

January 11, 2023

**FILED VIA PACFILE**

Michael Krimmel, Esq.  
Chief Clerk  
Commonwealth Court of Pennsylvania  
Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 2100  
Harrisburg, PA 17106-2575

**RE: Submission of Record in:**  
***Southeastern Pennsylvania Transportation Authority v. Erik Steinheiser,***  
**No. 1255 CD 2022**

Dear Mr. Krimmel:

We hereby submit the record in the above-referenced matter. Section 1303 of the Right-to-Know Law, 65 P.S. §§ 67.101, *et seq.*, (“RTKL”), defines the Record on Appeal as “the record before a court shall consist of the request, the agency’s response, the appeal filed under section 1101, the hearing transcript, if any, and the final written determination of the appeals officer.” Pursuant to *Department of Transportation v. Office of Open Records*, 7 A.3d 329 (Pa. Commw. Ct. 2010), this record includes all “evidence and documents admitted into evidence by the appeals officer pursuant to Section 1102(a)(2).” The record in this matter consists of the following:

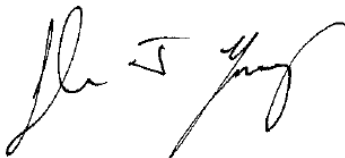
**Office of Open Records Docket No. AP 2022-1908:**

1. The appeal filed by Erik Steinheiser (“Requester”) to the Office of Open Records (“OOR”), received August 17, 2022.
2. Official Notice of Appeal dated August 18, 2022, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. Email chain dated August 26, 2022, wherein Southeastern Pennsylvania Transportation Authority (“SEPTA”) requests a two-week extension to make a submission, the OOR asks the Requester for additional time to issue the final determination and the Requester agrees to the extensions and asks SEPTA to provide him with copies of submissions via first class mail.
4. OOR email dated August 26, 2022, confirming the Requester’s agreement to additional time to issue the final determination and establishing submission deadlines.
5. SEPTA submission dated September 12, 2022.

6. Requester submission dated September 13, 2022, and request for *in camera* review.
7. OOR email dated September 15, 2022, seeking additional information from SEPTA and establishing the submission deadline.
8. Email chain dated September 15, 2022, wherein the Requester responds to the OOR regarding waiting for SEPTA's supplement submission before deciding about conducting an *in camera* review.
9. SEPTA email dated September 19, 2022, seeking a two-day extension to make a submission.
10. Requester email dated September 19, 2022, objecting to SEPTA extension request.
11. Email chain dated September 20, 2022 through September 21, 2022, wherein the Requester reiterates his objections to extension request, the OOR notes the Requester's objection but grants SEPTA's request for additional time to make a submission.
12. SEPTA supplemental submission dated September 21, 2022.
13. Requester supplemental submission dated September 22, 2022.
14. Requester email dated October 11, 2022.
15. Final Determination, issued by the OOR on October 13, 2022.

The OOR has discretion to hold a hearing on appeals filed but chose not to do so in this matter. Therefore, there is no transcript to transmit. Certification of the record in this case is attached to this letter. Please feel free to contact us for any reason in connection with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joshua T. Young', with a stylized flourish at the end.

Joshua T. Young  
Deputy Chief Counsel

Attachments

cc: See certificate of service

# Commonwealth of Pennsylvania

**Agency Docket Number: AP 2022-1908**

**Appellate Court Docket Number: 1255 CD 2022**

I, Elizabeth Wagenseller, certify that the accompanying electronically transmitted materials are true and correct copies of all materials filed in the Office of Open Records and constitute the record for :

Southeastern Pennsylvania  
Transportation Authority,  
Petitioner

v.

Erik Steinheiser (Office of  
Open Records),  
Respondent

/s/ Elizabeth Wagenseller

01/11/2023

Executive Director

Volumes:

Agency Record (2)

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY,  
Petitioner,

v.

ERIK STEINHEISER,  
Respondent.

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No. 1255 CD 2022

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the Certified Record  
upon the following as indicated below:

Mark E. Gottlieb, Esquire  
Meghan K. Finnerty, Esquire  
Justine A. Baakman, Esquire  
Offit Kurman, P.C.  
1801Market Street, Suite 2300  
Philadelphia, PA 19103  
[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)  
[mfinnerty@offitkurman.com](mailto:mfinnerty@offitkurman.com)  
[Justine.baakman@offitkurman.com](mailto:Justine.baakman@offitkurman.com)  
(via email only)

Erik Steinheiser  
PO Box 7008  
Penndel, PA 19047-7008  
[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)  
(via email and first class mail)



---

Faith Henry, Administrative Officer  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
Phone: (717) 346-9903  
Fax: (717) 425-5343  
Email: [fahenry@pa.gov](mailto:fahenry@pa.gov)

Dated: January 11, 2023

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY,**  
Petitioner,

v.

**ERIK STEINHEISER,**  
Respondent.

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No. 1255 CD 2022

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**CERTIFIED RECORD**

Joshua T. Young  
Deputy Chief Counsel  
Commonwealth of Pennsylvania  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2334  
Phone: (717) 346-9903  
Fax: (717) 425-5343  
Email: [joshyoung@pa.gov](mailto:joshyoung@pa.gov)

January 11, 2023

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**SOUTHEASTERN PENNSYLVANIA  
TRANSPORTATION AUTHORITY,**  
Petitioner,

v.

**ERIK STEINHEISER,**  
Respondent.

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**No. 1255 CD 2022**

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**TABLE OF CONTENTS  
RECORD**

*Erik Steinheiser v. Southeastern Pennsylvania Transportation Authority,*  
OOR Dkt. AP 2022-1908

**Office of Open Records Docket No. AP 2022-1908:**

1. The appeal filed by Erik Steinheiser (“Requester”) to the Office of Open Records (“OOR”), received August 17, 2022.
2. Official Notice of Appeal dated August 18, 2022, sent to both parties by the OOR, advising them of the docket number and identifying the appeals officer for the matter.
3. Email chain dated August 26, 2022, wherein Southeastern Pennsylvania Transportation Authority (“SEPTA”) requests a two-week extension to make a submission, the OOR asks the Requester for additional time to issue the final determination and the Requester agrees to the extensions and asks SEPTA to provide him with copies of submissions via first class mail.
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15. Final Determination, issued by the OOR on October 13, 2022.

# 00R Exhibit 1



## DC, OpenRecords

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**From:** no-reply@pa.gov  
**Sent:** Wednesday, August 17, 2022 6:46 PM  
**To:** DC, OpenRecords  
**Subject:** FWD:[pa open record] FAX image from:[2155949985]  
**Attachments:** RKM\_C360i220817174501.pdf

## DC, OpenRecords

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Wednesday, August 17, 2022 7:26 PM  
**To:** DC, OpenRecords  
**Cc:** OpenRecordsOfficer  
**Subject:** [External] RTKL Appeal.

**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](#).

Office of Open Records,

I am submitting an appeal against SEPTA for wrongfully denying me surveillance footage over a incident that occurred on their regional rail on July 8th 2022. They invoked the safety and security exemption and I feel this to be baseless and meritless because no one has any privacy rights of expectations on public transportation, especially state funded public transportation. Because SEPTA invoked this exemption and because this exemption has a much higher burden to prove under case law OOR rules and laws governing appeals and because I have limited access to .pdf files, I request that SEPTA, mail any affidavits and other discovery (including but not limited to affidavits or other more intrusive discovery pertaining to the safety and security exemption.) to the address below in my signature line and also listed on my request.

SEPTA,

This constitutes my appeal. Because you invoked the safety and security exemption, I am directing you to mail all affidavits and additional discovery, especially discovery concerning this exemption for very careful review and for submission to council of my choosing should I require a review. I must kindly state to you that this exemption has a higher burden of proof and merely stating that others have "privacy" doesn't work for this exemption to be invoked. Thank you!

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penndel, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com) (e-mail)

Respectfully Submitted.

*Mark E. Gottlieb, Esquire*  
267-338-1318 (Direct Dial)  
267-338-1335 (Facsimile)  
[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)

August 17, 2022

**Via e-mail ([esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com))**

Erik Steinheiser  
PO Box 7008  
Penndel, PA 19047-7008

**Re: RTKL Request to SEPTA of July 10, 2022**

Dear Mr. Steinheiser:

I am writing on behalf of Southeastern Pennsylvania Transportation Authority (“SEPTA”) in response to your Right-to-Know Law Request of July 10, 2022. You requested

*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 8<sup>th</sup> 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.*

For the reasons explained below, your request is denied.

Section 708(b)(1)(ii) of the RTKL 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.” 65 P.S. § 67.708(b)(1)(ii).

The video footage depicts an incident on a train at Somerton Station. Specifically, on July 8, 2022, at approximately 1:00 p.m., SEPTA Police responded to a radio call for a male, identified as Erik Steinheiser of 401 Bellevue Ave, Apt. 03, Penndel, PA 19047, who was wearing upper body armor and carrying a firearm on a train near the Somerton Station. The video shows Erik Steinheiser walking through a train car while wearing body armor and displaying a firearm on his waistband. The release of the video footage creates a reasonable likelihood of a substantial and demonstrable risk to the security of the SEPTA Police Officers and SEPTA train engineers and conductor. Accordingly, the request is denied.

Section 1101 of the RTKL states: “If a written request for access to a record is denied or deemed denied, the requester may file an appeal with the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) within 15 business days of

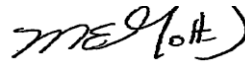
Trust. Knowledge. Confidence.

the mailing date of the agency's response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the requester asserts that the record is a public record, legislative record or financial record and shall address any grounds stated by the agency for delaying or denying the request.”

Please contact my office with any questions.

Sincerely,

**OFFIT KURMAN, P.C.**



Mark E. Gottlieb

Cc: Neil Petersen ([npetersen@septa.org](mailto:npetersen@septa.org))  
Megan Shannon ([mshannon@offitkurman.com](mailto:mshannon@offitkurman.com))

4866-7511-4286, v. 1

July 11, 2022

Erik R. Steinheiser  
P.O. Box 7008  
27 Bellevue Avenue #7008  
Pennadel, PA 19047

Re: Right-to-Know Law Requests –  
Surveillance Video – RRD/West Trenton Line (7/8/22)

Dear Mr. Steinheiser:

This is in response to your request under the Pennsylvania Right-to-Know Law (“RTKL”) with respect to obtaining the entire on-board surveillance video from all cameras on the West Trenton Line for the 12:31 pm train (#6321) scheduled to depart from Langhorne Station on Friday, July 8, 2022. More specifically, you requested all footage on all cameras on the subject train from Langhorne Station to the end of the scheduled line, and further indicated that there was a police action incident at Somerton Station on this train, and that you also wanted full and complete footage thereof.

Due to scope/nature of your request for these records, as well as bona fide staffing limitations within the department responsible for investigating and producing the documents requested, SEPTA is precluded from responding to your requests within the required 5 business day time period. In addition thereto, once any such records are collected they must in turn undergo a legal review to determine if they are either subject to legal privilege, contain confidential information or are otherwise protected under any of the exceptions set forth under Section 708(b) of the RTKL, and therefore deemed exempt from access by a requester. Based on the foregoing, SEPTA hereby invokes its right to a 30-day extension of time to respond (in addition to the 5 business days) in accordance with Section 902 of the RTKL. Accordingly, we would expect to respond to your request by August 17, 2022, but will earlier transmit any responsive records not otherwise protected upon receipt/review thereof.

Very truly yours,



C. Neil Petersen  
Deputy General Counsel  
Open Records Officer

CNP:np

## DC, OpenRecords

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Wednesday, August 17, 2022 6:32 PM  
**To:** DC, OpenRecords  
**Cc:** OpenRecordsOfficer  
**Subject:** [External] Fw: Right to Know Request.  
**Attachments:** 4371\_001.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](#).

PA OOR,

Here is my original right to know request and SEPTA's initial response to my right to know request which was denied and being appealed this evening.

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penndel, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Open Records Officer <OpenRecordsOfficer@septa.org>  
**Sent:** Monday, July 11, 2022 12:07 PM  
**To:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Cc:** Jodi Strickland <JStrickland@septa.org>; Gottlieb, Mark <mgottlieb@offitkurman.com>; Shannon, Megan <mshannon@offitkurman.com>  
**Subject:** RE: Right to Know Request.

Dear Mr. Steinheiser:

Attached is SEPTA's preliminary response to your RTKL Request pertaining to RRD (West Trenton Line) surveillance video of July 8, 2022.

**C. Neil Petersen, Esquire | Deputy General Counsel**

Office of General Counsel  
Open Records Officer  
Southeastern Pennsylvania Transportation Authority  
1234 Market Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19107



---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Sunday, July 10, 2022 11:32 AM  
**To:** Open Records Officer <OpenRecordsOfficer@septa.org>  
**Subject:** Right to Know Request.  
**Importance:** High

SEPTA/Open Records Officer,

This is a right to know request. I am requesting 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 8<sup>th</sup> 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.

I must kindly remind you that the right to know law requires a response within 5 business days. Therefore I will give you until Thursday, June 21<sup>st</sup> 2022 to either provide the records or invoke a 30 day extension as allowed by law. Should I receive no response by then, I will deem my request denied and I will appeal to the Office of Open Records. I will kindly await your response. Please let me know if you have any questions. Thank you!

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penn del, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.



## DC, OpenRecords

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Wednesday, August 17, 2022 6:29 PM  
**To:** DC, OpenRecords  
**Cc:** OpenRecordsOfficer  
**Subject:** [External] Fw: RTKL Response from SEPTA  
**Attachments:** RTK Response Letter (Steinheiser - West Trenton).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](#).

PA OOR,

Here is SEPTA's response to which I am appealing.

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penndel, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Shannon, Megan <mshannon@offitkurman.com>  
**Sent:** Wednesday, August 17, 2022 5:02 PM  
**To:** esteinheiser@hotmail.com <esteinheiser@hotmail.com>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>  
**Subject:** RTKL Response from SEPTA

Dear Mr. Steinheiser:  
Please see the attached sent on behalf of SEPTA.



**Offit Kurman®**  
Attorneys At Law

**Megan Shannon**  
*Pronouns: she, her, hers*

---

Counsel  
D 267.338.1328  
mshannon@offitkurman.com

 View My Bio »»

 CONNECT ON LINKEDIN

Ten Penn Center  
1801 Market Street  
Suite 2300  
Philadelphia, PA 19103  
T 267.338.1300  
F 267.338.1335  
offitkurman.com



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**PRIVILEGED COMMUNICATION/PRIVACY NOTICE**

Information contained in this transmission is attorney-client privileged and confidential. It is solely intended for use by the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and delete this communication.

## DC, OpenRecords

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Wednesday, August 17, 2022 7:36 PM  
**To:** Shannon, Megan; DC, OpenRecords  
**Cc:** Gottlieb, Mark; Neil Petersen (NPetersen@septa.org)  
**Subject:** [External] Re: RTKL Response from SEPTA

**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](#).

Ms. Shannon,

I received your official response and I am appealing. Because you invoked the safety and security exemption, this carries a much higher burden that you must prove which requires special affidavits in addition to any other evidence to be provided to meet your burden of proof against me. As a result of this I am directing you to serve or otherwise provide me all discovery (including but not limited to the special affidavits or other special discovery to invoke this exemption.) to be mailed to me at the address listed both below and in my original request immediately once it becomes available as I insist on carefully reviewing this discovery. Merely stating that it reveals the identity of other doesn't prove this burden. I will kindly await all affidavits and discovery immediately once it becomes available. Thank you!

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penn del, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

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**From:** Shannon, Megan <mshannon@offitkurman.com>  
**Sent:** Wednesday, August 17, 2022 5:02 PM

**To:** esteinheiser@hotmail.com <esteinheiser@hotmail.com>

**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>

**Subject:** RTKL Response from SEPTA

Dear Mr. Steinheiser:

Please see the attached sent on behalf of SEPTA.



**Offit Kurman**  
Attorneys At Law

**Megan Shannon**  
*Pronouns: she, her, hers*

---

Counsel  
D 267.338.1328  
mshannon@offitkurman.com

[View My Bio »»](#)

[in](#) [f](#) [t](#) [@](#)

[CONNECT ON LINKEDIN](#)

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Philadelphia, PA 19103  
T 267.338.1300  
F 267.338.1335  
offitkurman.com

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=== COVER PAGE ===

TO:

Pennsylvania Office of Open Records

FROM:

Erik R. Steinheiser

FAX:

(717) 425-5343

TEL:

(717) 346-9903

PAGE[S] TO FOLLOW

COMMENT:

RTKL Appeal.

## FACSIMILE TRANSMITTAL SHEET

To:

Office of Open Records

From:

Erik R. Steinheiser

Company:

Pennsylvania OOR

Date:

01/18/2013 00 17:00

Fax number:

(717) 425-5343

Total no. of pages, including cover:

3

Phone number:

(717) 346-9983

Sender's reference number:

Re:

RTKL Appeal

Your reference number:

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐  
PLEASE RECYCLE

Notes/Comments:

SEPTA's extension letter.

This facsimile transmittal message is intended for the sole use of the individual(s) and entity(ies) to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone this facsimile transmittal message including any attachments, or any information contained in this 1 message including any attachments. If you have received this facsimile transmittal message in error, please immediately notify the sender by reply e-mail and delete the message. Thank you very much.

**BUILDING THE FUTURE**

**Southeastern Pennsylvania Transportation Authority**  
1234 Market Street • Philadelphia, PA 19107-3780



215-580-7324

July 11, 2022

Erik R. Steinheiser  
P.O. Box 7008  
27 Bellevue Avenue #7008  
Penn del, PA 19047

Re: Right-to-Know Law Requests –  
Surveillance Video – RRD/West Trenton Line (7/8/22)

Dear Mr. Steinheiser:

This is in response to your request under the Pennsylvania Right-to-Know Law ("RTKL") with respect to obtaining the entire on-board surveillance video from all cameras on the West Trenton Line for the 12:31 pm train (#6321) scheduled to depart from Langhorne Station on Friday, July 8, 2022. More specifically, you requested all footage on all cameras on the subject train from Langhorne Station to the end of the scheduled line, and further indicated that there was a police action incident at Somerton Station on this train, and that you also wanted full and complete footage thereof.

Due to scope/nature of your request for these records, as well as bona fide staffing limitations within the department responsible for investigating and producing the documents requested, SEPTA is precluded from responding to your requests within the required 5 business day time period. In addition thereto, once any such records are collected they must in turn undergo a legal review to determine if they are either subject to legal privilege, contain confidential information or are otherwise protected under any of the exceptions set forth under Section 708(b) of the RTKL, and therefore deemed exempt from access by a requester. Based on the foregoing, SEPTA hereby invokes its right to a 30-day extension of time to respond (in addition to the 5 business days) in accordance with Section 902 of the RTKL. Accordingly, we would expect to respond to your request by August 17, 2022, but will earlier transmit any responsive records not otherwise protected upon receipt/review thereof.

Very truly yours,

A handwritten signature in black ink, appearing to read 'C. Neil Petersen', is written over the typed name.

C. Neil Petersen  
Deputy General Counsel  
Open Records Officer

CNP:np

S/Corp/CorpMatters/CD3383 (Steinheiser): 20220711 -- Ltr-Petersen-to-Steinheiser-RRD/West Trenton Line.doc

# 00R Exhibit 2



## **NOTICE OF DEADLINES**

The appeal has been docketed by the OOR and it has been assigned to an Appeals Officer. The docket number and the Appeals Officer's contact information are included in the attachments you received along with this notice.

The Final Determination is currently due on **September 16, 2022**.

**The timeline for this RTKL appeal may be extended by the OOR during the appeal.** This extension will allow the OOR the flexibility it requires to protect due process and to ensure that the agency and requester, along with any third parties, have a full and fair opportunity to meaningfully participate in the appeal.

Evidence, legal argument and general information to support your position must be submitted within seven (7) business days from the date of this letter, unless the Appeals Officer informs you otherwise. *Note: If the proceedings have been stayed for the parties to submit a completed mediation agreement, the record will remain open for seven (7) business days beyond the mediation agreement submission deadline.*

Submissions in this case are currently due on **August 29, 2022**.

**If you are unable to meaningfully participate in this appeal under the above deadlines, please notify the Appeals Officer as soon as possible.**

Due to delays in U.S. mail, we urge agencies and requesters to use email for all communications with the OOR to the extent possible.

Presently, the OOR is receiving postal mail on a limited basis. Accordingly, we urge agencies and requesters to use email for all communication with the OOR to the extent possible.

If you have any questions about this notice or the underlying appeal, please contact the Appeals Officer. The OOR is committed to working with agencies and requesters to ensure that the RTKL appeal process proceeds as fairly and as smoothly as possible.

August 18, 2022

**Via Email Only:**

Mark E Gottlieb, Esq  
Ten Pen Center  
1801 Market St, Suite 2300  
Philadelphia, PA 19103  
mgottlieb@offitkurman.com

-----  
Mr. Erik R Steinheiser  
PO Box 7008  
27 Bellevue Ave #7008  
Pennel, PA 19047  
esteinheiser@hotmail.com

**Via Email Only:**

Open Records Officer  
Agency Open Records Officer  
Southeastern Pennsylvania Transportation  
Authority  
1234 Market Street, 4th Floor  
Philadelphia, PA 19107  
openrecordsofficer@septa.org  
npetersen@septa.org  
JStrickland@septa.org  
-----

**RE: OFFICIAL NOTICE OF APPEAL - Steinheiser v. Southeastern Pennsylvania Transportation Authority OOR Dkt. AP 2022-1908**

Dear Parties:

**Review this information and all enclosures carefully as they affect your legal rights.**

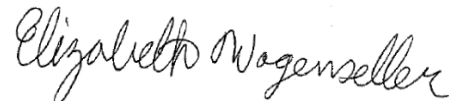
The Office of Open Records (“OOR”) received this appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. on August 17, 2022. A binding Final Determination (“FD”) will be issued pursuant to the timeline required by the RTKL, **please see the attached information for more information about deadlines.**

**Notes for both parties (more information in the enclosed documents):**

- The docket number above must be included on all submissions related to this appeal.
- Any information provided to the OOR must be provided to all parties involved in this appeal. Information that is not shared with all parties will not be considered.
- All submissions to the OOR, other than *in camera* records, will be public records. Do not include any sensitive information- such as Social Security numbers.

-----  
If you have questions about this appeal, please contact the assigned Appeals Officer (contact information enclosed), providing a copy of any correspondence to all parties involved in this appeal.

Sincerely,



Elizabeth Wagenseller  
Executive Director

Enc.: Description of RTKL appeal process  
Assigned Appeals Officer contact information  
Entire appeal as filed with OOR

# The Right-to-Know Law Appeal Process

**Please review this information carefully as it affects your legal rights.**

The Office of Open Records (“OOR”) has received the enclosed appeal, which was filed under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101, et seq. A binding Final Determination will be issued by the OOR pursuant to the statutory timeline, subject to the notice of deadlines enclosed herein. If you have any questions, please contact the Appeals Officer assigned to this case. Contact information is included on the enclosed documents.

---

## Submissions to the OOR

**Both parties may submit evidence, legal argument, and general information to support their positions to the assigned Appeals Officer.** Please contact the Appeals Officer as soon as possible.

**Any information provided to the OOR must be provided to all parties involved in this appeal.** Information submitted to the OOR will not be considered unless it is also shared with all parties.

**Include the docket number on all submissions.**

The agency may assert exemptions on appeal even if it did not assert them when the request was denied (*Levy v. Senate of Pa.*, 65 A.3d 361 (Pa. 2013)).

Generally, submissions to the OOR — other than *in camera* records — will be public records. Do not include sensitive or personal information, such as Social Security numbers, on any submissions.

---

## Agency Must Notify Third Parties

If records affect a legal or security interest of a third party; contain confidential, proprietary or trademarked records; **or** are held by a contractor or vendor, **the agency must notify such parties of this appeal immediately and provide proof of that notice by the record closing date set forth above.**

Such notice must be made by: (1) Providing a copy of all documents included with this letter; **and** (2) Advising relevant third parties that interested persons may request to participate in this appeal by contacting the Appeals Officer assigned to this case (see 65 P.S. § 67.1101(c)).

The Commonwealth Court has held that “the burden [is] on third-party contractors... to prove by a preponderance of the evidence that the [requested] records are exempt.” (*Allegheny County Dep't of Admin. Servs. v. A Second Chance, Inc.*, 13 A.3d 1025, 1042 (Pa. Commw. Ct. 2011)).

**A third party's failure to participate in a RTKL appeal before the OOR may be construed as a waiver of objections regarding release of requested records.**

*NOTE TO AGENCIES: If you have questions about this requirement, please contact the Appeals Officer immediately.*

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## Statements of Fact & Burden of Proof

**Statements of fact must be supported by an affidavit or attestation made under penalty of perjury by a person with actual knowledge.** Statements of fact or allegations submitted without an affidavit may not be considered.

Under the RTKL, the agency has the burden of proving that records are exempt from public access (see 65 P.S. § 67.708(a)(1)). **To meet this burden, the agency must provide evidence to the OOR.**

The law requires the agency position to be supported by sufficient facts and citation to all relevant sections of the RTKL, case law, and OOR Final Determinations.

An affidavit or attestation is required to prove that records do not exist.

Sample affidavits are on the OOR website, [openrecords.pa.gov](http://openrecords.pa.gov).

*Any evidence or legal arguments not submitted or made to the OOR may be waived.*

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## Preserving Responsive Records

**The agency must preserve all potentially responsive records during the RTKL appeal process**, including all proceedings before the OOR and any subsequent appeals to court.

Failure to properly preserve records may result in the agency being sanctioned by a court for acting in bad faith.

See *Lockwood v. City of Scranton*, 2019-CV-3668 (Lackawanna County Court of Common Pleas), holding that an agency had “a mandatory duty” to preserve records after receiving a RTKL request. Also see generally *Uniontown Newspapers, Inc. v. Pa. Dep’t of Corr.*, 185 A.3d 1161 (Pa. Commw. Ct. 2018), holding that “a fee award holds an agency accountable for its conduct during the RTKL process...”

---

## Mediation

**The OOR offers a mediation program as an alternative to the standard appeal process.** To participate in the mediation program, both parties must agree in writing.

The agency must preserve all potentially responsive records during the RTKL appeal process. Mediation is a voluntary, informal process to help parties reach a mutually agreeable settlement. The OOR has had great success in mediating RTKL cases.

If mediation is successful, the requester will withdraw the appeal. This ensures that the case will not proceed to court — saving both sides time and money.

Either party can end mediation at any time.

If mediation is unsuccessful, both parties will be able to make submissions to the OOR as outlined on this document, and the OOR will have no less than 30 calendar days from the conclusion of the mediation process to issue a Final Determination.

Parties are encouraged to consider the OOR's mediation program as an alternative way to resolve disputes under the RTKL.

---



**APPEALS OFFICER:**

**Matthew Eisenberg, Esq.**

**CONTACT INFORMATION:**

**Commonwealth of Pennsylvania  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234**

**FACSIMILE:**

**(717) 425-5343**

**EMAIL:**

**meisenberg@pa.gov**

**Preferred method of contact and  
submission of information:**

**EMAIL**

**Please direct submissions and correspondence related to this appeal to the above Appeals Officer.  
Please include the case name and docket number on all submissions.**

**You must copy the other party on everything you submit to the OOR. The Appeals Officer cannot  
speak to parties individually without the participation of the other party.**

The OOR website, <https://openrecords.pa.gov>, is searchable and both parties are encouraged to review  
prior final determinations involving similar records and fees that may impact this appeal.

The OOR website also provides sample forms that may be helpful during the appeals process. OOR staff  
are also available to provide general information about the appeals process by calling (717) 346-9903.



IN THE MATTER OF

\_\_\_\_\_,  
Requester

v.

\_\_\_\_\_,  
Agency

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:

OOR Dkt. AP \_\_\_\_\_

Please accept my appearance for the \_\_\_\_\_ in the above captioned case.  
(Requester/Agency)

**PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.**

Attorney: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone #: \_\_\_\_\_

**Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.**

## REQUEST TO PARTICIPATE BEFORE THE OOR

Please accept this as a Request to Participate in a currently pending appeal before the Office of Open Records. The statements made herein and in any attachments are true and correct to the best of my knowledge, information and belief. I understand this statement is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsifications to authorities.

**NOTE: The requester filing the appeal with the OOR is a named party in the proceeding and is NOT required to complete this form.**

OOR Docket No: \_\_\_\_\_

Today's date: \_\_\_\_\_

Name: \_\_\_\_\_

**PUBLIC RECORD NOTICE: ALL FILINGS WITH THE OOR WILL BE PUBLIC RECORDS AND SUBJECT TO PUBLIC ACCESS WITH LIMITED EXCEPTION. IF YOU DO NOT WANT TO INCLUDE PERSONAL CONTACT INFORMATION IN A PUBLICLY ACCESSIBLE RECORD, PLEASE PROVIDE ALTERNATE CONTACT INFORMATION IN ORDER TO RECEIVE FUTURE CORRESPONDENCE RELATED TO THIS APPEAL.**

Address/City/State/Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Name of Requester:** \_\_\_\_\_

Address/City/State/Zip \_\_\_\_\_

Telephone/Fax Number: \_\_\_\_\_ / \_\_\_\_\_

E-mail \_\_\_\_\_

**Name of Agency:** \_\_\_\_\_

Address/City/State/Zip \_\_\_\_\_

Telephone/Fax Number: \_\_\_\_\_ / \_\_\_\_\_

E-mail \_\_\_\_\_

**Record at issue:** \_\_\_\_\_

I have a direct interest in the record(s) at issue as (check all that apply):

- ☐ An employee of the agency
- ☐ The owner of a record containing confidential or proprietary information or trademarked records
- ☐ A contractor or vendor
- ☐ Other: (attach additional pages if necessary) \_\_\_\_\_

**I have attached a copy of all evidence and arguments I wish to submit in support of my position.**

Respectfully submitted, \_\_\_\_\_ (must be signed)

**Please submit this form to the Appeals Officer assigned to the appeal. Remember to copy all parties on this correspondence. The Office of Open Records will not consider direct interest filings submitted after a Final Determination has been issued in the appeal.**

# 00R Exhibit 3



**From:** [Erik Steinheiser](#)  
**To:** [Eisenberg, Matthew](#); [Shannon, Megan](#)  
**Cc:** [Gottlieb, Mark](#); [Baakman, Justine](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org)  
**Subject:** Re: [External] OOR AP 2022-1908  
**Date:** Friday, August 26, 2022 11:01:19 AM  
**Attachments:** [image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)

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Appeals Officer Eisenberg,

This should not be a problem; however, I am going to have to insist on service by mail from SEPTA on all affidavits and all other evidence utilized in this matter as I am not always near a computer that can open these types of large files. As you know the public safety exemption requires a much higher burden to prove which must be done with affidavits from people with actual or firsthand knowledge on this matter. Therefore, I am granting the extension, however I do ask in turn that you direct SEPTA to serve all evidence in this matter to me by mail at the address provided. As long as this can be done, I have no problem approving the extension requested. Please let me know if you have any questions. Thank you!

Regards,

**Erik R. Steinheiser**

P.O. Box 7008

Penndel, Pa 19047-7008

(215) 499-9076 (Main)

(215) 594-9985 (Fax)

[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Eisenberg, Matthew <meisenberg@pa.gov>  
**Sent:** Friday, August 26, 2022 10:18 AM  
**To:** Shannon, Megan <mshannon@offitkurman.com>  
**Cc:** Erik Steinheiser <esteinheiser@hotmail.com>; Gottlieb, Mark <mgottlieb@offitkurman.com>; Baakman, Justine <Justine.Baakman@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>  
**Subject:** RE: [External] OOR AP 2022-1908

Parties,

The Final Determination issue date is September 16, 2022. To facilitate the submission extension, I am first requesting a 30-day extension for the issuance date from the Requester. This would extend the date to October 16, 2022.

This would mean that the Final Determination would be issued at the latest, on that date. It could potentially still be before.

Mr. Steinheiser, and/or Attorney Gottlieb, will you allow this extension?



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

---

**From:** Shannon, Megan <mshannon@offitkurman.com>  
**Sent:** Friday, August 26, 2022 10:10 AM  
**To:** Eisenberg, Matthew <meisenberg@pa.gov>  
**Cc:** Erik Steinheiser <esteinheiser@hotmail.com>; Gottlieb, Mark <mgottlieb@offitkurman.com>; Baakman, Justine <Justine.Baakman@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>  
**Subject:** [External] OOR AP 2022-1908

***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](#).*

Dear Appeals Officer Eisenberg:

I am writing on behalf of Southeastern Pennsylvania Transportation Authority to request a two-week extension, until September 12, 2022, for the parties' submissions to the OOR. Due to staffing concerns, we request additional time to prepare SEPTA's affidavits. Thank you.

**Megan Shannon**

*Pronouns: she, her, hers*

Counsel

D [267.338.1328](tel:267.338.1328)

[mshannon@offitkurman.com](mailto:mshannon@offitkurman.com)

 [View My Bio »»](#)

 [CONNECT ON LINKEDIN](#)

Ten Penn Center 1801 Market Street  
Suite 2300

Philadelphia, PA 19103

T [267.338.1300](tel:267.338.1300)

F [267.338.1335](tel:267.338.1335)

[offitkurman.com](http://offitkurman.com)



---

**PRIVILEGED COMMUNICATION/PRIVACY NOTICE**

Information contained in this transmission is attorney-client privileged and confidential. It is solely intended for use by the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and delete this communication.

# OOR Exhibit 4

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**From:** Eisenberg, Matthew <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>  
**Sent:** Friday, August 26, 2022 11:05 AM  
**To:** Erik Steinheiser <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>; Shannon, Megan <[mshannon@offitkurman.com](mailto:mshannon@offitkurman.com)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Baakman, Justine <[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>; Neil Petersen (<[NPetersen@septa.org](mailto:NPetersen@septa.org)>  
<[npetersen@septa.org](mailto:npetersen@septa.org)>  
**Subject:** RE: [External] OOR AP 2022-1908

Parties,

As the final determination issuance date has been extended, I will extend the submission deadline.

The dates are now:

Submissions: September 12, 2022

Final Determination Issuance: October 16, 2022.

Please email all parties any submissions and, if possible, facilitate paper mailing. Please let me know if that would be difficult for any parties.



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

---

**From:** Erik Steinheiser <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>  
**Sent:** Friday, August 26, 2022 11:01 AM  
**To:** Eisenberg, Matthew <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>; Shannon, Megan <[mshannon@offitkurman.com](mailto:mshannon@offitkurman.com)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Baakman, Justine <[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>; Neil Petersen (<[NPetersen@septa.org](mailto:NPetersen@septa.org)>  
<[npetersen@septa.org](mailto:npetersen@septa.org)>  
**Subject:** Re: [External] OOR AP 2022-1908

# 00R Exhibit 5

**From:** [Baakman, Justine](#)  
**To:** [Eisenberg, Matthew](#)  
**Cc:** [Gottlieb, Mark](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org); [Open Records Officer](#); [esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)  
**Subject:** [External] OOR AP 2022-1908 - SEPTA response  
**Date:** Monday, September 12, 2022 4:42:28 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[SEPTA Submission OOR AP 2020-1908 \(Steinheiser\).pdf](#)  
[Exhibit A-TPD Handwritten Report #31233 \(Redacted\).pdf](#)  
[Exhibit B-verified statement of Charles Lawson.pdf](#)  
[Exhibit C-spreadsheet with details on aggravated assault crimes.pdf](#)  
[Exhibit D-spreadsheet with details on robbery crimes.pdf](#)

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**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](#).*

Good afternoon Appeals Officer Eisenberg,

On behalf of Mark Gottlieb, please see the attached correspondence related to the above referenced matter. The exhibits cited within the correspondence are also attached here.

Per his request, Mr. Steinheiser is also being mailed a copy of the attached at the below address:

P.O. Box 7008  
Penn del, PA 19047-7008

Thank you,  
Justine



**Justine Baakman**

Counsel  
D [267.338.1311](tel:267.338.1311)  
[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)



Ten Penn Center 1801 Market Street  
Suite 2300  
Philadelphia, PA 19103  
T [267.338.1300](tel:267.338.1300)  
F [267.338.1335](tel:267.338.1335)  
[offitkurman.com](http://offitkurman.com)



*Mark E. Gottlieb, Esquire*  
267-338-1318 (Direct Dial)  
267-338-1335 (Facsimile)  
[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)

September 12, 2022

**Via e-mail ([meisenberg@pa.gov](mailto:meisenberg@pa.gov))**

Matthew Eisenberg, Esq.  
Commonwealth of Pennsylvania  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234

**Re: OOR AP 2022-1908**

Dear Appeals Officer Eisenberg:

I am writing on behalf of Southeastern Pennsylvania Transportation Authority (“SEPTA”) in response to OOR AP 2021-0465. The Requester submitted a RTKL request to SEPTA 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 8<sup>th</sup> 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 August 17, 2022, SEPTA denied Mr. Steinheiser’s request. He filed a timely appeal on August 17, 2022.

By way of background, on July 8, 2022, SEPTA Police responded to a call on SEPTA’s West Trenton Line reporting a male entering the train wearing body armor. The male in question was identified as Erik Steinheiser of 401 Bellevue Ave, Apt. 03, Penndel, PA 19047<sup>1</sup>. Upon SEPTA Police arriving on scene, it was confirmed that Mr. Steinheiser was wearing upper body armor. SEPTA Police also ascertained that Mr. Steinheiser was traveling on SEPTA’s West Trenton Line with a firearm.

In response to a separate RTKL request from Mr. Steinheiser, SEPTA produced the SEPTA Transit Police Department Incident Report documenting this interaction, a copy of which is attached as Exhibit “A.” The police report states: “R/c police 225 and 432 responded to R/C for

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



male with body armor at train at above location. Police made contact with male on the front of the first train car. Male had upper body armor and admitted to having a firearm. During contact male was informed that he was not detained and was free to go. He was also informed he did nothing against the law. Police 225 was gonna ride w/ male to Jeffersn Station per CO2 but the conductor refused to and the train was taken out of service.” SEPTA redacted the name of the railroad supervisor identified as a witness from the police report prior to producing it. *See Exhibit A.*

Section 708(b)(1)(ii) of the RTKL 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.” 65 P.S. § 67.708(b)(1)(ii). The video requested by Mr. Steinheiser depicts the railroad engineer who refused to operate the train with Mr. Steinheiser traveling on board. 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. 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.

Releasing video depicting all of the above, 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 Verified Statement of Chief of SEPTA Police, Charles Lawson*, a copy of which is attached hereto as Exhibit “B.” More specifically, Mr. Steinheiser could use the video surveillance to identify and 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.* He could also use the video surveillance to identify and harass and/or physically harm the train engineer who refused to operate the train while Mr. Steinheiser was aboard. *See Exhibit B.*

Section 708(b)(17) of the RTKL exempts records relating to noncriminal investigations that, if disclosed, would “endanger the life or physical safety of an individual.” RTKL §708(b)(17)(vi)(E). Releasing video depicting a train engineer who refused to continue train service because of Mr. Steinheiser’s possession of a firearm would endanger that train engineer’s safety. *See Exhibit B.*

In further support of SEPTA’s denial of this RTKL request, attached hereto are the following:

- Data compiled by SEPTA Police regarding arrests for aggravated assaults utilizing guns committed from 2020 to 2022 (to date), a copy of which is attached hereto as Exhibit “C;” and
- Data compiled by SEPTA Police regarding arrests for robberies utilizing guns committed from 2020 to 2022 (to date), a copy of which is attached hereto as Exhibit “D.”

Importantly, the data regarding arrests by SEPTA Police demonstrates an increase in violence and use of weapons to commit crimes by individuals while traveling via SEPTA. *See* Exhibits C and D.

The crime data and the Verified Statement of Chief Lawson further support a finding that the release of the subject video surveillance is reasonably likely to result in a substantial and demonstrable risk of physical harm or personal security of individual SEPTA employees and is likely to endanger the life or physical safety of SEPTA employees. *See* 65 P.S. § 67.708(b)(1)(ii); *see also* 65 P.S. § 67.708(b)(17)(vi)(E). As such, the subject RTKL request was appropriately denied.

For the foregoing reasons, SEPTA respectfully requests that this appeal be denied.

Sincerely,

**OFFIT KURMAN, P.C.**



Mark E. Gottlieb

MEG/jab  
Encl.

cc: *(via email w/encl.)*  
Neil Petersen ([npetersen@septa.org](mailto:npetersen@septa.org))  
Justine Baakman ([Justine.baakman@offitkurman.com](mailto:Justine.baakman@offitkurman.com))  
Erik Steinheiser ([esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com))  
Erik Steinheiser (P.O. Box 7008, Penndel, PA 19047-7008)

# **EXHIBIT “A”**

## SEPTA TRANSIT POLICE DEPARTMENT

## COMPLAINT OR INCIDENT REPORT

YEAR 22	DIST/OCC. 7	D.C. NO.	SECT. 49	DIST 401	VEH. NO. 7/8/22	REPORT DATE
CRIME OR INCIDENT CLASSIFICATION			CODE	TIME OUT 1:00 <sup>A</sup>	TIME IN 4:45 <sup>A</sup>	
LOCATION OF OCCURRENCE 13623 Philmont Ave (Somerton Station)				<input type="checkbox"/> IN <input type="checkbox"/> OUT TYPE OF PREM.		
DATE OF OCCUR. 7/8/22	DAY CODE 5	TIME OF OCCUR. 1:00	NATURE OF INJURY NONE			
COMPLAINANT SPD			AGE	RACE	SEX	PHONE (HOME)
ADDRESS 1734 Market St 19107			PHONE (BUSINESS) 580-8111			
FOUNDED <input type="checkbox"/> Yes <input type="checkbox"/> No	REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out			UNIT	CODE	INV. CONT NO.
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No	TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No		UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No	
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable)						
R/c. police 225 and 432 responded to Rk for male with body armor on train at above location. police made contact with male on the front of the first train car. Male had upper body armor and admitted to having a firearm. During contact male was informed that he was not detained and was free to go. he was also						
WITNESS RR Supervisor		ADDRESS 1734 Market St		PHONE NO.		
OFFENDER INFORMATION						
Erik Steinheiser w/m 7/26/84						
401 Bellevue Ave Apt 03, Pennedale, PA 19047						
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$	
informed he did nothing against the law. Police 225 was gonna ride train w/ male to Jefferson Station per CO2 but the Conductor refused to and the train was taken out of service.						DC NO.
VEHICLE 1 — OWNER'S NAME			VEHICLE 2 — OWNER'S NAME			
VEHICLE 1 — OPERATOR'S NAME			VEHICLE 2 — OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT General No. Date		DIST/UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY Hitzpatrick			NO. 225	DIST/UNIT 49	TOTAL PAGES 2	PAGE NO. 1
REVIEWED BY SGT. C. [Signature]			NO. 60	DIST/UNIT	REFERRAL DATE	CEN NO.
PURSUANT TO ACT 155 OF 1994, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM:					SEPTA POLICE CONTROL NO. 31233	

SEPTA TRANSIT POLICE DEPARTMENT  
**COMPLAINT OR INCIDENT REPORT**

YEAR	DIST./OCC.	D.C. NO.	SECT.	DIST.	VEH. NO.	REPORT DATE
CRIME OR INCIDENT CLASSIFICATION			CODE	TIME OUT A P	TIME IN A P	
LOCATION OF OCCURRENCE				<input type="checkbox"/> IN <input type="checkbox"/> OUT	TYPE OF PREM.	
DATE OF OCCUR.	DAY CODE	TIME OF OCCUR.		A P	NATURE OF INJURY	
COMPLAINANT			AGE	RACE	SEX	PHONE (HOME)
ADDRESS					PHONE (BUSINESS)	
FOUNDED <input type="checkbox"/> Yes <input type="checkbox"/> No	REPORT TO FOLLOW <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Close Out			UNIT	CODE	INV. CONT NO.
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No	TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No		UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No	
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable)						
<p>male got off train on his own. male requested police supervision and Sgt went to the location. Male wanted to go downtown to 1234 Market for his reduced fare Card. Officer 22T rode train at 344 to Jefferson Station. male was shown where to go in 1234 by 22T. nothing further.</p>						
WITNESS		ADDRESS			PHONE NO.	
OFFENDER INFORMATION						
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$	
						DO NO.
VEHICLE 1 — OWNER'S NAME			VEHICLE 2 — OWNER'S NAME			
VEHICLE 1 — OPERATOR'S NAME			VEHICLE 2 — OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT General No.      Date		DIST./UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY <i>Fitzpatrick</i>			NO. 22T	DIST./UNIT 49	TOTAL PAGES 2	PAGE NO. 2
REVIEWED BY <i>Sgt. C. [Signature]</i>			NO. 62	DIST./UNIT	REFERRAL DATE	CEN NO.
PURSUANT TO ACT 155 OF 1992, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM:					SEPTA POLICE CONTROL NO. 31233	

75-48 Front (Rev. 04/15)

# **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 8<sup>th</sup> 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, 8<sup>th</sup> Floor  
Philadelphia, PA 19107

4871-9903-2368, v. 1



# **EXHIBIT “C”**

Activity_ID	ity_Num	Activity_Nu	Start_Date	Start_Time	ity_Type	Attrib_Valu	Activity_Comment	ident_Sou	Cleared_By	Juvenile	Actv_Prtcp_Type	Initial_Comment	Location_Name	Location_Text
577785	2020	00002705	13-Jan-21	18:18	CAD Incident	411	GUN: Male, allegedly armed with a firearm, fighting with a female on a Route 21 Bus #8431.	CALS				GUN: Male, allegedly armed with a firearm, fighting with a female on a Route 21 Bus #8431.	#Deleted	#Deleted
581590	2020	00006510	30-Jan-21	08:29	CAD Incident	411	MINOR DISTURBANCE: From bus control, there is a HM in a white coat and black bag causing a disturbance trying to get on buses at the above location. Assigned arrived on location and took a report from the bus driver who stated the male produced a silver hand gun while on the bus and then fled the area. The bus was tagged for video and detectives were contacted for a facetime interview. Assigned checked the area with negative results.	CALS				MINOR DISTURBANCE: From bus control, there is a HM in a white coat and black bag causing a disturbance trying to get on buses at the above location. Assigned arrived on location and took a report from the bus driver who stated the male produced a silver hand gun while on the bus and then fled the area. The bus was tagged for video and detectives were contacted for a facetime interview. Assigned checked the area with negative results.		7298 Frankford Ave Philadelphia, PA
590892	2020	00015811	13-Mar-21	15:24	CAD Incident	411		PPD			COM	from j band white male green hoodie white lettering black pants pulled a gun on female  stopped by ppd kensington and hilton/ gun recovered camera 20310 street level elevator positive id	Girard MFL Station	1200 N Front St Philadelphia, PA
593360	2020	00018278	26-Mar-21	15:00	CAD Incident	415	Below female stated that while she was waiting for a bus at the above location, 4 BM's drove by in a car and shot her with a paintball gun.  WF Goldberg, Lindsey Ashley 12-27-81 1307 Gillham St, Phila, PA, 19111 (267)265-1851	CANS		N	COM	Below female stated that while she was waiting for a bus at the above location, \$BM idrove by in a car and shot her with a paintball gun.  WF Goldberg, Lindsey Ashley 12-27-81 1307 Gillham St, Phila, PA, 19111 (267)265-1851	Arrott Loop	Frankford Ave & Orthodox St Philadelphia, PA
594463	2020	00019381	01-Apr-21	15:06	CAD Incident	411		PPD				ARREST/GUN: PPD reports that a male was brandished a gun in front of an operator on a route 10, bus #8221. Assigned stopped male and placed him under arrest along with Drexel Police. Male had a BB gun and a second weapon with one round in it that needed to be clear. SAM 301 cleared weapon and male was placed under arrest. Operator was not injured. DC #18-17730. Male was transported to District.	33rd Street Station SSL	3300 Market St Philadelphia, PA
595646	2020	00020564	08-Apr-21	11:57	CAD Incident	411	complainant stated that while onboard a route 25 bus #8472, a w/f wearing a black jacket with orange stripes and grey sweat pants, brandished a fire arm. bus was stopped at westmoreland and aramingo by PPD. female was taken into custody. complainant was transported by 4A for identification. Complainant was taken to the location of bus and actor where he made a positive identification of female. Gun was recovered, PPD will transported female to the District and take assignment. Bus will be placed out of service, so video can be pulled by Detectives.	CANS		N	COM	complainant stated that while onboard a route 25 bus #8472, a w/f wearing a black jacket with orange stripes and grey sweat pants, brandished a fire arm. bus was stopped at westmoreland and aramingo by PPD. female was taken into custody. complainant was transported by 4A for identification. Complainant was taken to the location of bus and actor where he made a positive identification of female. Gun was recovered, PPD will transported female to the District and take assignment. Bus will be placed out of service, so video can be pulled by Detectives.		Castor Ave & Philadelphia, PA
595901	2021	00020819	10-Apr-21	01:06	CAD Incident	413	From bus control, male pulled a gun out on the operator and threatened him, male got off the bus at Long Lane, bus is now at Airport Terminal B, no flash given, Airport Police notified sending officers, septa Pd supervision notified as well. Airport Police car A104 took the report, incident happened at Chruch and Ruskin where th actor got off the bus, described a black male 6ft, 160lbs, wearing a black jacket and blue jeans, skinny with a beard brandished a small silver handgun, job was approx 20 to 30 minutes old when we received it, flash given to UDPD. Bus 3480, block4371, rt. 108	CALS		N	ARR	From bus control, male pulled a gun out on the operator and threatened him, male got off the bus at Long Lane, bus is now at Airport Terminal B, no flash given, Airport Police notified sending officers, septa Pd supervision notified as well. Airport Police car A104 took the report, incident happened at Chruch and Ruskin where th actor got off the bus, described a black male 6ft, 160lbs, wearing a black jacket and blue jeans, skinny with a beard brandished a small silver handgun, job was approx 20 to 30 minutes old when we received it, flash given to UDPD.	Airport Terminal "A"	8500 Essington Ave Philadelphia, PA

536004	2021	00021385	16-Apr-20	01:09	CAD Incident	411	GUN: Report of gun shots on a northbound route #58, bus #8199, block #1365; at above location. Assigned reports, upon arrival, the bus operator stated there was a verbal argument in the back of the rear of the bus, between three black juveniles and one black male adult. The argument turned physical and the adult black male fired approximately three shots at the three juveniles, striking all three. Philadelphia PD (PPD) Sgt. Nodiff #293, car #2A arrived on location, took the shooter into custody and recovered a 9mm firearm, and a valid permit to carry from the actor. All juveniles were transported to area hospitals by responding PPD units. The actor was taken to Frankford-Torresdale. Video was recovered from the bus by SEPTA video unit. Crime scene was held by PPD 2nd District, processed by NEDD, Lt. Doerr, #184 and Detective Macmillan, #986. The scene was released at 02:15 hours. PPD units on location: Sgts. 2A, 2B, 2DC, Charlie 5, C16, 2T1, and 203. SEPTA units on location: Night Command, Sgts 3A, SORT 2, 400A, and K5. SEPTA Supervisors on location: R.Booker #09277, car #28 and G.Hayes #08217, car #38. DC #20-02-018505	PH			SUP	Gun shots on the bus, bus 8199, two people shot. Three males shot, gun recovered. Two taken to Einstien and prisoner taken to Frankford torresdale.	7200 Bustleton Ave Philadelphia, PA
596563	2021	00021481	14-Apr-21	07:09	CAD Incident	411	Report from a bus operator that at 5:19 amd she passed up a male at 42/poplar and the male shot at the bus, the bus continued in service.the correct location is 40th/wyalusingppd was also notified and stated no reports were recived for gunshots or pgun in the areadetective on location	CALS		COM	Report from a bus operator that at 5:19 amd she passed up a male at 42/poplar and the male shot at the bus, the bus continued in service.the correct location is 40th/wyalusingppd was also notified and stated no reports were recived for gunshots or pgun in the areadetective on location	42nd St & Wyalusing Ave Philadelphia, PA	
599921	2021	00024239	#####	23:43	CAD Incident	411		PPD	Y	VIC	Transfer from Philly Pd, mother states her daughter had a gun pulled on her actors,, boarded a northbound trainOne actor seen leaving at hunting park, cam. 13 at 11:39, the other actor got off at Wyoming. Alledged actors seen coming into the station at 11:11 cam 12 lombard and south.DC #21-9-12767	Lombard South Station	502 S Broad St Philadelphia, PA
664101	2021	00025980	02-Jun-22	21:27	CAD Incident	411		CALS			REport from the light rail dispatcher of a route 102 operator trolley #113 was threatened with a gun by a juvenile male that is no longer locationn.		E Baltimore Ave PA
664193	2021	00026072	03-Jun-22	15:56	CAD Incident	411				EVID	Report of a male firing a weapon in the station after departing the trolley 9069VUFA VIOLATION: Report of a person firing a weapon on the trolley platform and leaving the area after striking the door of the trolley with the butt of his gun ...the male was apprehended at 3400 n broad st all officers are out of the track area at 544 an the power is being restoredpositive id on the male dc's 22-09-18913the weapon was recovered in the track area at 9:53 from the sb express		15TH STEET SSL STATION - EB @ PHL, PA
602054	2021	00026369	#####	17:19	CAD Incident	411		OI		COM	ASSIST OTHER JURISDICTION: 1 gun shot victim outside of the terminal. PPD responded to the location and transported the male to Jefferson Frankford Hospital for (2) gun shot wounds to his upper back. DC #21-15-035163		1500 Pratt St Philadelphia, PA

602516	2021	00026832	#####	20:12	CAD Incident	411		CALS		ARR	From bus control rt 23 #8287 bus operator reported at 1956 that a b/m wearing all blk shirt did have white writing approx 6'3" light skin w/afro pointed gun a bus this happened at 1915...reported to ppd and and watch command...bus control stated operator did not want to speak w/detectives at this time  PPD stopped male and recovered weapon. Bus being taken out of service and taken to Midvale to for detectives to pull video...	N 12th St Philadelphia, PA	
603996	2021	00028311	#####	07:07	CAD Incident	411	MINOR DISTURBANCE: From train dispatch, there was a2 passengers in a verbal argument and one stated he would shoot the other. No gun was seen, and no description was given.b/m long loks blk duffle zelda l/s heading towards the highway Assigned arrived on location and spoke with comp who stated the actor had left the station before their arrival. Comp decided he didnt want to make a statement after he was told police would not be buying him a coffee, then proceeded to leave the area.dc's211930246 roland mason 06111981 267-271-8035 1221 race st phila pa 19107 rolandfmason@icloud.com the comp reported he got into an argument with a male wearing a security uniform who threatened the comp with weapon after telling him he as liscensed to carry the male left the train and the station prior to police arriving	CALS	N	COM	MINOR DISTURBANCE: From train dispatch, there was a2 passengers in a verbal argument and one stated he would shoot the other. No gun was seen, and no description was given.b/m long loks blk duffle zelda l/s heading towards the highway Assigned arrived on location and spoke with comp who stated the actor had left the station before their arrival. Comp decided he didnt want to make a statement after he was told police would not be buying him a coffee, then proceeded to leave the area.dc's211930246 roland mason 06111981 267-271-8035 1221 race st phila pa 19107 rolandfmason@icloud.com the comp reported he got into an argument with a male wearing a security uniform who threatened the comp with weapon after telling him he as liscensed to carry the male left the train and the station prior to police arriving	60th Street Station	6000 Market St Philadelphia, PA
667579	2021	00029459		27-Jun-22 15:21	CAD Incident	411		PPD	N	ARR	VIDEO REQUEST: PPD Shooting Group requesting video from 6-27-22 at approximately 13:08hrs on the NE corner in reference to a robbery/shooting. Incident occurred at 13:09hrs in the stairwell at Olney TC. Offender, who has a valid license to carry, was walking up the stairs from platform. As he walked past a group of 4 or 5 males, one male grabbed offender by the throat and attempted to take his gun from his holster. Offender pulled away then fired four shots toward the group of males, striking one male twice in the left torso. Complt. went top side and flagged down a PPD officer Werner 35T11. Offender approached P/O with his firearm and stated male tried to rob him. Firearm recovered and victim transported to Einstein. NWDD interviewed both parties and all evidence submitted to DACU for review. On 6/30/22 the offender turned himself into police. SIG#22-648, DC#22-35-36246 Ralph Latchum / #912 (267) 549-2266 ralph.latchum@phila.gov	Olney BSL Station	5500 N Broad St Philadelphia, PA
545006	2021	00030387		23-Jun-20 19:48	CAD Incident	415	From video a b/fm, burgundy braids, black t-shirt, blue jeans, released pepper spray inside the cashie booth , and then boarded a wb train. Medic 44 responded the cashier refused rescue. Female was stopped and apprehended at 69th st. She was transported to Delaware County Hospital for withdrawal symptoms prior to transport to PDU.		N	ARR	From video a b/fm, burgundy braids, black t-shirt, blue jeans, released pepper spray inside the cashie booth , and then boarded a wb train. Medic 44 responded the cashier refused rescue.	8th Street Station	800 Market St Philadelphia, PA

668839	2021	00030719	05-Jul-22	14:43	CAD Incident	411		CALS		N	COM	GUN: Report from Bus Control of a male passenger boarding a Rt#18 Bus#7423 at Broad/Olney got involved in a fare dispute with the operator while on the bus, when the male exited the bus at Gorgas Ln and Thouron Ave the male pulled a hand gun and pointed it at the operator then left the area. The male is described as 16 Y/O B/M with an afro style hair cut and a white polo shirt, the bus was relocated to the Cedar Brook Mall layover by the Fresh Grocer...	E Georges Ln PA	
670313	2021	00032193	14-Jul-22	11:50	CAD Incident	411		OI		N	VIC	GUN/SHOOTING: Assigned at the above location with a shooting at 1222 hours, camera 101 on the eastbound platform. Male victim was shot by a black male wearing a blue hooded sweatshirt and light blue jeans with a second male who was wearing a red shirt and black pants. Males fled the location and walked towards Dilworth Plaza into the Municipal Service Building. PPD stopped male in the Courtyard at 1241 hours and a positive identification was made via video footage. Male victim was shot in the stomach, SAVE3 transported male via car to Jefferson Hospital. Transit One reports states the Command Post was the eastbound cashier booth at 1238 hours, Correction on camera footage via camera 102. Both male actors involved in shooting entered the system at 69th Street Terminal at 1230 hours, camera 30 and both evaded fare. D1 will download camera footage from train at 15th Street Station. Train Dispatch notified. Sgt. Horn reports that station and scene cleared at 1346 hours. At hospital per Viper1, male is critical but in stable condition. Male sustained an injury.	15th Street Station	1500 Market St Philadelphia, PA 19102
672511	2021	00034392	29-Jul-22	18:53	CAD Incident	411		CALS			COM	REPORT OF A PERSON WITH A GUN TRAIN CAR 661 MALE GOT OFF THE TRAIN AT CITY HALL AND THREATENED A SEPTA MAINT.WORKER	Cecil B. Moore Station BSL	1700 N Broad St Philadelphia, PA 19121
610743	2021	00035057	10-Jul-21	12:10	CAD Incident	411		CALS		N	COM	Light Rail reports operator of Route "11" #9055 reported at 3rd and Main in darby, an unidentified male pulled a gun out on him. Operator is at above location with supervisor. Assigned responded and interviewed the complainant. Assigned interviewed at Elmwood District		3rd St Darby, PA
611433	2021	00035743	15-Jul-21	01:09	CAD Incident	411		CALS		N	VIC	AGGRAVATED ASSAULT / GUN: Report of a passenger shot on a BSO Bus #8607. Assigned reports one gunshot wound to the chest, medic 7 transporting.		S Broad St PA
613743	2021	00038057	31-Jul-21	14:59	CAD Incident	411				N	COM	anton schullere 5450 wiss ave #b353 19144 2157562827 account #17357 route 22 #8637 assigned report a shotgun in area no scene located minor disturbance only	Olney Bus Loop	5600 N Broad St Philadelphia, PA
614855	2022	00039169	09-Aug-21	11:27	CAD Incident	411		CANS		N	COM	Female comp on the highway that reported via PPD that she was threatened by two b/f on the eastbound train with a gun.. the female departed the train at berks station and fled to the highway212627472	Berks Station	1900 N Front St Philadelphia, PA

563965	2022	00049134	28-Oct-20	13:52	CAD Incident	411												SHOOTING/GUN: Report of a shooting on a route 6, bus #7326 AT 1326 hours. Male armed with the gun walked into the 35th District stating that he believed he shot a male on the bus in self-defense. Bus at the above location, officers on location reporting that a black male wearing a scream type mask and a black hooded sweatshirt entered the bus with a machete and then exited the bus going westbound on Medary Avenue. There is no victim at this time, a witness remained on bus to give a statement. Sgt. Lachowicz #27 arrived on location at 1337 hours. District 7 Units coonducted a search for male on foot in the area. At 1440 hours, car 701C escorted bus back to Allegheny District. DC #35-88117.		1900 MEDARY AVE PHL, PA
568269	2022	00053439	22-Nov-20	17:57	CAD Incident	411	Weapon: from bus dispatch operator of 21 bus #3046 reports 2 males pointed a firearm at him at 53rd and chestnut only descr: one had on a red hoody and one had on a blk hoody..black male black hoodie was armed with a gun was accompanied by black male red hoodie wb on chestnut from 53rd  j band was notified of flashmale will speak to detectives at a later date terr threats..	CALS			SUP							Weapon: from bus dispatch operator of 21 bus #3046 reports 2 males pointed a firearm at him at 53rd and chestnut only descr: one had on a red hoody and one had on a blk hoody..black male black hoodie was armed with a gun was accompanied by black male red hoodie wb on chestnut from 53rd  j band was notified of flashmale will speak to detectives at a later datedc 18-78076 terr threats..		5 53rd St & Chestnut St Philadelphia, PA
569790	2022	00054961	02-Dec-20	04:49	CAD Incident	412	GUN: Male was shot on platform of Juniper station at 04:36 hours. Shooting was seen on CCTV #5, 8 & 9 and 13th WB #6 at 0439 hours. Male was possibly shot in his arm. 13th and Juniper station closed at 0503 hours. Male actor... black male tattoos on face black jacket with hood, dark pants with 3 stripes on side carrng a black bag and red lawn chair bag that contains a shotgun. male was last seen exiting the station on the WB platform. Male Ped Stop #54963	PPD		N	VIC		Juniper Station		1300 Market St Philadelphia, PA					
633576	2022	00057888	02-Dec-21	04:45	CAD Incident	421	Gun: Assigned reported shots fired at the above location, actor threw the gun at officers and fled; assigned pursued and apprehended the actor 20 s. 69th at 3:40am. One person shot at 6916 market street, transported to Delco. Actor also stated he shot his girlfriend at 7022 Terminal Square apt 11, 2nd floor. Septa PD did discharge weapons. Command staff notified via text and over the phone because Septa Phone not sending out email.Fire arm recovered as well.Incident possibly captured on bus 3005, block 9904, MFOBus operator Ron #22412 can be reached at 6109612239, may have witnessed.Actor also PCIC/NCIC positive.	OI			WIT				6900 Market St PA					
573662	2022	00058829	23-Dec-20	13:48	CAD Incident	415	report from PPD of a tall b/m armed with bb gun that he pointed at a transgender female tall b/m wearing blk dickie outfitthe male involved were seen on the westbound platform on cctv 90 at 136..  the female refused a face/time interview at this time and was escorted to the train by the assigned	911			COM		15th Street Station		1500 Market St Philadelphia, PA 19102					

# **EXHIBIT “D”**

Activity_ID	Activity_Num	Activity_Num	Start_Date	Start_Time	Activity_Type	Attrib_Valu	Activity_Comm	Incident_Sour	Cleared_By	Juvenile	iv_Prtcp_Ty	Trial_Comm	Location_Nar	Location_Text
638334	2022	00000077	01-Jan-22	16:38	CAD Incident	390		CALS		N	COM	REPORT OF A POINT OF GUN ROBBERY MALES SCOOTER WAS TAKEN AND FLED THE AREA CAMERA 9 3:13PM 21-06- 000109	11th Street Station	1100 Market St Philadelph ia, PA



515084	2020	00000477	03-Jan-20	12:32	CAD Incident	300	ROBBERY: Complainant states while inside the concourse area of the above location, on Friday 12-27-2019 at 1400 hours he was approached by a black male with a beard and long hair who stated he had a gun and took complainant's wallet				COM	ROBBERY: Complainant states while inside the concourse area of the above location, on Friday 12-27-2019 at 1400 hours he was approached by a black male with a beard and long hair who stated he had a gun and took complainant's wallet	Olney BSL Station	5500 N Broad St Philadelphia, PA
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515410	2020	00000803	04-Jan-20	21:58	CAD Incident	300					COM	Assigned reports compl states a male wearing a yellow hat/blue jacket robbed him point of gun...andr oid xt cell phone w/head phones19 09000533		SUBURBA N RR - CONCOUR SE @ ,PHL PHL, PA
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639673	2022	00001416	10-Jan-22	20:44	CAD Incident	395		CANS		EVID	<p>GUN: Report of a B/M wearing a blue coat, gray pants and red shoes threatening another passenger on Train Car #1129.</p> <p>ROBBERY: 1 male placed into custody and transported to the 24th District for an attempted robbery.</p>	Berks Station	1900 N Front St Philadelphia, PA
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639673	2022	00001416	10-Jan-22	20:44	CAD Incident	395		CANS	N	COM	<p>GUN: Report of a B/M wearing a blue coat, gray pants and red shoes threatening another passenger on Train Car #1129.</p> <p>ROBBERY: 1 male placed into custody and transported to the 24th District for an attempted robbery.</p>	Berks Station	1900 N Front St Philadelphia, PA
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519928	2020	00005321	25-Jan-20	14:42	CAD Incident	300	ROBBERY/ POINT OF GUN: PPD reports that between 1300 hours to 1330 hours, a complainant states they were robbed point of gun by two black males. Complainant states to PPD that persons were between the eastbound	PH		Y	COM	ROBBERY/ POINT OF GUN: PPD reports that between 1300 hours to 1330 hours, a complainant states they were robbed point of gun by two black males. Complainant states to PPD that persons were between the eastbound	56th Street Station	5600 Market St Philadelphia, PA
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644069	2022	00005812	04-Feb-22	21:53	CAD Incident	393		CANS		COM	From PPD,POINT OF GUN ROBBERY OCCURRED at approx.9: 25pm on S/B train#693 B.As complt was seated in the last car,two B/M'S weraing black hoodies,t hin build about 5'8" and 115lbs sat next to him.Actor #1 pointed a		N Broad St PA
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581128	2021	00006047	24-Jan-21	12:21	CAD Incident	395		PPD	Y	ARR	ROBBERY: From Philly PD,report of a person with a gun.PD met with complt who stated she was robbed by a know offender on the subway platform surface.Po lice and complt surveyed area and offender was located on the 6700	Olney BSL Station	5500 N Broad St Philadelphia, PA
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581128	2021	00006047	24-Jan-21	12:21	CAD Incident	395		PPD	Y	COM	ROBBERY: From Philly PD,report of a person with a gun.PD met with complt who stated she was robbed by a know offender on the subway platform surface.Po lice and complt surveyed area and offender was located on the 6700	Olney BSL Station	5500 N Broad St Philadelphia, PA
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645176	2022	00006919	11-Feb-22	07:57	CAD Incident	390		PPD		N	ARR	ROBBERY: On 2/10/22 at 5:38am,complt.state s he parked his 2017 Toyota Highlande r(PA GLE- 1804) in the parking lot.After walking to the platform, he was approach ed by 2 W/M actors.Off ender#1 pointed a black handgun	Forest Hills Station	313 Byberry Rd Philadelph ia, PA 19116
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645176	2022	00006919	11-Feb-22	07:57	CAD Incident	390		PPD		N	ARR	ROBBERY: On 2/10/22 at 5:38am,co mplt.state s he parked his 2017 Toyota Highlande r(PA GLE- 1804) in the parking lot.After walking to the platform, he was approach ed by 2 W/M actors.Off ender#1 pointed a black handgun	Forest Hills Station	313 Byberry Rd Philadelph ia, PA 19116
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645176	2022	00006919	11-Feb-22	07:57	CAD Incident	390		PPD		COM	ROBBERY: On 2/10/22 at 5:38am,complt.state s he parked his 2017 Toyota Highlande r(PA GLE- 1804) in the parking lot.After walking to the platform, he was approach ed by 2 W/M actors.Off ender#1 pointed a black handgun	Forest Hills Station	313 Byberry Rd Philadelph ia, PA 19116
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582910	2021	00007829	04-Feb-21	18:55	CAD Incident	390		CANS		SUS	Female complainant states she was on a route 93 bus from Washington St en route to NTC when a male pulled a gun on her forcing her to buy items from him. The male then followed her from the bus to the platform at NTC, and	Norristown Transportation Center	20 W Lafayette St Norristown, PA
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582910	2021	00007829	04-Feb-21	18:55	CAD Incident	390		CANS	Y	COM	Female complainant states she was on a rte 93 bus from washington st en route to NTC when a male pulled a gun on her forcing her to buy items from him. The male then followed her from the bus to the platform at NTC , and	Norristown Transportation Center	20 W Lafayette St Norristown, PA
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523041	2020	00008433	08-Feb-20	12:41	CAD Incident	300	ROBBERY: Philadelphia PD, responded to the above location, for a robbery in progress. Complainant states he was robbed of an iPhone 7.. Complainant states he observed the handle of a gun sticking out of his pocket. Offender fled	PPD		N	COM	Robbery: Philly Pd responded to the above location for a robbery in progress. Comp. states he was robbed of an iphone 7. Comp. states he observed the handle of a gun sticking out of his pocket. Offender fled NB from the location. Video off	Spring Garden MFL Station	100 Spring Garden St Philadelphia, PA
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583662	2021	00008581	08-Feb-21	09:37	CAD Incident	390					N	COM	The assigned on location with a comp who stated he ws robbed pt of gun by a b/m 17-18 yrs ol on train car 689 b/m red blk jkt blk hoody and blk pants the male was wearing red parachue pants09- 4909	City Hall Station	1400 JFK Blvd Philadelph ia, PA 19107
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646859	2022	00008899	23-Feb-22	22:45	CAD Incident	390		CANS	N	COM	ROBBERY: Report of a white male wearing a red Adidas sweatsuit being robbed a B/M wearing a black hooded jacket and black NIKE sweatpants, accompanied by a B/M wearing a black jacket, orange hoodie and dark blue	Girard MFL Station	1200 N Front St Philadelphia, PA
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646859	2022	00008899	23-Feb-22	22:45	CAD Incident	390		CANS	N	ARR	ROBBERY: Report of a white male wearing a red Adidas sweatsuit being robbed a B/M wearing a black hooded jacket and black NIKE sweatpants, accompanied by a B/M wearing a black jacket, orange hoodie and dark blue	Girard MFL Station	1200 N Front St Philadelphia, PA
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646859	2022	00008899	23-Feb-22	22:45	CAD Incident	390		CANS	N	COM	ROBBERY: Report of a white male wearing a red Adidas sweatsuit being robbed a B/M wearing a black hooded jacket and black NIKE sweatpants, accompanied by a B/M wearing a black jacket, orange hoodie and dark blue	Girard MFL Station	1200 N Front St Philadelphia, PA
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586098	2021	00011017	18-Feb-21	18:27	CAD Incident	390		PPD	N	COM	robbery: from ppd female was robbed point of gun by 3 b/m only flash on 1 b/m all blk with a b/f wearing a red trench coat...acto rs exited train at 5:58pm w/compl followed her down to street and then reentered the system....f rom video	46th Street Station	4600 Market St Philadelph ia, PA
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526402	2020	00011795	23-Feb-20	02:30	CAD Incident	305	ROBBERY - Several black juvenile male and females #1 B/F short heavysset cargo pants beat a black male complainant at the top of the escalator on pratt st side. Taken was a black addidas bag containing clothing, charger, Id and			N	COM	Saturday, 2/23/20, 2:14am, at the FTC, Mr. Davis was assaulted and robbed by a group of black males at the top of the escalator leading to the platform. There were about 8 individuals in the group and it appeared that 7 of the males	Frankford Transportation Center	5200 Frankford Ave Philadelphia, PA
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587555	2021	00012474	25-Feb-21	13:11	CAD Incident	390	ROBBERY/ ASSAULT: Complain ant states while entering the station at 1205 hours, a black male wearing a blue and white hooded jacket and blue distressed jeans and brown boots approach ed him in stairwell and pointed a gun at	CANS		N	SUS	ROBBERY/ ASSAULT: Complain ant states while entering the station at 1205 hours, a black male wearing a blue and white hooded jacket and blue distressed jeans and brown boots approach ed him in stairwell and pointed a gun at	North Philadelph ia BSL Station	2700 N Broad St Philadelph ia, PA
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587555	2021	00012474	25-Feb-21	13:11	CAD Incident	390	ROBBERY/ ASSAULT: Complain ant states while entering the station at 1205 hours, a black male wearing a blue and white hooded jacket and blue distressed jeans and brown boots approach ed him in stairwell and pointed a gun at	CANS		N	VIC	ROBBERY/ ASSAULT: Complain ant states while entering the station at 1205 hours, a black male wearing a blue and white hooded jacket and blue distressed jeans and brown boots approach ed him in stairwell and pointed a gun at	North Philadelph ia BSL Station	2700 N Broad St Philadelph ia, PA
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527304	2020	00012696	26-Feb-20	14:15	CAD Incident	300	ROBBERY: The complainant reported to Philadelphia PD (PPD) Units on 2-21-20, at approximately 07:30am, a black male sat next to him while riding in the westbound SEPTA train near the 46th Street stop, and asked to trade	PPD		N	COM	ROBBERY: The complainant reported to PPD Units on 2-21-20 at approximately 7:30am, that a B/M sat next to him while riding in the westbound SEPTA train near the 46th street stop, and asked to trade jackets. After the complainant	46th Street Station	4600 Market St Philadelphia, PA
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588920	2021	00013839	#####	19:26	CAD Incident	390	ROBBERY: W/M with blond hair wearing a printed jacket and blue jeans was robbed point-of-gun by (6) B/Ms who fled the area.	CANS		N	COM	ROBBERY; Point of gun;taken was cellphone	Somerset Station	2800 D St Philadelphia, PA
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589247	2021	00014166	#####	07:25	CAD Incident	395		CALS	N	COM	From the Field ticket agent, female passemge r stated they were robbed in the station, local pd was called and were in route, supervisio n notified. Strong arm robbery, purse taken by a 20yoa black male wearing a burgundy coat. last	Lansdown e RRD Station	35 S Lansdown e Ave Lansdown e, PA
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590882	2021	00015801	#####	14:02	CAD Incident	390	ROBBERY/ POINT OF GUN: Complain ant states in the mezzanin e at the above location she was robbed point of gun by a black male wearing all black clothing. Complain ant states that male took her wallet and gun and fled the area. Complain	CANS		N	COM	ROBBERY/ POINT OF GUN: Complain ant states in the mezzanin e at the above location she was robbed point of gun by a black male wearing all black clothing. Complain ant states that male took her wallet and gun and fled the area. Complain	56th Street Station	5600 Market St Philadelph ia, PA
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530468	2020	00015849	#####	12:03	CAD Incident	300						REPORT OF A ROBBERY: A male juvenile came over the radio and states that his brother was robbed. Assigned on location with juveniles who states while on a westbound train at 1107 hours, a black male wearing a red puffy		ERIE/TOR RESDALE STATION - EB @ PHILADEL PH, PA
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531274	2020	00016655	#####	14:00	CAD Incident	390	report from Penn Police of a their units on location with two comp reported they were robbed on the wb platform by two bl/m wearing all black , robbed taken was 50 usc call from University of Penn oper 17 comp at 41st and			N	WIT	DC #16-11768. On Sunday, March 15, 2020, at approximately 1:45pm the complainant reported to SEPTA officers that he was at the above location in an attempt to purchase shoes from the below offender and his friend	40th Street Station	4000 Market St Philadelphia, PA
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531274	2020	00016655	#####	14:00	CAD Incident	390	report from Penn Police of a their units on location with two comp reported they were robbed on the wb platform by two bl/m wearing all black , robbed taken was 50 usc call from University of Penn oper 17 comp at 41st and			N	COM	DC #16-11768. On Sunday, March 15, 2020, at approximately 1:45pm the complainant reported to SEPTA officers that he was at the above location in an attempt to purchase shoes from the below offender and his friend	40th Street Station	4000 Market St Philadelphia, PA
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591994	2021	00016912	#####	20:57	CAD Incident	305	From PPD white paper. Property Taken: Maroon Purse Containin g: ID and Debit Card. Samsung-Galaxy A21 (267-891-9833)	PPD		N	COM	the Philadelphia Police Department had responded to Penn Hospital at approximately 12:26 AM on March 18th, 2021 for a report of a robbery. Philadelphia Police Officer Taylor #5242 met with the below named complainant at Penn Hospital	8th Street Station	800 Market St Philadelphia, PA
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591994	2021	00016912	#####	20:57	CAD Incident	305	From PPD white paper. Property Taken: Maroon Purse Containin g: ID and Debit Card. Samsung-Galaxy A21 (267-891-9833)	PPD		N	COM	the Philadelphia Police Department had responded to Penn Hospital at approximately 12:26 AM on March 18th, 2021 for a report of a robbery. Philadelphia Police Officer Taylor #5242 met with the below named complainant at Penn Hospital	8th Street Station	800 Market St Philadelphia, PA
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593479	2021	00018397	#####	10:25	CAD Incident	395	A male comp reported that he was robbed today 03/27/21 at 9:15 am by an unknown male as he boarded a route 52, the male yanked the comp pants down and then took his wallet out of his pants pocket and fled the area, the comp	CANS			COM	male comp reported he was robbed by an unknown male as he boarded a route 52 bus taken was comp wallet containing bank card 140 usc gun permit retired city id .. Herbert Brooks 5132 haverford ave 267- 243-8316		N 52nd ST & Race St Philadelph ia, PA
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593592	2021	00018510	#####	04:56	CAD Incident	390	From Philly pd male states he was robbed pt of gun by four juveniles. Asolut seen on cam 89 at 4:41, and on Cam 90 you can see the black male wearing all black with the firearm.No robbvbery seen on camera but male was	PPD		N	COM	From Philly pd male states he was robbed pt of gun by four juveniles. Asolut seen on cam 89 at 4:41, and on Cam 90 you can see the black male wearing all black with the firearm.No robbvbery seen on camera but male was	15th Street Station	1500 Market St Philadelphia, PA 19102
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534372	2020	00019753	02-Apr-20	15:11	CAD Incident	300	ROBBERY; Passenger stated he was robbed on a Rt 52 bus#3058 at 5400 Oxford Ave.Taken was a camera by a B/M wearing a blue shirt,blk pants carrying a red backpack. Male brandished a gun in his waistband and exited bus last seen	PH		N	COM	ROBBERY; Passenger stated he was robbed on a Rt 52 bus#3058 at 5400 Oxford Ave.Taken was a camera by a B/M wearing a blue shirt,blk pants carrying a red backpack. Male brandished a gun in his waistband and exited bus last seen	5400 Oxford Ave Philadelphia, PA
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657963	2022	00019842	24-Apr-22	10:38	CAD Incident	390		CALS		COM	by assigned. From the cashier, a male requested police to make a report of being robbed, point of gun, by males. The comp stated that his Nadroid phone and \$20 USC was stolen, phone has no tracking. Comp did not want to speak	15th Street Station	1500 Market St Philadelphia, PA 19102
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595280	2021	00020198	06-Apr-21	08:15	CAD Incident	390	From PPD: On Monday, April 5, 2021 at 11:05pm, the complainants boarded the train at 2nd Street and were followed on the train by 5 unknown black males . The black males stood in close proximity to the complainants. When	PPD	N	COM	Report of a pt of gun robbery from PPD. DC#21-06-013341	8th Street Station	800 Market St Philadelphia, PA
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595280	2021	00020198	06-Apr-21	08:15	CAD Incident	390	From PPD: On Monday, April 5, 2021 at 11:05pm, the complainants boarded the train at 2nd Street and were followed on the train by 5 unknown black males . The black males stood in close proximity to the complainants. When	PPD	N	COM	Report of a pt of gun robbery from PPD. DC#21-06-013341	8th Street Station	800 Market St Philadelphia, PA
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658934	2022	00020813	29-Apr-22	22:30	CAD Incident	390		CANS	N	COM	DC 22-9-14150 Point of Gun Robbery. Complaint ent states they had their credit/debit cards, Wallet with \$1,000USD, State ID, and Social Security Card taken. Interviewing Detective is Det. Ertler 215-580-8435. Complaint ent came	15th Street Station	1500 Market St Philadelphia, PA 19102
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659594	2022	00021472	#####	02:12	CAD Incident	390		CANS	N	COM	<p>GUN: Report of a vehicle entering the bus loop, firing shots and a person is observed down in the loop...observed by a Route 56 Bus #3324 Block #3601. ATTEMPTED ROBBERY: Assigned made contact with the victim of an</p>	<p>Cottman-Torresdale Bus Loop</p>	<p>Cottman Ave &amp; Torresdale Ave Philadelphia, PA</p>
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536299	2020	00021680	18-Apr-20	16:14	CAD Incident	300	Train checked at FTC with negative results. PPD responded to 3200 Kensington Ave and took the report, escorting the female to her residence. Female reported that, while on the EB train, she witnessed the (2) actors assaulting				OA	ASSIST OTHER JURISDICTION (ROBBERY / INVESTIGATE TRAIN): PPD reported a call received from a female passenger reporting that a B/M wearing a facial mask and a red & black hoodie and a B/M wearing a facial	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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536299	2020	00021680	18-Apr-20	16:14	CAD Incident	300	Train checked at FTC with negative results. PPD responded to 3200 Kensington Ave and took the report, escorting the female to her residence. Female reported that, while on the EB train, she witnessed the (2) actors assaulting			N	COM	ASSIST OTHER JURISDICTION (ROBBERY / INVESTIGATE TRAIN): PPD reported a call received from a female passenger reporting that a B/M wearing a facial mask and a red & black hoodie and a B/M wearing a facial	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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537128	2020	00022509	25-Apr-20	21:32	CAD Incident	300	ROBBERY/ VIDEO REQUEST: On April 25,2020 at 7:58 Pm police radio was notified over J- Band to check video for an incident, at which time the number to police radio was given and a call was received from NW Detectives for a video search of	PPD				OA	ROBBERY/ VIDEO REQUEST: On April 25,2020 at 7:58 Pm police radio was notified over J- Band to check video for an incident, at which time the number to police radio was given and a call was received from NW Detectives for a video search of	Erie BSL Station	3700 N Broad St Philadelph ia, PA
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538365	2020	00023747	#####	08:17	CAD Incident	305	ROBBERY: The complainant reports by point of gun, his wallet with \$30.00 USC, a bank card, with \$400.00 USC and various identification cards. was taken by a short black male, with a long white beard bald . no clothing flash, 20-30	PH		N	COM	On Wednesday, May 06, 2020 at approximately 6:30am, the complainant stated he spent the night in Walnut-Locust Station. As he was exiting the station and was on street level, a person that he has known for over 15	Walnut-Locust Concourse	200 S Broad St Philadelphia, PA
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663142	2022	00025021	#####	17:42	CAD Incident	395		CANS				ROBBERY: Passenger reported that a B/M wearing a white hoodie and blue coat with green sneakers stated that he had a gun put it to his side and took his wallet then left the station when the train arrived and the victim boarded a	Allegheny BSL Station	3200 N Broad St Philadelph ia, PA
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663611	2022	00025490	#####	11:44	CAD Incident	390		CALS		N	ARR	<p>THEFT: From the cashier, below comp wanted to make a report of a robbery that occurred on Saturday, 5/30/22 about 5pm. Assigned arrived on location and the female stated she boarded a WB train at Allegheny station and was</p>	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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663611	2022	00025490	#####	11:44	CAD Incident	390		CALS	N	COM	<p>THEFT: From the cashier, below comp wanted to make a report of a robbery that occurred on Saturday, 5/30/22 about 5pm. Assigned arrived on location and the female stated she boarded a WB train at Allegheny station and was</p>	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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663611	2022	00025490	#####	11:44	CAD Incident	390		CALS		N	ARR	<p>THEFT: From the cashier, below comp wanted to make a report of a robbery that occurred on Saturday, 5/30/22 about 5pm. Assigned arrived on location and the female stated she boarded a WB train at Allegheny station and was</p>	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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663611	2022	00025490	#####	11:44	CAD Incident	390		CALS	N	COM	<p>THEFT: From the cashier, below comp wanted to make a report of a robbery that occurred on Saturday, 5/30/22 about 5pm. Assigned arrived on location and the female stated she boarded a WB train at Allegheny station and was</p>	Allegheny MFL Station	1800 E Allegheny Ave Philadelphia, PA 19134
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663947	2022	00025826	01-Jun-22	22:03	CAD Incident	390		CANS	N	COM	<p>ROBBERY: Male with a language barrier requested police, stating that he was robbed point-of-gun by a B/M wearing a black hoodie and black pants. Complainant went to load money on his card, male came up behind him and</p>	Erie/Torresdale MFL Train Station	3800 Kensington Ave Philadelphia, PA
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664018	2022	00025897	02-Jun-22	11:35	CAD Incident	393	ROBBERY: Compl. reported to PPD that on 5-13-22 at 9:30pm while on a Rt.15 bus from Front & Girard,complt and actor boarded bus.As complt and offender sat next to each other,offender stated he had a gun but never showed it Then	CANS		N	COM	ROBBERY: Compl. reported to PPD that on 5-13-22 at 9:30pm while on a Rt.15 bus from Front & Girard,complt and actor boarded bus.As complt and offender sat next to each other,offender stated he had a gun but never showed it Then	1200 W Girard Ave PA
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666453	2022	00028333	19-Jun-22	19:34	CAD Incident	395		CANS		N	COM	ROBBERY: Older female reported that a B/M wearing all burgundy clothing brandishe d a firearm at her while she was near the kiosk. Male boarded the EB train and left the station prior to police arrival. PPD responde	11th Street Station	1100 Market St Philadelph ia, PA
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543190	2020	00028571	10-Jun-20	13:41	CAD Incident	304	ATTEMPTED ROBBERY/ARREST: Assigned with a complainant who states four juveniles attempting to rob him, stating they had a gun, inside the terminal, on the platform. Males then fled the terminal to the highway. Three	Ol				ATTEMPTED ROBBERY: Assigned with a complainant who states four juveniles attempting to rob him stating that had a gun inside the terminal on the platform. Males then fled the terminal to the highway. Three males	Frankford Transportation Center	5200 Frankford Ave Philadelphia, PA
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667138	2022	00029018	24-Jun-22	07:56	CAD Incident	395		CALS		COM	<p>ROBBERY: From the cashier, there is a comp at their booth who states he was robbed point of gun on the NB platform by a BM in a black hoody, black pants, and a mask. From video, the comp and actor was seen entering the</p>	City Hall Station	1400 JFK Blvd Philadelphia, PA 19107
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605394	2021	00029708	07-Jun-21	06:28	CAD Incident	390		CANS		N	COM	Pt of gun robbery by three black males, one wearing all black with a black handgun, taken was 25.00 usc and a cell phone. Cam18 and 19 at 4:05am DC# 21-18-31819	63rd Street Station	6300 Market St Philadelphia, PA
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545672	2020	00031051	28-Jun-20	12:16	CAD Incident	305	ROBBERY/ PT OF GUN: Complain ant contacted PPD stating that a black male, 5'10, short hair cut, black shirt, black pants, black shoes produced a gun on a westbound and they both exited at the above location. Complain					ROBBERY/ PT OF GUN: Complain ant contacted PPD stating that a black male, 5'10, short hair cut, black shirt, black pants, black shoes produced a gun on a westbound and they both exited at the above location. Complain	63rd Street Station	6300 Market St Philadelph ia, PA
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545965	2020	00031344	30-Jun-20	08:33	CAD Incident	305	ROBBERY: Information from Philadelphia PD Whitesheet: On 06/26/20 at 12:40 AM the complainant was walking home on 5200 Frankford Ave. It was at that time an unknown black male stopped the complainant, pointed a	PPD		N	COM	Per PPD Whitesheet: On 06/26/20 at 12:40AM the complainant was walking home on 5200 Frankford Ave. It was at that time an unknown black male stopped the complainant, pointed a black handgun at his	Frankford Transportation Center	5200 Frankford Ave Philadelphia, PA
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607367	2021	00031681	19-Jun-21	17:39	CAD Incident	390		CANS	N	COM	from the station manager in room 110, occurred on the train. male want no police involvement t Compl stated he was robbed point of gun on a W/B train. Taken was approx. \$1,000 USC and multiple credit cards. Actor exits at 2nd stand	2nd Street Station	200 W Market St Philadelphia, PA
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608832	2021	00033146	29-Jun-21	12:19	CAD Incident	390		CANS				ATTEMPTED ROBBERY/ GUN: Complainant states a black male wearing a striped shirt and blue jeans with a large Adidas bag point a gun at him and attempted to rob him, hitting him on the head with the gun and them boarding	Girard MFL Station	1200 N Front St Philadelphia, PA
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671665	2022	00033546	23-Jul-22	23:48	CAD Incident	390		CANS		Y	COM	REPORT OF A MALE THAT WAS ROBBED POINT OF GUN / ACTOR BLK MALE GREEN BLACK PANTS /ORANGE HOODIE PPD DC 15- 53769 CAMERA 6 10:11PM /	Frankford Transport ation Center	5200 Frankford Ave Philadelph ia, PA
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549665	2020	00034834	23-Jul-20	22:11	CAD Incident	300	Robbery: White male wearing all black clothing stated he was followed onto a westbound train car #1042 by a black male wearing white tank top, light blue jeans, white sneakers, dreads, and a green face covering. The male then			N	COM	Robbery: White male wearing all black clothing stated he was followed onto a westbound train car #1042 by a black male wearing white tank top, light blue jeans, white sneakers, dreads, and a green face covering. The male then	Margaret/Orthodox MFL Station	4700 Frankford Ave Philadelphia, PA
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553803	2020	00038972	21-Aug-20	05:36	CAD Incident	300	Report or a point of gun robbery on the MFL, actore was described a black male with dark skin, twisties, black bandana, white tee and blue shorts, got off at Church. Complain ant going to work, will contact our detectives later DC			N	COM	Report or a point of gun robbery on the MFL, actore was described a black male with dark skin, twisties, black bandana, white tee and blue shorts, got off at Church. Complain ant going to work, will contact our detectives later DC		CHURCH STATION - EB @ ,PHL PHL, PA
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555059	2020	00040228	31-Aug-20	08:46	CAD Incident	300	ROBBERY/ POINT OF GUN: Complain ant states while at the above location on the southbou nd platform, he was robbed point of silver handgun by a black male wearing a green shirt, blue jeans with a black bag. Taken from the complaine	PH				ROBBERY/ POINT OF GUN: Complain ant states while at the above location on the southbou nd platform, he was robbed point of silver handgun by a black male wearing a green shirt, blue jeans with a black bag. Taken from the complaine	City Hall Station	1400 JFK Blvd Philadelph ia, PA 19107
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618151	2021	00042464	31-Aug-21	13:35	CAD Incident	390		PPD		COM	ROBBERY/ POINT OF GUN: PPD reported at 1322 hoursn that two females were robbed point of gun by two black males, one wearing a black shirt and blue jeans and a second male wearing a white shirt and blue jeans. Male fled	Church Station MFL	4300 Frankford Ave Philadelph ia, PA
--------	------	----------	-----------	-------	-----------------	-----	--	-----	--	-----	--	--------------------------	--

562718	2020	00047887	20-Oct-20	10:48	CAD Incident	390	<p>One assigned is on location with a male reporting that a unknown male threatened him with a firearm and to take his bag on sunday 10/18/20 between 5 40 amd an 600 by a b/m purple hoody 19-256 years old wearing a</p>			N	COM	<p>One assigned is on location with a male reporting that a unknown male threatened him with a firearm and to take his bag on sunday 10/18/20 between 5 40 amd an 600 by a b/m purple hoody 19-256 years old wearing a</p>	Frankford Transportation Center	5200 Frankford Ave Philadelphia, PA
--------	------	----------	-----------	-------	--------------	-----	--	--	--	---	-----	--	---------------------------------	-------------------------------------



563227	2020	00048396	23-Oct-20	18:07	CAD Incident	390						cashier reports a complains nt that reports a poin of gun robbery unknow items taken hit complains nt in the hean with a gun flash thin build black male black t shirt and jeans ppd notified medics enroute		ELLSWORTH/FEDERAL STATION - NB PHL, PA
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633609	2021	00057921	02-Dec-21	10:07	CAD Incident	390		CALS				THEFT: Cashier called and asked for police for a male who stated he was robbed at gun point on the train as he was boarding at the above location. Male stated he and the actor got off at Spring Garden station, and thats where he	City Hall Station	1400 JFK Blvd Philadelphia, PA 19107
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574172	2020	00059340	26-Dec-20	18:22	CAD Incident	390	Male on ecb box states he was robbed...by point of gun b/m red bubble coat blk mask,...from video red puffy coat blue jeans blk puma string backpack..actor exited train at 6:09pm...15-100630	CB		N	COM	Male on ecb box states he was robbed...by point of gun b/m red bubble coat blk mask,...from video red puffy coat blue jeans blk puma string backpack..actor exited train at 6:09pm...15-100630	Church Station MFL	4300 Frankford Ave Philadelphia, PA
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638212	2021	00062524	31-Dec-21	17:38	CAD Incident	395		CANS	N	COM	STRONG ARM ROBBERY: Complainant was at the above location on the Regional Rail platform states that a black male wearing a burgundy hooded sweatshirt and blue jeans approached her and took her iPhone and her wallet and	Fernrock RRD	900 Nedro Ave Philadelphia, PA 19141
--------	------	----------	-----------	-------	--------------	-----	--	------	---	-----	--	--------------	--------------------------------------

# OOB Exhibit 6

**From:** [Erik Steinheiser](#)  
**To:** [Baakman, Justine](#); [Eisenberg, Matthew](#)  
**Cc:** [Gottlieb, Mark](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org); [Open Records Officer](#)  
**Subject:** [External] Re: OOR AP 2022-1908 - SEPTA response  
**Date:** Tuesday, September 13, 2022 3:26:19 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[Preliminary Response to SEPTA \(09.13.2022\).pdf](#)  
[Exhibit A SEPTA Report \(09.13.2022\).pdf](#)

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***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](#).*

Appeals Officer Eisenberg,

I am in receipt of SEPTA's emailed response and am awaiting SEPTA's mailed response as of today. Please find my primary response and the other half of the police report that Septa conveniently forgot to provide you attached as "Exhibit A" as they only provided you with the handwritten report. It should be noted that after further review of Septa's response additional merits may be raised and revised and my standpoint may change. This statement was provided after careful review of the records solely on my limited Kindle.

For the foregoing reasons, furthermore, I am asking that you order a in camera review and that you direct SEPTA to immediately forward the records in question sealed to your office for review. If this requires a extension up to three (3) weeks, automatically deem the request approved and order the in-camera review. If it requires longer, please contact me for an approval. I am also directing you to carefully review their affidavit provided by SEPTA's Police Chief for the inconstancies stated and order the additional affidavits be filled out immediately. I feel that this is nessassary for you to make a fair determation as to the release of these records to me.

---

**From:** Baakman, Justine <Justine.Baakman@offitkurman.com>  
**Sent:** Monday, September 12, 2022 4:40 PM  
**To:** meisenberg@pa.gov <meisenberg@pa.gov>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>; Open Records Officer <OpenRecordsOfficer@septa.org>; esteinheiser@hotmail.com <esteinheiser@hotmail.com>  
**Subject:** OOR AP 2022-1908 - SEPTA response

Good afternoon Appeals Officer Eisenberg,

On behalf of Mark Gottlieb, please see the attached correspondence related to the above referenced matter. The exhibits cited within the correspondence are also attached here.

September 13<sup>th</sup> 2022

**Erik R. Steinheiser**

P.O. Box 7008  
Pennel, Pa 19047-7008

**Matthew Eisenberg, Esq.**

Commonwealth of Pennsylvania  
Office of Open Records  
333 Market Street 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
Sent via email

Appeals Officer Eisenberg,

I am in receipt of SEPTA's response to support their claim. After careful review, I have found several items in their response that I wish to bring to your attention. I will begin with SEPTA's original response letter. In that letter SEPTA described an alleged incident that occurred on July 8<sup>th</sup> 2022. Also in SEPTA's response they state that they are denying the request because it would reveal the identity of customers and employees that were involved in this alleged incident. More specifically SEPTA alleges that releasing the surveillance requested could "enable" the requester to "use the video surveillance to identify and harass and/or physically harm the train engineer who refused to operate the train...." And the letter further goes on to describe how the train engineer could be in danger over an activity that was lawful on and before that day in question and remains lawful as of this day. The letter then goes on to describe an affidavit that was attached and crime statistics data in addition to a police report was attached to which I will address those later in this correspondence.

I would first like to respond to SEPTA's letter containing the above allegations. I am first challenging the merits of this denial on the basis of the fact that the train is deemed a public space and is publicly funded by the state and there is no expectation of privacy by anyone as a result. 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??? Have they all of a sudden become psychics? In addition to this, on what specific basis in this would lead them to believe that this would endanger the referenced individual's safety???? Do they have documented threats???? Do they have prior incidents on the requester that would facilitate a likelihood of harm or danger???? Do they have any other records or knowledge of the requester that could facilitate a true and real danger to specific individuals by releasing this video???? If this was the case, why didn't they provide that evidence??? Instead, what do they do, they provide incidents which are all by the way crimes in their entirety which describe alleged incidents that occurred on the system and a police report that do not tell you anything more that you already knew based on their statement (To which I haven't even begun yet to address those documents as they have flaws of their own.) and give you no additional factual information solely based

on the merits of this case as to the behavior of the requestor. It is just SEPTA's way of saying we have a crime problem on the system and an individual allegedly engaged in a purely lawful activity and as a result we all of a sudden have a crystal ball as to the nexus to these incidents and the requestors future behavior if the surveillance were released. This is just supporting their claim of pure speculation of what could occur in the future there is no factual basis for their claim on any of their merits described in their letter.

Now I wish to address the merits on the attached handwritten police report that Transit Police wrote in response to the incident. I have two merits that I want to briefly address on this Police report, first and foremost, it gives you no additional information then what you already had from the affidavit in the first place. In addition to that SEPTA did not provide you with the complete report, to which there also was a computer generated report to which I am also attaching to this email as Exhibit A. Isn't it convenient how they left this out? Since SEPTA likes to speculate on what could happen, I would like to speculate what else they are leaving out if they couldn't even provide this simple document attached to their exhibits???? Why would they leave this report out but provide the handwritten report if they felt providing the report would help their case???? This just does not add up.

I would now like to get to the affidavit signed by Transit Police Chief Lawson Respectfully. I would first like to address his firsthand knowledge of this event. According to the incident report and his affidavit it does not appeal that he was on scene at the time of the incident and this once again is written to speculate what could happen based on secondhand knowledge provided to him by his officers and their reports to him and is solely basing his experience to try to predict a future behavior pattern bases on no addition factual information based specifically on this case that would facilitate a danger to the referenced classification of personnel if the surveillance was provided. I challenge this because he was not there and has no ability to attest to what did and did not actually happen other than merely through secondhand reports that were received. As you already know under RTKL, in order to provide an affidavit it needs to be from someone with actual knowledge. In this case the Chief does not have any actual knowledge on this incident other then what was provided to him and is solely basing this affidavit based on his experience. As a result I feel strongly that you should order and direct SEPTA to provide an affidavit from a representative of the SEPTA Police and Regional Management attesting to the facts that actually happened. Remember: There is no expectation of privacy merely in their names and titles. If SEPTA wants to attest to the facts of the incident, they will need to provide an affidavit from a member of the Regional Operations Management and either the Transit Police and/or Philadelphia Police that was actually on scene at the time of the incident.

Additionally, in this affidavit he attests under penalty of perjury, keep this in mind to the facts provided of this affidavit. One all of the facts in #3 through #8 he attests to facts that he only has secondhand knowledge of provided to him solely through the records, his subordinates, and provided on the incident. He was never present at the scene and was only able to obtain the information afterwards and only knew information if any during the incident through communications provided through his officers. Therefore how is he able to attest under oath mind you to the facts that did and did not actually happen if he was not there and only received secondhand communications on the incident from either his dispatchers or officers on scene?? While this ties in with the above paragraph, I would seriously question this credibility.



Finally, SEPTA provided crime statistical data in their response stating several incidents to which I did review over my limited tablet. My first argument is how SEPTA can once again provide a nexus between the illegal activities and the future behaviors of a natural person who allegedly engaged in a legal activity on the day in question that only looked suspicious??? Secondly SEPTA is utilizing the privacy concern to connect with safety of other individuals, if this were the case and SEPTA is concerned about the safety of the conductor and engineer, why would they provide the addresses to some of the victims listed on those crimes on the statistical data??? So when it is an engineer and a conductor it is a problem to release the data, but when it is a victim of a crime, this is perfectly fine????? Doesnt this seem hypocritical??? Basically what I am trying to get to is that SEPTA is creating a basis on "safety and security" that relies on speculation, unrelated incidents, and "crime statics". They have no merits for denying this record especially bases of the security exemption to withhold this record from the requestor.

In closure, I would like to state that this is what merits that I can find so far based on the merits provided and reviewed on my small kindle. I still have not received SEPTA's mailed response and there may be additional merits that come out once received and as this appeal proceeds further. Also, for these foregoing reasons, I am requesting that you order an in camera review to ensure that you can rule fairly in my favor. If you request an extension to make this happen, I will gladly approve it up to three weeks, if it will be longer please contact me, if shorter, deem it approved and order the in camera review. In summary this is SEPTA trying to predict based on past events that were crimes in themselves, alleged behaviors that will occur should the records be released. I maintain that SEPTA's merits for denying these records are baseless, meritless, and solely speculative. Furthermore, I must remind you that SEPTA and SEPTA alone bears this burden to prove why the records should not be released and the exemption that SEPTA invoked carries a higher burden to which I strongly feel SEPTA cannot prove. I ask that you carefully review the inconsistencies in SEPTA's response and question their credibility. In closure, I want to thank you for your time and I pray that you will be able to oblige to my requests and order SEPTA to provide the requested information. Please let me know if I can be of further assistance.

Regards,

e/s Erik R. Steinheiser

Erik R. Steinheiser  
Requester  
esteinheiser@hotmail.com

CAD Incident  
Report Date:  
Activity Num: 2022-00031233

SEPTA - Transit Police  
4th Floor 1234 Market Street  
Philadelphia, PA 19107

### SUMMARY

Occurred: 07/08/2022 12:21 Hrs - 07/09/2022 05:53 Hrs  
Location: SOMERTON - R3 WTRENT - OB @ ,P PHILADELPH, PA  
Offense: MDISTI CAD MDISTI  
PED-CAD PED

Date Prepared: 07/08/2022

Activity Notes: INVESTIGATION OF PERSON: Report of a white male wearing a green shirt wearing a bullet proof vest boarded an inbound train #6351 at the above location. Employees states they then became uncomfortable. Train standing in station, PPD on location. RROC then called and stated a female passenger passed out on same train. Assigned on location reports the a PPD Lt. was with female who regain consciousness from falling and refused medical attention and walked away. Assigned reports at 1403 hours, male passengers asked for a Police Supervisor. Employees refused to leave move the train even with an officer riding to male's destination. Assigned reports that male had a gun in his possession and was things were calm. Male refused to give identification to assigned. Sgt. Wentz arrived on location at 1443 hours, train was taken out of services at 1428 an it left the station. Male did exit the train without incident.

### INCIDENT INFORMATION

Incident Source:	Priority:
Received by:	First Call Received: 07/08/2022 12:21
Dispatched by:	First Unit Dispatched: 07/08/2022 12:22
Arrived by:	First Unit Arrived: 07/08/2022 12:33
Cleared by:	Last Unit Cleared: 07/09/2022 05:53

Units:

(P) 822826

Fitzpatrick, Niles

822827

Cuevas, Miguel

Initial Comment:  
INVESTIGATION OF PERSON: Report of a white male wearing a green shirt wearing a bullet proof vest boarded an inbound train #6351 at the above location. Employees states they then became uncomfortable. Train standing in station, PPD on location. RROC then called and stated a female passenger passed out on same train. Assigned on location reports the a PPD Lt. was with female who regain consciousness from falling and refused medical attention and walked away. Assigned reports at 1403 hours, male passengers asked for a Police Supervisor. Employees refused to leave move the train even with an officer riding to male's destination. Assigned reports that male had a gun in his possession and was things were calm. Male refused to give identification to assigned. Sgt. Wentz arrived on location at 1443 hours, train was taken out of services at 1428 an it left the station. Male did exit the train without incident.

### ACTIVITY STATUS

No Statutes associated with this report

### ACTIVITY ATTRIBUTES

Investigation of Persons: 2701

### PARTICIPANTS

No participants associated with this report

### INVOLVED PERSONNEL

CAD Officer - Cuevas, Miguel

Employee No: [REDACTED]

CAD Officer - Fitzpatrick, Niles

Employee No: [REDACTED]

### VIOLATIONS

MDISTI CAD MDISTI

Activity Num:2022-00031233

Counts: 1

Dismissable: N

PED CAD PED

Classification: Investigation of Person, Routine

Category: Misc. Non-Criminal

Counts: 1

Dismissable: N

Domestic Violence: N

**LOCATIONS**

Occurrence address SOMERTON - R3 WTRENT - OB @ ,P PHILADELPH, PA

**VEHICLES**

No Vehicles associated with this report

**PROPERTY**

No Property associated with this report

**RELATED CASES**

No Related Cases associated with this report

# OOR Exhibit 7

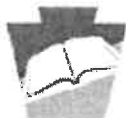
**From:** Eisenberg, Matthew <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>  
**Sent:** Thursday, September 15, 2022 10:37 AM  
**To:** Erik Steinheiser <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>; Baakman, Justine  
<[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Neil Petersen ([NPetersen@septa.org](mailto:NPetersen@septa.org))  
<[npetersen@septa.org](mailto:npetersen@septa.org)>; Open Records Officer <[OpenRecordsOfficer@septa.org](mailto:OpenRecordsOfficer@septa.org)>  
**Subject:** RE: [External] Re: OOR AP 2022-1908 - SEPTA response

Parties,

To establish that 708(b)(1) applies, 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 (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)). "Belief alone without more, even if reasonable, does not meet this heightened standard." *See Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct. 2010) (holding that "[m]ore than mere conjecture is needed" to establish that this exemption applies).

Please note that courts interpreting the RTKL have held that testimonial affidavits may serve as sufficient evidentiary support of factual statements before the OOR. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. OOR*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). On the other hand, unsworn statements or statements of counsel, not supported by affidavit testimony, have been held not to be competent evidence under the RTKL. *See Housing Auth. of the City of Pittsburgh v. Van Osdol*, No. 795 C.D. 2011, 2012 Pa. Commw. LEXIS 87 (Pa. Commw. Ct. 2012); *City of Philadelphia v. Juzang*, July Term 2010, No. 2048 (Phila. Com. Pl. June 28, 2011). As a result, the OOR is obligated to require that all factual statements be supported by a testimonial affidavit.

In order to further develop the record in this appeal, we request that the Transportation Authority supplement the record by **close of business, September 19, 2022** to include an affidavit further detailing the likelihood of a substantial and demonstrable risk posed by granting the record. Blank affidavit forms are available on our website if needed.



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

# OOR Exhibit 8

**From:** [Erik Steinheiser](#)  
**To:** [Eisenberg, Matthew](#); [Baakman, Justine](#)  
**Cc:** [Gottlieb, Mark](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org); [Open Records Officer](#)  
**Subject:** Re: [External] Re: OOR AP 2022-1908 - SEPTA response  
**Date:** Thursday, September 15, 2022 12:24:23 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)

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Appeals Officer Eisenberg,

Fair enough. I did contact an attorney that I use in these matters to advise, however he is out of the office this week and I am awaiting his response. This is exactly why I asked you to direct SEPTA to mail all evidence to me to which I am still awaiting as of this day. In the meantime, I thank you for adding this to the record and I encourage you to carefully review SEPTA's affidavits for inconsistencies, secondhand information and knowledge, as well as any speculations in addition to other flaws that negate question or otherwise compromise the creditability of the information being attested to in the affidavits. I will continue to raise this response should it become necessary after receiving their response to which I am awaiting as of this writing. Additionally, I ask you to continue to direct SEPTA to mail me the affidavits and other evidence that SEPTA actually or otherwise intends to use in this appeal as my response is going to be based solely on said documents.

With regards to your response to the in-camera review, I feel that is very fair of you to postpone this directive until we receive SEPTA's response with the supplemented documents that you directed in your previous communication. It should be noted that I will without hesitation revisit this option and communicate another request to all coping all parties for you to order this review, however for now I feel that your decision is very appropriate and I will be looking forward to receiving and reviewing SEPTA's additional facts once they are available. I would like to thank you for your time and I will await SEPTA's follow response to your directive.

Regards,

**Erik R. Steinheiser**

P.O. Box 7008  
Pennndel, Pa 19047-7008  
(215) 499-9076 (Main)

(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Eisenberg, Matthew <meisenberg@pa.gov>  
**Sent:** Thursday, September 15, 2022 11:32 AM  
**To:** Erik Steinheiser <esteinheiser@hotmail.com>; Baakman, Justine <Justine.Baakman@offitkurman.com>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>; Open Records Officer <OpenRecordsOfficer@septa.org>  
**Subject:** RE: [External] Re: OOR AP 2022-1908 - SEPTA response

Parties,

Mr. Steinheiser, I cannot give legal advice or guidance. As to the argument raised in accordance with the affidavit, it will be taken into note in the record of the appeal.

An in-camera review will be considered after the supplemental affidavit has been submitted. As stated, all argument will be considered before rendering the Final Determination for this appeal.

Sincerely,



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Thursday, September 15, 2022 11:07 AM  
**To:** Eisenberg, Matthew <meisenberg@pa.gov>; Baakman, Justine <Justine.Baakman@offitkurman.com>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>; Open Records Officer <OpenRecordsOfficer@septa.org>



**Subject:** Re: [External] Re: OOR AP 2022-1908 - SEPTA response

Appeals Officer Eisenberg,

I received your response and I have a question for you. Under the OOR Rules, a affidavit stating facts related to the opposition to the release of records must be from a person with ***actual knowledge***. The affidavit provided by SEPTA Transit Police Chief Lawson respectfully, contains specific statements in #3 through #8 to which he was not physically present to have actual knowledge of. Wouldn't this be secondhand knowledge as a result because he clearly received this information through his counterparts, subordinates, dispatchers, written reports and through other means that do not reflect his lack of actual presence at the scene? Wouldn't this affidavit have to be sworn to under oath by either the actual police officers on scene or the Regional Rail Operations Management or Crew to be considered actual knowledge of the facts listed in #3 through #8? I know and understand that some testimony can come through knowledge and actual experience in the field and subject matter in question, but when the actual events that transpired are attested to, doesn't that have to be someone with actual knowledge, in this case the SEPTA Transit Police Supervisor and Officer on scene, the Philadelphia Police Officers on Scene, and the Regional Rail Crew and the Operations Management that responded? I just do not understand how the police chief is able to attest to facts when he was not there and only received information through reports? Can you please try as best as you can to answer this question?

Also in my last communication, I insisted that you order an a in camera review of the record and I have not seen anything in response to that. Can you please comment on this as I feel very strongly that SEPTA cannot meet this burden and this would assist in facilitating this as you would be able to make a determination in a non-biased position contrary to how SEPTA came to this determination in their denial. I am willing to wait until SEPTA does supplement the record before you make a final determination on this strong recommendation from the requestor, however I kindly ask for your response. Can you please provide a response to this?

In closure, I wanted to thank you for your response. I feel that it was fair and reasonable to direct in that manner, I just feel that my request should be carefully considered because of the fact that SEPTA is invoking the safety and security exemption and this exemption carries a significantly higher burden of proof on top of what SEPTA must already prove. I will kindly await your response to this. Please do not hesitate to reach out if you have any questions. Thank you for your time.

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penndel, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Eisenberg, Matthew <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>  
**Sent:** Thursday, September 15, 2022 10:37 AM  
**To:** Erik Steinheiser <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>; Baakman, Justine  
<[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Neil Petersen ([NPetersen@septa.org](mailto:NPetersen@septa.org))  
<[npetersen@septa.org](mailto:npetersen@septa.org)>; Open Records Officer <[OpenRecordsOfficer@septa.org](mailto:OpenRecordsOfficer@septa.org)>  
**Subject:** RE: [External] Re: OOR AP 2022-1908 - SEPTA response

Parties,

To establish that 708(b)(1) applies, 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 (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)). "Belief alone without more, even if reasonable, does not meet this heightened standard." *See Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct. 2010) (holding that "[m]ore than mere conjecture is needed" to establish that this exemption applies).

Please note that courts interpreting the RTKL have held that testimonial affidavits may serve as sufficient evidentiary support of factual statements before the OOR. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. OOR*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). On the other hand, unsworn statements or statements of counsel, not supported by affidavit testimony, have been held not to be competent evidence under the RTKL. *See Housing Auth. of the City of Pittsburgh v. Van Osdol*, No. 795 C.D. 2011, 2012 Pa. Commw. LEXIS 87 (Pa. Commw. Ct. 2012); *City of Philadelphia v. Juzang*, July Term 2010, No. 2048 (Phila. Com. Pl. June 28, 2011). As a result, the OOR is obligated to require that all factual statements be supported by a testimonial affidavit.

In order to further develop the record in this appeal, we request that the Transportation Authority supplement the record by **close of business, September 19, 2022** to include an affidavit further detailing the likelihood of a substantial and demonstrable risk posed by granting the record. Blank affidavit forms are available on our website if needed.



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

---

**From:** Erik Steinheiser <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>  
**Sent:** Tuesday, September 13, 2022 3:26 PM  
**To:** Baakman, Justine <[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>; Eisenberg, Matthew <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Neil Petersen (<[NPetersen@septa.org](mailto:NPetersen@septa.org)>  
<[npetersen@septa.org](mailto:npetersen@septa.org)>; Open Records Officer <[OpenRecordsOfficer@septa.org](mailto:OpenRecordsOfficer@septa.org)>  
**Subject:** [External] Re: OOR AP 2022-1908 - SEPTA response

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Appeals Officer Eisenberg,

I am in receipt of SEPTA's emailed response and am awaiting SEPTA's mailed response as of today. Please find my primary response and the other half of the police report that Septa conveniently forgot to provide you attached as "Exhibit A" as they only provided you with the handwritten report. It should be noted that after further review of Septa's response additional merits may be raised and revised and my standpoint may change. This statement was provided after careful review of the records solely on my limited Kindle.

For the foregoing reasons, furthermore, I am asking that you order a in camera review and that you direct SEPTA to immediately forward the records in question sealed to your office for review. If this requires a extension up to three (3) weeks, automatically deem the request approved and order the in-camera review. If it requires longer, please contact me for an approval. I am also directing you to carefully review their affidavit provided by SEPTA's Police Chief for the inconstancies stated and order the additional affidavits be filled out immediately. I feel that this is nessassary for you to make a fair determation as to the release of these records to me.

**From:** Baakman, Justine <[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)>  
**Sent:** Monday, September 12, 2022 4:40 PM  
**To:** [meisenberg@pa.gov](mailto:meisenberg@pa.gov) <[meisenberg@pa.gov](mailto:meisenberg@pa.gov)>  
**Cc:** Gottlieb, Mark <[mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)>; Neil Petersen ([NPetersen@septa.org](mailto:NPetersen@septa.org)) <[npetersen@septa.org](mailto:npetersen@septa.org)>; Open Records Officer <[OpenRecordsOfficer@septa.org](mailto:OpenRecordsOfficer@septa.org)>; [esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com) <[esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com)>  
**Subject:** OOR AP 2022-1908 - SEPTA response

Good afternoon Appeals Officer Eisenberg,

On behalf of Mark Gottlieb, please see the attached correspondence related to the above referenced matter. The exhibits cited within the correspondence are also attached here.

Per his request, Mr. Steinheiser is also being mailed a copy of the attached at the below address:

P.O. Box 7008  
Pennel, PA 19047-7008

Thank you,  
Justine

---

**Justine Baakman**

Counsel  
D [267.338.1311](tel:267.338.1311)

[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)

Ten Penn Center 1801 Market Street  
Suite 2300  
Philadelphia, PA 19103  
T [267.338.1300](tel:267.338.1300)  
F [267.338.1335](tel:267.338.1335)  
[offitkurman.com](http://offitkurman.com)



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# OOR Exhibit 9

**From:** [Baakman, Justine](#)  
**To:** [Eisenberg, Matthew](#)  
**Cc:** [Neil Petersen \(NPetersen@septa.org\)](#); [Open Records Officer](#); [Gottlieb, Mark](#); [Erik Steinheiser](#)  
**Subject:** RE: [External] Re: OOR AP 2022-1908 - SEPTA response  
**Date:** Monday, September 19, 2022 2:56:19 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
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[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image889322.png](#)  
[image705574.png](#)  
[image964321.png](#)  
[image963525.png](#)

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Good afternoon Appeals Officer Eisenberg,

I am writing on behalf of SEPTA to request a two-day extension to supplement the record in this matter, with a new proposed deadline of **close of business September 21, 2022**. More specifically, I was out of the country on a pre-planned trip from Thursday, September 15 through Sunday, September 19. As a result, I am requesting this minor extension to have sufficient time to supplement the record as requested.

Thank you,  
Justine

# 00R Exhibit 10



**From:** [Erik Steinheiser](#)  
**To:** [Baakman, Justine](#); [Eisenberg, Matthew](#)  
**Cc:** [Neil Petersen \(NPetersen@septa.org\)](#); [Open Records Officer](#); [Gottlieb, Mark](#)  
**Subject:** Re: [External] Re: OOR AP 2022-1908 - SEPTA response  
**Date:** Monday, September 19, 2022 3:13:59 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
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[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image889322.png](#)  
[image705574.png](#)  
[image964321.png](#)  
[image963525.png](#)  
**Importance:** High

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Appeals Officer Eisenberg,

***I reject SEPTA's extension request.*** I both reject and object to their request because the Right to know law allows SEPTA only ONE very generous extension to which they already utilized, and additional extensions are granted by the permission of the requestor **ONLY** and not the agency. These timeframes are there for a reason and that is to avoid the unnecessary delay of proceedings. SEPTA being short-staffed and otherwise unable to meet these deadlines for business, economical, financial, or otherwise is completely not the fault of the requester.

Additionally, I already granted SEPTA one very generous extension to obtain the affidavits requested and they still cannot prove their burden as stated in my previous correspondence as I believe it to be. As a result, from your previous correspondence, you gave them a specific data of today Monday, September 19 2022 to which they specifically acknowledged. This should had been discussed last week at the order and not at the last minute. Remember this is SEPTA's burden and not mine. For these reasons, I ask that this request be immediately rejected, the documents be ordered to be produced immediately and this matter to proceed as scheduled. I will kindly await your response.

Regards,

**Erik R. Steinheiser**

P.O. Box 7008

Penndel, Pa 19047-7008

(215) 499-9076 (Main)

(215) 594-9985 (Fax)

[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Baakman, Justine <Justine.Baakman@offitkurman.com>  
**Sent:** Monday, September 19, 2022 2:55 PM  
**To:** Eisenberg, Matthew <meisenberg@pa.gov>  
**Cc:** Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>; Open Records Officer <OpenRecordsOfficer@septa.org>; Gottlieb, Mark <mgottlieb@offitkurman.com>; Erik Steinheiser <esteinheiser@hotmail.com>  
**Subject:** RE: [External] Re: OOR AP 2022-1908 - SEPTA response

Good afternoon Appeals Officer Eisenberg,

I am writing on behalf of SEPTA to request a two-day extension to supplement the record in this matter, with a new proposed deadline of **close of business September 21, 2022**. More specifically, I was out of the country on a pre-planned trip from Thursday, September 15 through Sunday, September 19. As a result, I am requesting this minor extension to have sufficient time to supplement the record as requested.

Thank you,  
Justine

# OOB Exhibit 11

**From:** [Erik Steinheiser](#)  
**To:** [Eisenberg, Matthew](#); [Shannon, Megan](#)  
**Cc:** [Gottlieb, Mark](#); [Baakman, Justine](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org)  
**Subject:** Re: [External] OOR AP 2022-1908  
**Date:** Wednesday, September 21, 2022 9:46:18 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)

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Appeals Officer Eisenberg,

Thank you for that information and noting that objection. I did not realize the final determination date would not be affected as a result. I thought that there were specific deadlines because there is specific process that results in a specific timeframe that is specifically stringent and narrowed down to the second and as a result if any extension is requested of any length and for any reason, then the entire appeal deadlines must be recalculated.

Nevertheless, I will be awaiting SEPTA's response to supplement the record by 5 P.M. Eastern Standard Time today. At that time and after careful review, hopefully by the end of the week I should be able to respond and direct accordingly. Please continue to direct them to mail their response to me. Also, please continue to refuse any additional extension requests for any reason from them. I would like to thank you for your time and response. Please let me know if you have any questions.

Regards,

**Erik R. Steinheiser**

P.O. Box 7008

Penndel, Pa 19047-7008

(215) 499-9076 (Main)

(215) 594-9985 (Fax)

[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Eisenberg, Matthew <meisenberg@pa.gov>  
**Sent:** Wednesday, September 21, 2022 8:24 AM  
**To:** Erik Steinheiser <esteinheiser@hotmail.com>; Shannon, Megan <mshannon@offitkurman.com>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Baakman, Justine <Justine.Baakman@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>  
**Subject:** RE: [External] OOR AP 2022-1908

Parties,

Mr. Steinheiser your rejection of the extension is noted for the record of this appeal. The extension was for submissions and not to the Final Determination issuance date. As such, all submissions must be sent by the end of the day, today, September 21, 2022.



**Matthew Eisenberg**  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
<https://openrecords.pa.gov>

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Tuesday, September 20, 2022 5:59 PM  
**To:** Eisenberg, Matthew <meisenberg@pa.gov>; Shannon, Megan <mshannon@offitkurman.com>  
**Cc:** Gottlieb, Mark <mgottlieb@offitkurman.com>; Baakman, Justine <Justine.Baakman@offitkurman.com>; Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>  
**Subject:** Re: [External] OOR AP 2022-1908  
**Importance:** High

Appeals Officer Eisenberg,

I would like to respectfully ask you why you are not following the correct procedure under the RTKL? Specifically, Section 902 (b)(2) that specifically states specific time periods that are required to be followed unless the **REQUESTER** agrees to such an extension. While I did allow the first extension, I declined this extension, but before I could even send my objection, you already granted their request. Why wasn't I involved in this process? Specifically, SEPTA either

must either by directly addressing me, or directing you to make the request, ask for the extension for the appropriate time period. In this case they directed you, but you never requested my approval and this is unacceptable. I specifically objected for the reasons specifically communicated, but the email never got to you until after the fact. I must ask that you document my objection to this extension on the official record.

I am going to have to ask you going forward in this proceeding to reject any further request from SEPTA to extend their timeframe to respond unless either I direct the extension or I give specific written permission for an extension to be invoked. I must also remind you to direct SEPTA that while extensions can be requested by the agency, they are not a remedy nor a right that the agency has, this is a right or remedy solely reserved for the requester. This in accordance with the Right to know law which only entitles them to one 30-day extension once I make my original request, to which as evidenced by my filings, they already utilized. Any further extensions are by the express permission and/or directive by the requester.

I must further direct you to instruct SEPTA to immediately but no later than 5:00 P.M. Eastern Standard Time on tomorrow Wednesday September 21<sup>st</sup> 2022, to answer the request as you directed last week to supplement the record. There will be no further extensions granted and if SEPTA ask for such a extension, you are to either deny it immediately or have it deemed denied if you cannot respond promptly. I feel SEPTA had a perfectly adequate opportunity to present any evidence that they have and the fact that they don't not have the staff or other resources is not an acceptable reason to dent this request. I have other commitments tomorrow and I may not be able to respond to object promptly, however if SEPTA asks for the extension, I must request that you deny the request. Furthermore, my silence or non-response to any such request is to immediately constitute a deemed denial.

In closure, I wish to thank you for your time and I will await your response to confirm receipt of my objection to the agency for any further extensions and directive to answer your directive as ordered. Please let me know if you have any questions. I will await your response. Thank you!

Regards,

**Erik R. Steinheiser**  
P.O. Box 7008  
Penn del, Pa 19047-7008  
(215) 499-9076 (Main)  
(215) 594-9985 (Fax)  
[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

# OOR Exhibit 12

**From:** [Baakman, Justine](#)  
**To:** [Eisenberg, Matthew](#)  
**Cc:** [Gottlieb, Mark](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org); [Erik Steinheiser](#)  
**Subject:** [External] OOR AP 2022-1908 - SEPTA supplemental submission  
**Date:** Wednesday, September 21, 2022 4:22:54 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[SEPTA Supplemental Submission OOR AP 2020-1908 \(Steinheiser\).pdf](#)  
[Exhibit E-Threatening Items Prohibited on SEPTA Property SEPTA.pdf](#)

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Good afternoon Appeals Officer Eisenberg,

On behalf of Mark Gottlieb, please see the attached correspondence related to the above referenced matter. The exhibit cited within the correspondence is also attached here.

Per his request, Mr. Steinheiser is also being mailed a copy of the attached at the below address:

P.O. Box 7008  
Pennadel, PA 19047-7008

Thank you,  
Justine



**Justine Baakman**

Counsel  
D [267.338.1311](tel:267.338.1311)  
[Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com)



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September 21, 2022

**Via e-mail ([meisenberg@pa.gov](mailto:meisenberg@pa.gov))**

Matthew Eisenberg, Esq.  
Commonwealth of Pennsylvania  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234

**Re: OOR AP 2022-1908 – Supplemental Submission**

Dear Appeals Officer Eisenberg:

I am writing on behalf of Southeastern Pennsylvania Transportation Authority (“SEPTA”) in response to OOR AP 2021-0465. The Requester submitted a RTKL request to SEPTA 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 8<sup>th</sup> 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 August 17, 2022, SEPTA denied Mr. Steinheiser’s request. He filed a timely appeal on August 17, 2022.

On September 12, 2022, SEPTA timely submitted its OOR submission. After that submission was made, supplementing of the OOR record was requested with a deadline of close of business on September 21, 2022.

At this time, SEPTA does not intend on supplementing the current OOR record with any additional affidavits or sworn statements. Notwithstanding, SEPTA is supplementing the record with its policy regarding the prohibition of threatening items while traveling aboard SEPTA vehicles, a copy of which is attached as Exhibit “E.” More specifically, this policy prohibits “...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).” *See* Exhibit E.

This policy prohibiting threatening items, including those akin to the body armor Mr. Steinheiser was wearing on July 8, 2022, further supports SEPTA's denial of Mr. Steinheiser's RTKL request. 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.

This policy further supports SEPTA's denial of Mr. Steinheiser's RTKL request based on Sections 708(b)(1)(ii) and 708(b)(17)(vi)(E) of the RTKL. The policy taken together with the previously submitted Verified Statement of Chief Lawson and crime data all support a finding that the release of the subject video is reasonably likely to result in a substantial and demonstrable risk of physical harm or personal security of individual SEPTA employees and is likely to endanger the life or physical safety of SEPTA employees. *See* 65 P.S. § 67.708(b)(1)(ii); *see also* 65 P.S. § 67.708(b)(17)(vi)(E). As such, the subject RTKL request was appropriately denied.

For the foregoing reasons, SEPTA respectfully requests that this appeal be denied.

Sincerely,

**OFFIT KURMAN, P.C.**



Mark E. Gottlieb

MEG/jab  
Encl.

cc: (w/encl.)  
Neil Petersen ([npetersen@septa.org](mailto:npetersen@septa.org))  
Justine Baakman ([Justine.baakman@offitkurman.com](mailto:Justine.baakman@offitkurman.com))  
Erik Steinheiser ([esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com))  
Erik Steinheiser (P.O. Box 7008, Penn del, PA 19047-7008)

# **EXHIBIT “E”**



**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.

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# 00R Exhibit 13

**From:** [Erik Steinheiser](#)  
**To:** [Baakman, Justine](#); [Eisenberg, Matthew](#)  
**Cc:** [Gottlieb, Mark](#); [Neil Petersen \(NPetersen@septa.org\)](mailto:NPetersen@septa.org)  
**Subject:** [External] Re: OOR AP 2022-1908 - SEPTA supplemental submission  
**Date:** Thursday, September 22, 2022 12:19:53 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Appeals Officer Eisenberg,

I am in receipt of SEPTA's mailed response. I wanted to send you a email once again to refute SEPTA's response to your specific directive to supplement the record. For the most part my arguments are the very same as they were in my statement several days ago, but just with s few additional points. I will address these points below.

My first point is with regards to SEPTA's flat-out refusal to follow your directive. After I submitted my challenge to their original response, you not only directed them to supplement the record and not only that, you gave a very specific deadline for this past Monday, September 19<sup>th</sup> 2022. SEPTA then on the very last day conveniently asked for an extension that not only did I refuse to give permission for, but I flat out objected to it, but you approved it anyways. After I stepped in and I gave the directive to approve no further extensions, you entered the same in to the record and clarified the procedure, to which I appreciate. My point here is first and foremost, that you did not make a request to SEPTA to supplement the record, you gave a directive to do so negating any option that SEPTA had to refuse. They were required to do so and refused to which that is not an option.

Not only that, but even after you specifically granted this extension without my written permission, they had more time to comply with your directive. Then near the end of the time frame window, they refuse. My point is as it seems that they were going to do this, why did they really need a extension that I never approved of if they were only going to refuse to supplement the record????

Lastly, with regards to their Exhibit E attachment providing the threatening items policy, while I have many deficiencies with this, which I may raise later, I want to get to the point about its relationship with this appeal. Specifically, I want to know what that has to do with SEPTA'S response invoking the public safety exemption? Specifically, what is the nexus between this exhibit and the potentially future behavior of the requester or the public in general? I gave a detailed description of this argument in my previous statement responding to SEPTA's original argument, but I wanted to reiterate this as all it seems that they are doing



is just submitting more irrelevant information. For all these foregoing reasons both in this email and in my original explanation, I do not feel that SEPTA can prove this burden.

Having all this said and taking everything in to consideration, in order to ensure that you can make a fair ruling, I am going to have to ask once again that you order a in camera review and direct SEPTA to immediately forward these records securely to your office. If this process requires an extension for up to three weeks, deem it approved and provide the new dates and move forward immediately with the in-camera review order. For a longer timeframe, please let me know and I will respond accordingly.

Furthermore, I also need to direct you to order SEPTA to complete the previously requested affidavits from the regional management, and the SEPTA Transit Officers on scene at a minimum. These are also for the reasons previously mentioned and actually should had been provided with your record supplement directive. Since I am already directing the extension above with my in-camera review, there will be absolutely no reason for SEPTA to be asking for a extension as they have plenty of time to do so. Having a shortage of staff and resources in itself is not a valid reason to delay this proceeding.

In closure, I feel that what I am asking is fair and reasonable. I would appreciate your careful review and response directing SEPTA to take the specific actions mentioned. I feel that given SEPTA's several inconsistency's you will be able to agree with me on this. I will kindly await your response with the next steps to fulfill this request and I would like to thank you for your assistance thus far. Please let me know if you have any questions. Thank you!

Regards,

**Erik R. Steinheiser**

P.O. Box 7008

Penndel, Pa 19047-7008

(215) 499-9076 (Main)

(215) 594-9985 (Fax)

[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

# 00R Exhibit 14

**From:** [Erik Steinheiser](#)  
**To:** [Eisenberg, Matthew](#); [Baakman, Justine](#)  
**Cc:** [Neil Petersen \(NPetersen@septa.org\)](#); [Open Records Officer](#); [Gottlieb, Mark](#)  
**Subject:** Re: [External] Re: OOR AP 2022-1908 - SEPTA response  
**Date:** Tuesday, October 11, 2022 12:03:37 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)

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Appeals Officer Heisenberg,

On Wednesday, September 21st 2022, I sent you a message directing you to order a in camera review and additional affidavits as specified in that communication. That was over a week ago and as of today and as of the writing of this email, I have not heard back from nor received and further communication from you.

I would like to direct you to regard this communication and respond as soon as possible with your answer. As you likely know, the ruling is due by the end of this week and I would like to know your standpoint on this communication before this happens. Please respond to my communication and let me know. Thank you!

Regards,

**Erik R. Steinheiser**

P.O. Box 7008

Penndel, Pa 19047-7008

[\(215\) 499-9076](tel:(215)499-9076) (Main)

[\(215\) 594-9985](tel:(215)594-9985) (Fax)

[esteinheiser@Hotmail.com](mailto:esteinheiser@Hotmail.com) (e-mail)

Respectfully Submitted.

---

**From:** Erik Steinheiser <esteinheiser@hotmail.com>  
**Sent:** Monday, September 19, 2022 3:16:53 PM  
**To:** Eisenberg, Matthew <meisenberg@pa.gov>; Baakman, Justine <Justine.Baakman@offitkurman.com>  
**Cc:** Neil Petersen (NPetersen@septa.org) <npetersen@septa.org>; Open Records Officer <OpenRecordsOfficer@septa.org>; Gottlieb, Mark <mgottlieb@offitkurman.com>  
**Subject:** Re: [External] Re: OOR AP 2022-1908 - SEPTA response

# 00R Exhibit 15

**From:** [Applegate, Kyle](#)  
**To:** [esteinheiser@hotmail.com](mailto:esteinheiser@hotmail.com); [Justine.Baakman@offitkurman.com](mailto:Justine.Baakman@offitkurman.com); [npetersen@septa.org](mailto:npetersen@septa.org); [OpenRecordsOfficer@septa.org](mailto:OpenRecordsOfficer@septa.org); [mgottlieb@offitkurman.com](mailto:mgottlieb@offitkurman.com)  
**Subject:** Steinheiser v. SEPTA, OOR Dkt. AP 2022-1908  
**Date:** Thursday, October 13, 2022 11:22:00 AM  
**Attachments:** [2022-1908 Steinheiser-SEPTA FD.pdf](#)

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Good morning,

The above-referenced matter has been reassigned to me. Please see the attached Final Determination. Thank you.

Sincerely,



**Kyle Applegate**  
Chief Counsel  
Office of Open Records  
333 Market Street, 16<sup>th</sup> Floor  
Harrisburg, PA 17101-2234  
Phone: (717) 346-9903  
Fax: (717) 425-5343  
<https://www.openrecords.pa.gov>  
[@OpenRecordsPA](#)



### 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.<sup>1</sup>

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.

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<sup>1</sup> 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.<sup>2</sup> 65 P.S. § 67.706. The Supreme Court has recognized that video may be redacted of non-public

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<sup>2</sup> 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.<sup>3</sup> 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

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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)

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