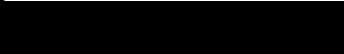


LAW OFFICES OF  
**EVANS, FROELICH, BETH & CHAMLEY**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
44 MAIN STREET, THIRD FLOOR  
CHAMPAIGN, ILLINOIS 61820

KENNETH N. BETH  
JOSEPH P. CHAMLEY  
---  
DAVID B. WESNER

TELEPHONE 217-359-6494  
FAX NO. 217-359-6468

December 16, 2021

Via e-mail  
E-mail to: 

Christopher Hansen  
CheckCU.org

**RE:** FOIA Request to Village of Rantoul

Dear Mr. Hansen:

On November 15, 2021, you submitted a Freedom of Information Act (the Act) request by e-mail to Janet Gray, the Village Clerk for the Village of Rantoul. Your request was forwarded to me, as one of its Attorneys, to provide the response. I provided an initial response on November 19, 2021 pertaining to such request being identified as a request from a recurrent requester.

The request submitted was: “Any and all records related to Rantoul ALPRs being utilized to effect an arrest and/or criminal charges [example provided in your e-mail]. Records should include all police reports related to each incident, and related ALPR images and data.”

Pursuant to Section 3.2 of the Act, the proposed responses that can be asserted are: providing an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged, if any, and which would need to be paid in full before copying the requested documents; deny the request pursuant to one or more exemptions set out in the Act; notify you that the request is unduly burdensome and extend an opportunity to you to attempt to reduce the request to manageable proportions; or, provide the records requested.

The nature of your request requires a search dependent on a certain type of information that may have been obtained or used within an investigation of an incident. There is no independent means with which to track records based upon the nature of certain information that may be obtained or used within an investigation, ie ALPR information. Any search of records must be done by hand and involves a significant amount of material. The search will be involved and time-consuming in order to determine whether any records are responsive to your request, especially in light of your request not being limited to any particular time period. The ALPRs have been in place and operating for a number of months. Therefore, the Village's response will be an estimate of the time required by the Village to provide any records that may be responsive to your request, including the time for any records to be reviewed for a determination of whether any exemptions apply and redacting exempt information.

The Village expects to complete its search, review any records that may be responsive to the request for applicable exemptions, redact any exempt information, and provide any responsive records (subject to any redacted exempt information) within the next 30 days.

With regard to the portion of your request for ALPR "data", the Village's response to that portion of your request is as follows:

There are no documents that satisfy this portion of your request. In order to respond to this portion of your request a new record would have to be created. The Act does not require a public body to create new records in order to respond to a request. Additionally, this portion of your request does not reasonably identify a public record. Rather, it is a general request for data or information to be gleaned from records which have not been created. Therefore, it is not a proper request under the Act.

Section 1 of the Act provides: "This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law." Pursuant to this section, a municipality is not required to create a record which has not been prepared and maintained by the municipality in its normal course of business. See 2012 PAC 20260 and 22242; Chicago Tribune Co. v.

Department of Financial and Professional Regulation, 8 N.E.3d 11, 380 Ill.Dec. 80 (4<sup>th</sup> Dist. 2014).

In 2021 PAC 20260 and 22242, the Attorney General dealt with a request for an inventory list. The inventory list was in the possession of an entity separate from the request recipient. The Attorney General determined: “.. inventory lists in the possession of DLA [the third party] which CMS [the request recipient] could access but did not create [or ask to be created] or obtain are not ‘records having been prepared by or for, or having or being used by, received by, in the possession of, or under the control of’ CMS. [citing the section of the Act which contains the definition of public record]. Further, CMS is not required to create new records by obtaining copies of DLA’s inventory lists in order to comply with a FOIA request. *See Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32-33 (4<sup>th</sup> Dist. 1989); *Borom v. Crawford*, 651 F.2d 500, 502 (7<sup>th</sup> Cir. 1981)(a public body is not required to create a record that is not maintained in the normal course of business).” The Village is not required to create a new record by requesting Flock create a record containing information from its system that is not kept in the normal course of either operation of the system or normal course of business for the Village.

The court in Chicago Tribune Co., held the following: a request to inspect or copy must reasonably identify a public record and not general data or information; FOIA is not designed to compel the compilation of data the governmental body does not ordinarily keep; and, a reasonable description requires the requested public record to be reasonably identified as a record, not a general request for data or information to be gleaned generally from documents which have not been created and which the agency does not generally create or require. This last portion of your request falls squarely within the nature of this court’s decision whereby such a request is not a proper FOIA request which would require a response.

Yours very truly,

EVANS, FROELICH, BETH & CHAMLEY

BY:           /s/ David B. Wesner            
David B. Wesner  
Attorney for the Village  
dwesner@efbclaw.com

Cc: Village Clerk