v.

ERIK STEINHEISER,

Respondent

No. _____ C.D. 2022

**PETITION FOR REVIEW
(APPEAL FROM OFFICE OF OPEN RECORDS)**

I. Jurisdictional Statement.

1. This petition for review of a Final Determination issued by the Office of Open Records on October 13, 2022 (“Final Determination”), is addressed to the Court’s appellate jurisdiction pursuant to Section 1301(a) of the Right to Know Law, 65 P.S. § 67.1301(a) (“RTKL”) and Section 763(a)(2) of the Judicial Code, 42 Pa.C.S. § 763(a)(2). A copy of the Final Determination is attached hereto as Exhibit “A”.

2. This Court’s standard of review of a final determination of the Office of Open Records (“OOR”) is *de novo* and the scope of the review is plenary. *Hunsicker v. Pennsylvania State Police*, 93 A.3d 911, 913 n. 7 (Pa. Commw. 2014).

II. Parties

3. Petitioner Southeastern Pennsylvania Transportation Authority (“SEPTA”) is a Commonwealth Agency.

4. Respondent, Erik Steinheiser (“Mr. Steinheiser”) is an adult individual.

5. Respondent is a Requester for purposes of the RTKL.

III. Statement of Facts and Background

6. On July 10, 2022, Mr. Steinheiser requested, via e-mail,

video surveillance of all cameras on the West Trenton Line R3 for the 12:31 train scheduled to depart from Langhorne Station on Friday, July 8th 2022. This would be train number 6321 from the schedule. I am requesting all footage on all cameras on the train from Langhorne Station up to the end of the route. There was a police action incident at Somerton Station on this train that I also want full and complete footage included in this request.

7. On July 11, 2022, SEPTA's Open Records Officer, Neil Petersen, invoked the agency's right to a 30-day extension to respond to Mr. Steinheiser's request pursuant to § 902 of the RTKL.

8. On August 17, 2022, SEPTA provided a written response to Mr. Steinheiser's request denying it in its entirety based on 65 P.S. § 67.708(b)(1)(ii), which exempts from disclosure a record that "would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual."

9. SEPTA indicated in its written response that release of the video requested was reasonably likely to result in a risk of physical harm to SEPTA police officers and SEPTA train engineers and conductors.

10. By way of background, on July 8, 2022, SEPTA Transit Police responded to a call on SEPTA's West Trenton Line reporting a male entering the train wearing body armor.

11. The male in question was identified as Erik Steinheiser of 401 Bellevue Ave, Apt. 03, Penndel, PA 19047¹.

¹ The individual making the instant RTKL request is presumably the same individual who police identified as Erik Steinheiser on the date in question.

12. Upon SEPTA Transit Police arriving on scene, it was confirmed that Mr. Steinheiser was wearing upper body armor.

13. SEPTA Transit Police also ascertained that Mr. Steinheiser was traveling on SEPTA's West Trenton Line with a firearm.

14. The video requested by Mr. Steinheiser depicts the railroad engineer who refused to operate the train with Mr. Steinheiser traveling on board.

15. It also depicts multiple other railroad employees involved in the decision to notify police of Mr. Steinheiser's presence on the railroad on July 8, 2022.

16. Furthermore, the video depicts the identity of multiple police officers involved in the response to the police incident in question, and the strategy employed by said police officers in responding to this incident.

17. All of the above informed SEPTA's decision not to produce the requested video as its disclosure would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. *See* 65 P.S. § 67.708(b)(1)(ii).

18. On August 17, 2022, Mr. Steinheiser filed an appeal with the Office of Open Records.

19. In its position statement before the Office of Open Records, SEPTA submitted additional evidence in support of its position – the Verified Statement of Chief of SEPTA Police, Charles Lawson, a copy of which is attached hereto as Exhibit "B."

20. Chief Lawson's sworn statement further supported SEPTA's position that releasing the video at issue is reasonably likely to result in a substantial and demonstrable risk of physical harm to the personal security of SEPTA railroad employees, police officers, and could result in harm to members of the public. *See* Exhibit B.

21. SEPTA is concerned Mr. Steinheiser could use the video surveillance to identify, harass, and/or physically harm those employees who participated in the decision to notify police of his presence on the subject train. *See* Exhibit B.

22. In its supplemental position statement² before the Office of Open Records, SEPTA submitted a copy of its policy regarding the prohibition of threatening items while traveling aboard SEPTA vehicles, a copy of which is attached hereto as Exhibit “C.”

23. This policy prohibiting threatening items, including those akin to the body armor Mr. Steinheiser was wearing on July 8, 2022, further supports SEPTA’s position that release of the video is reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual. *See* Exhibit C.

24. In creating the policy, SEPTA has declared that certain items, including the body armor Mr. Steinheiser was wearing on July 8, 2022, are, by their very nature, threatening to SEPTA employees. *See* Exhibit E.

25. The Office of Open Records issued a Final Determination granting in part and denying in part Mr. Steinheiser’s appeal on October 13, 2022. A copy of the Final Determination is attached hereto as Exhibit “A”.

26. In its Final Determination, the Office of Open Records recognized the threat to the safety and security of SEPTA employees, but nevertheless ordered that SEPTA produce the video at issue, with redactions to the faces and identifying information of all SEPTA personnel depicted therein. *See* Exhibit A.

² On September 15, 2022, the Office of Open Records requested SEPTA supplement its original position statement submitted on September 12, 2022. SEPTA filed its supplemental position statement on September 21, 2022.

27. Notably, neither Mr. Steinheiser nor SEPTA advocated in their respective position statements to the Office of Open Records that SEPTA should or even could be able to produce the requested video in a redacted form.

28. Rather, the Final Determination was the first time that such a notion was raised.

29. The video sought by Mr. Steinheiser is approximately two (2) hours in length across approximately fifty-six (56) different cameras – for a total of approximately 112 video hours requiring review and redaction. *See* the Verified Statement of William Marchesani, Technical Manager of the Video Surveillance Department of SEPTA, a copy of which is attached hereto as Exhibit “D.”

30. SEPTA does not have the capability or software to redact the faces and identifying information of the SEPTA personnel depicted in the video footage. *See* Exhibit D.

31. Because SEPTA does not have the capability to perform these redactions, SEPTA will have to seek the services of an unaffiliated third party to perform the redactions. *See* Exhibit D.

32. SEPTA, by and through its undersigned counsel, has sought a cost estimate by an unaffiliated third party, Veritext Legal Solutions, to redact the faces and identifying information of SEPTA personnel across the video sought by Mr. Steinheiser.

33. After reviewing the video, Veritext opined that it would take 120 total editing hours to edit the extensive video footage from numerous different cameras. Veritext estimates the cost of the redactions to be \$22,200.00, and states that the redactions will require approximately four (4) weeks to complete. A copy of the cost estimate is attached hereto as Exhibit “E.”

34. This cost estimate reflects the actual cost SEPTA will be forced to incur to produce the video with redactions as ordered by the Office of Open Records.

35. SEPTA, by and through its undersigned counsel, is also in the process of seeking cost estimates from other unaffiliated third parties to redact the faces and identifying information of SEPTA personnel across the video sought by Mr. Steinheiser.

36. SEPTA will supplement the record with any additional costs estimates it may receive from other unaffiliated third parties to redact the faces and identifying information of SEPTA personnel across the video sought by Mr. Steinheiser.

37. SEPTA respectfully requests that this Honorable Court reverse the Order below requiring SEPTA to produce a redacted form of the video given that it is not feasible or reasonable to disclose any portion of the video without resulting in a substantial and demonstrable risk of physical harm to or the personal security of an individual. *See Exhibits B, C, and D. See also 65 P.S. § 67.708(b)(1)(ii).*

38. In the alternative, SEPTA respectfully requests that this Honorable Court delay disclosure of the redacted video until such time that Mr. Steinheiser issues full and complete payment in the amount of the cost estimate for the actual cost SEPTA would incur in having the redactions performed.

WHEREFORE, Petitioner, Southeastern Pennsylvania Transportation Authority, respectfully requests this Honorable Court review and reverse the determination of the Office of Open Records in its Final Determination.

Respectfully submitted,

Dated: November 10, 2022

/s/ Meghan Finnerty
Meghan K. Finnerty (202950)
Mark E. Gottlieb (26595)
Justine A. Baakman (319735)
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CERTIFICATE OF SERVICE

I, Meghan Finnerty, do hereby certify that on this 10th day of November 2022, I have served the foregoing Petition or Review of Southeastern Pennsylvania Transportation Authority by filing the petition electronically through the Court's PACFILE and upon the following as follows in satisfaction of Pa.R.A.P. 121:

Via e-mail and U.S. Mail

Erik Steinheiser
P.O. Box 7008
Penndel, PA 19047-7008
esteinheiser@hotmail.com

Via e-mail and U.S. Mail

Kyle Applegate, Esq.
Commonwealth of Pennsylvania
Pennsylvania Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
kyapplegat@pa.gov

/s/ Meghan Finnerty

Meghan K. Finnerty (202950)
Mark E. Gottlieb (26595)
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EXHIBIT “A”



FINAL DETERMINATION

IN THE MATTER OF

**ERIK STEINHEISER,
Requester**

v.

**SOUTHEASTERN PENNSYLVANIA
TRANSPORTATION AUTHORITY,
Respondent**

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Docket No: AP 2022-1908

INTRODUCTION

Erik Steinheiser (“Requester”) submitted a request (“Request”) to the Southeastern Pennsylvania Transportation Authority (“SEPTA”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking train surveillance video. SEPTA denied the Request, arguing that releasing the video would pose a risk of physical harm of an individual. 65 P.S. § 67.708(b)(1)(ii). The Requester appealed to the Office of Open Records (“OOR”). For the reasons set forth in this Final Determination, the appeal is **granted in part** and **denied in part**, and SEPTA is required to take additional action as directed.

FACTUAL BACKGROUND

On July 10, 2022, the Request was filed, seeking:

[V]ideo surveillance of all cameras on the West Trenton Line R3 for the 12:31 train scheduled to depart from Langhorne Station on Friday, July 8th, 2022. This would be train number 6321 from the schedule. I am requesting all footage on all cameras on the train from Langhorne Station up to the end of the route. There was a police

action incident at Somerton Station on this train that I also want full and complete footage included in this request.

On July 11, 2022, SEPTA invoked a thirty-day extension during which to respond. 65 P.S. § 67.902(b). On August 17, 2022, SEPTA denied the Request, arguing that releasing the video would pose a risk of physical harm to an individual. 65 P.S. § 67.708(b)(1)(ii).

On August 17, 2022, the Requester appealed to the OOR, challenging the denial and stating grounds for disclosure. The OOR invited both parties to supplement the record and directed SEPTA to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On August 26, 2022, the Requester granted an extension for the OOR to issue the final determination. *See* 65 P.S. § 67.1101(b)(1) (“Unless the requester agrees otherwise, the appeals officer shall make a final determination which shall be mailed to the requester and the agency within 30 days of receipt of the appeal filed under subsection (a).”).

On September 12, 2022, SEPTA submitted a position statement, reiterating its grounds for denial, and further arguing that the video relates to a noncriminal investigation and its disclosure would endanger the life or physical safety of an individual. 65 P.S. § 67.708(b)(17)(vi)(E). In support of its position, SEPTA submitted the affidavit of Charles Lawson, the Acting Chief of Police for SEPTA.

On September 13, 2022, the Requester submitted argument contesting the exemptions stated by SEPTA, and further arguing for release of the responsive video.

On September 15, 2022, the OOR sent email correspondence requesting further sworn submissions from SEPTA further detailing the potential risk of harm if the video was to be released.

On September 21, 2022, SEPTA explained that it did not intend to make further sworn submissions and instead supplemented the record with a SEPTA policy.

On September 22, 2022, the Requester made a submission in response, requesting that the Appeals Officer conduct an *in camera* review. On October 11, 2022, the Requester followed-up on this email. Because this Final Determination concerns the effect of the disclosure of the video, rather than the contents of the video itself, and because there is sufficient evidence before the OOR to adjudicate the matter, the request for *in camera* review is denied.

On October 11, 2022, the undersigned was reassigned the appeal.

LEGAL ANALYSIS

“The objective of the Right to Know Law ... is to empower citizens by affording them access to information concerning the activities of their government.” *SWB Yankees L.L.C. v. Wintermantel*, 45 A.3d 1029, 1041 (Pa. 2012). Further, this important open-government law is “designed to promote access to official government information in order to prohibit secrets, scrutinize the actions of public officials and make public officials accountable for their actions.” *Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff’d* 75 A.3d 453 (Pa. 2013).

The OOR is authorized to hear appeals for all Commonwealth and local agencies. *See* 65 P.S. § 67.503(a). An appeals officer is required “to review all information filed relating to the request” and may consider testimony, evidence and documents that are reasonably probative and relevant to the matter at issue. 65 P.S. § 67.1102(a)(2). An appeals officer may conduct a hearing to resolve an appeal. The decision to hold a hearing is discretionary and non-appealable. *Id.* Here, neither party requested a hearing. The Requester sought an *in camera* review of the record but as explained above, that request is denied.

SEPTA is a Commonwealth agency subject to the RTKL that is required to disclose public records. 65 P.S. § 67.301. Records in possession of a Commonwealth agency are presumed public

unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. Upon receipt of a request, an agency is required to assess whether a record requested is within its possession, custody or control and respond within five business days. 65 P.S. § 67.901. An agency bears the burden of proving the applicability of any cited exemptions. *See* 65 P.S. § 67.708(b).

Section 708 of the RTKL places the burden of proof on the public body to demonstrate that a record is exempt. In pertinent part, Section 708(a) states: “(1) The burden of proving that a record of a Commonwealth agency or local agency is exempt from public access shall be on the Commonwealth agency or local agency receiving a request by a preponderance of the evidence.” 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

SEPTA contends, among other grounds for denial, that granting access to the responsive video would be reasonably likely to create a substantial and demonstrable risk to a person’s security. 65 P.S. § 67.708(b)(1)(ii). To establish the applicability of this exemption, an agency must show: (1) a “reasonable likelihood” of (2) “substantial and demonstrable risk” to a person’s security. *Delaware County v. Schaefer*, 45 A.3d 1149, 1156 (Pa. Commw. Ct. 2012). The Commonwealth Court has defined substantial and demonstrable risk as “actual or real and apparent.” *Borough of Pottstown v. Suber-Aponte*, 202 A.3d 173, 180 (Pa. Commw. Ct. 2019) (emphasis in original) (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 373 (Pa. Commw.

Ct. 2013). Further, “[a]n agency must offer more than speculation or conjecture.” *California Borough v. Rothey*, 185 A.3d 456, 468 (Pa. Commw. Ct. 2018).

In his affidavit, Chief Lawson states:

3. On July 8, 2022, SEPTA Police responded to a call on SEPTA’s West Trenton Regional Rail Line reporting a male wearing body armor seated directly next to the train engineer's control stand.
4. SEPTA’s Railroad Supervisor also responded to the scene and spoke with train personnel. The Assistant Conductor stated that he observed a vest under the male passenger’s shirt and observed the passenger behaving abnormally. Due to recent mass shooting events and out of an abundance of caution, the Assistant Conductor notified the engineer to call for police assistance.
5. Upon arriving on scene, Police identified the male passenger wearing the body armor as Erik Steinheiser.
6. Police were also able to ascertain that Mr. Steinheiser was lawfully in possession of and traveling on SEPTA’S West Trenton Regional Rail Line with a loaded firearm.
7. When SEPTA Police arrived on scene, all other passengers but Mr. Steinheiser were moved to the back of the train, then removed and placed on another train.
8. SEPTA Police offered to drive Mr. Steinheiser to his intended destination, SEPTA’s Headquarters, via squad car. Mr. Steinheiser, however, refused to tender his weapon while riding in the squad car. The SEPTA Police Officer who was to drive Mr. Steinheiser did not feel safe allowing a passenger in the back of a police car with a loaded weapon. Instead, Mr. Steinheiser was seated on the next Regional Rail train in a car with a police escort.
9. It is believed that the individual making the subject Right to Know Law request is the same individual who Police identified as Erik Steinheiser on July 8, 2022.
10. The train video depicts the train engineer and conductors who refused to transport a passenger with a loaded firearm. Based on my training and experience in law enforcement there is a risk to the safety of the SEPTA personnel who responded to this incident if the video footage of the incident is provided to Mr. Steinheiser. The risk is that Mr. Steinheiser will be able to identify and find those SEPTA personnel. Mr. Steinheiser could then potentially use his firearm against them and/or harass them via other means.
11. The train video depicts the train engineer and conductors who refused to transport a passenger with a loaded firearm. Based on my training and experience in law enforcement, there is a risk to the safety of the SEPTA personnel who responded to this incident if the video footage of the incident is provided to members of the public. The risk is that members of the public will be able to identify and find those SEPTA personnel, and harass them.

Affidavit ¶¶ 3-11.¹

Further, SEPTA submitted data compiled by SEPTA Police regarding arrests for aggravated assaults utilizing guns committed from 2020 to 2022 and data compiled by SEPTA Police regarding arrests for robberies utilizing guns committed from 2020 to 2022. SEPTA claims the violent crime rates show a potential threat against employees.

The reports submitted by SEPTA do not specifically denote crimes only against SEPTA employees, but against all people on SEPTA services. In its September 21, 2022 supplemental submissions, SEPTA included the policy regarding the prohibition of threatening items while traveling aboard SEPTA vehicles. In the accompanying unsworn position statement, SEPTA argues that the body armor worn by the Requester is, by its very nature, threatening to SEPTA employees. Meanwhile, in his September 13, 2022 unsworn position statement, the Requester argues:

Merely stating that releasing someone's likeness will put them in danger is insufficient to prove this burden. Additionally, SEPTA is speculating that the surveillance video "could be used to identify the train engineers and conductors on board as of that day" and has no way to prove how merely showing someone's likeness will enable identification of any form to the requestor this is also speculation. In addition to this, they allege that over a lawful activity that the requester could all of a sudden "behave in a manner that could endanger and threaten the engineer and conductor" once again this is pure speculation. How can SEPTA predict how the requester will and will not act?

Requester Position Statement ¶2. The Requester also notes that the train was open to the public at the time of the surveillance footage and that there was not an expectation of privacy at that time.

¹ Under the RTKL, a sworn affidavit may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that SEPTA acted in bad faith, "the averments in [the statement] should be accepted as true." *McGowan v. Pa. Dep't of Envtl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

The instant matter is similar to *Crocco v. Pa. Dep't of Health*, 214 A.3d 316, 324 (Pa. Commw. Ct. 2019). In *Crocco*, the Commonwealth Court upheld the redaction of names of individuals who served non-hospital abortion facilities under Section 708(b)(1)(ii). The Court acknowledged that, “[n]otwithstanding that ‘the personal security exception does not specifically provide for a blanket exception for certain classes or large groups of individuals[,] ... an agency may establish the existence of an exception covering a large group of individuals based upon evidence that establishes that the release of certain information poses a likelihood of a substantial and demonstrable risk to the personal security of that group of individuals’.” *Crocco*, 214 A.3d at 325 (citing *State Emps. ’ Ret. Sys. v. Fultz*, 107 A.3d 860, 866-67 (Pa. Commw. Ct. 2015) (deeming categorical evidence as to vulnerability of individuals over age 60 insufficient)); cf. *Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct. 2010) (rejecting personal security exception when one witness testified generally that police officers' families are frequently threatened).

We find Chief Lawson’s affidavit to be credible as to the potential for harm to SEPTA personnel due to the events captured on the video. Based upon the preponderance of the evidence standard, we find that it is more likely than not that the release of the video would likely create a very real threat of physical harm to those SEPTA personnel. However, SEPTA has not demonstrated that the video is exempt in its entirety. The evidence is silent as to any threat posed to any other member of the public that was captured on the video, and we cannot conclude that there is any expectation of privacy that those individuals may have while riding public transportation. Therefore, while the faces or any other identifying information of SEPTA personnel may be redacted from the video, the remainder of the video shall be disclosed.² 65 P.S. § 67.706. The Supreme Court has recognized that video may be redacted of non-public

² With these redactions, it does not appear that any of the other exemptions cited by SEPTA are applicable, as SEPTA’s concerns lie with the identification of SEPTA personnel.

information under the RTKL, *Easton Area Sch. Dist. v. Miller*, 232 A.3d 716 (Pa. 2020), and SEPTA has not provided any evidence that it is not capable of such redactions.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and SEPTA is required to provide the responsive video, with redactions, within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL. 65 P.S. § 67.1303. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.³ This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 13, 2022

/s/ Kyle Applegate

CHIEF COUNSEL
KYLE APPLGATE, ESQ.

Sent to: Erik Steinheiser (via email only);
Mark Gottlieb, Esquire (via email only);
Justine Baakman, Esquire (via email only);
SEPTA Open Records Officer (via email only)

³ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

EXHIBIT “B”

Verified Statement of Chief Charles Lawson
Southeastern Pennsylvania Transportation Authority

I, Charles Lawson, am Acting Chief of Police for Southeastern Pennsylvania Transportation Authority ("SEPTA") and am authorized to execute this verified statement. I state the following to the best of my knowledge, information and belief under penalty of perjury pursuant to 18 Pa.C.S. § 4904 relating to unsworn falsification of authorities:

1. I am the current Chief of Police of SEPTA.
2. I am aware of the Right to Know Law request seeking "video surveillance of all cameras on the West Trenton Line R3 for the 12:31 train scheduled to depart from Langhorne Station on Friday, July 8th 2022."
3. On July 8, 2022, SEPTA Police responded to a call on SEPTA's West Trenton Regional Rail Line reporting a male wearing body armor seated directly next to the train engineer's control stand.
4. SEPTA's Railroad Supervisor also responded to the scene and spoke with train personnel. The Assistant Conductor stated that he observed a vest under the male passenger's shirt and observed the passenger behaving abnormally. Due to recent mass shooting events and out of an abundance of caution, the Assistant Conductor notified the engineer to call for police assistance.
5. Upon arriving on scene, Police identified the male passenger wearing the body armor as Erik Steinheiser.
6. Police were also able to ascertain that Mr. Steinheiser was lawfully in possession of and traveling on SEPTA'S West Trenton Regional Rail Line with a loaded firearm.
7. When SEPTA Police arrived on scene, all other passengers but Mr. Steinheiser were moved to the back of the train, then removed and placed on another train.
8. SEPTA Police offered to drive Mr. Steinheiser to his intended destination, SEPTA's Headquarters, via squad car. Mr. Steinheiser, however, refused to surrender his weapon while riding in the squad car. The SEPTA Police Officer who was to drive Mr. Steinheiser did not feel safe allowing a passenger in the back of a police car with a loaded weapon. Instead, Mr. Steinheiser was seated on the next Regional Rail train in a car with a police escort.
9. It is believed that the individual making the subject Right to Know Law request is the same individual who Police identified as Erik Steinheiser on July 8, 2022.
10. The train video depicts the train engineer and conductors who refused to transport a passenger with a loaded firearm. Based on my training and experience in law enforcement,

there is a risk to the safety of the SEPTA personnel who responded to this incident if the video footage of the incident is provided to Mr. Steinheiser. The risk is that Mr. Steinheiser will be able to identify and find those SEPTA personnel. Mr. Steinheiser could then potentially use his firearm against them and/or harass them via other means.

11. The train video depicts the train engineer and conductors who refused to transport a passenger with a loaded firearm. Based on my training and experience in law enforcement, there is a risk to the safety of the SEPTA personnel who responded to this incident if the video footage of the incident is provided to members of the public. The risk is that members of the public will be able to identify and find those SEPTA personnel, and harass them.

By: Charles Lawson on 9/06/22
Chief Charles Lawson
Southeastern Pennsylvania Transportation Authority
1234 Market Street, 8th Floor
Philadelphia, PA 19107

EXHIBIT “C”



Southeastern Pennsylvania Transportation Authority

Serving Bucks, Chester, Delaware, Montgomery, and Philadelphia counties

Tuesday, September 20, 2022 EDT

THREATENING ITEMS PROHIBITED ON SEPTA PROPERTY

The following items are prohibited on all SEPTA property, including, but not limited to, stations, vehicle stops, trains, buses, subways, and trolleys:

- Archery equipment (including, but not limited to, bows, arrows, and other supplies)
- Corrosive or dangerous chemicals or materials (including, but not limited to, tear gas, bleach, radioactive and bacterial materials)
- Electronic control devices (including, but not limited to, stun guns and TASER guns)
- Explosive devices (including, but not limited to, fireworks)
- Incendiary materials (including, but not limited to, flammable gases and liquids, as well as torches and lanterns)
- Martial arts and other self-defense items (including, but not limited to, billy clubs, nightsticks, and nunchuks)
- Sharp objects (including, but not limited to, axes, ice picks, knives, spears, swords, scissors, box cutters, razors, and spikes)
- Toy or replica firearms of any type
- Any mask or other article of clothing worn to disguise the wearer's identity, except in the course of bona fide religious observance or expression
- Any item that is intended to be, or may be interpreted as, a facsimile or reproduction of any item on this list

- Any item that, in the exclusive discretion of SEPTA personnel, has or may have a tendency to create a fear of imminent bodily harm on the part of another (which may include, but is not limited to, items such as riot gear, metal helmets, facemasks, and similar items)
- Any person found to possess any Prohibited Item will be asked to leave SEPTA property immediately, or removed by SEPTA police.

Any person who has a prohibited item on SEPTA property may instead turn it over to any SEPTA Transit Police officer, who will arrange for its storage at SEPTA Headquarters, 1234 Market Street, Philadelphia, for up to 30 days, after which point the prohibited item will be destroyed if not retrieved.

Please speak to a SEPTA Transit Police officer if you wish to store any prohibited item with SEPTA. SEPTA retains the right, in its sole discretion and for any reason whatsoever, to refuse to accept any prohibited item for storage.

EXHIBIT “D”

Verified Statement of William Marchesani
Southeastern Pennsylvania Transportation Authority

I, William Marchesani, am the Technical Manager of the Video Surveillance Department for Southeastern Pennsylvania Transportation Authority ("SEPTA") and am authorized to execute this verified statement. I state the following to the best of my knowledge, information and belief under penalty of perjury pursuant to 18 Pa.C.S. § 4904 relating to unsworn falsification of authorities:

1. I am the current Technical Manager of the Video Surveillance Department for SEPTA.

2. I am aware of the Right to Know Law request seeking "video surveillance of all cameras on the West Trenton Line R3 for the 12:31 train scheduled to depart from Langhorne Station on Friday, July 8th 2022."

3. I am also aware that the instant Right to Know Law request seeks "...footage on all cameras on the train from Langhorne Station up to the end of the route."

4. I am further aware that Office of Open Records has issued a Final Determination wherein SEPTA must provide the requested video footage but can make certain redactions.

5. More specifically, I am aware that SEPTA may redact all identifying information of any and all SEPTA personnel depicted in the requested video.

6. As the Technical Manager of the Video Surveillance Department for SEPTA, I am aware that the video sought by the Requester, Mr. Steinheiser, is approximately 2 (two) hours long, and encompasses approximately fifty-six (56) different cameras.

7. As the Technical Manager of the Video Surveillance Department for SEPTA, I am also aware that SEPTA does not have the capability or software to redact the faces and identifying information of the SEPTA personnel depicted in the video footage.

8. Because SEPTA does not have the capability to perform these redactions, SEPTA will have to seek the services of an unaffiliated third party to perform the redactions.

9. Because SEPTA does not have the capability to perform these redactions, I am unaware of the customary and usual costs that may be charged to perform the redactions.

By: William Marchesani on 11/9/2022
William Marchesani

Southeastern Pennsylvania Transportation Authority
1234 Market Street, 5th Floor
Philadelphia, PA 19107
4874-8209-9773, v. 1

EXHIBIT “E”

Baakman, Justine

From: Greg Constantine <gconstantine@veritext.com>
Sent: Tuesday, November 8, 2022 3:35 PM
To: Baakman, Justine; ML-NJ-FP-Video-Editor; Video Client Services
Subject: RE: Editing Pricing

Hi Justine,

Thank you for taking the time to speak with our editing team. To recap:

- This is a very large project but one that Veritext is fully capable of completing and I am confident we will exceed both you and your client's expectations.
- After reviewing with the team and examining some of the particular rough moments in the video, while we initially hoped to be able to complete this project withing two weeks, it is realistically closer to 4 weeks.
- Unfortunately, the added time is due to the fact that there is a multi-cam set-up, so there are moments in the video where one person is being see on a dozen different cameras and each of those cameras need the same work applied to them to blur the subjects.

With all of that being said, we are confident we can complete this project in 4-weeks. Videos would be delivered on a rolling basis as they are completed so you would not need to wait the full 4-weeks to start receiving videos.

Estimated Total Editing Hours: 120

Hourly Rate: \$185 / editing hour

Estimated Total: \$22,200

Please let us know if you have any questions or would like us to proceed.

Very Best,

Greg

Greg M. Constantine
Senior Account Executive

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