



TESTIMONY IN OPPOSITION TO SB 10 – Open Meetings; minutes required; open records; charges limited.

To: Honorable Chairman Ralph Ostmeyer
Members of the Senate Standing Committee on Federal and State Affairs

From: Leslee Rivarola, City of Lenexa Assistant City Administrator
lrivarola@lenexa.com
(913) 477-7550

Date: March 12, 2013

Thank you for the opportunity to submit testimony regarding SB 10. The City of Lenexa strives to create an open and transparent method for conducting City business as well as providing access to public information. The ability for interested individuals to obtain information on the day to day happenings of the City as well as the ability to access documents is viewed as an expectation for our employees when carrying out their responsibilities.

The City of Lenexa fully supports preserving the right for individuals to obtain information. We are a public organization, and as such our business is conducted in the open and in a transparent way. The City of Lenexa utilizes our public facilities to make meeting agenda and minutes available; we maximize accessibility to the same information and much more using our City's website; and we are also utilizing social media tools such as Facebook, Twitter and Pinterest in an effort to broaden our audience.

We oppose SB 10 for the following reasons:

- The City of Lenexa establishes a schedule of fees on an annual basis for complying with current Statutes. The fee schedule provides access to records, but also takes into account administrative charges for requests which incur staff time to complete. (I have attached the 2013 fee schedule for your consideration.)
- Although current Statute allows the City to charge for copies and administrative time, a significant number of Lenexa's Open Records Requests are processed with no charge for copies or administrative time.
- In 2012, the City of Lenexa responded to more than 700 formal requests for open records. Of these requests, the City approved 93% of them were provided free

of charge. The average cost for open records requests which incurred charges was \$2.07 in 2012.

- The City of Lenexa also works with requestors to determine what information they are actually attempting to obtain, and to assist them with getting this information. We have numerous examples throughout our organization where a requestor may be in search of something specific, but they are unable to articulate what items they want in writing. In these instances we contact the requestor and work with them to get them the information they seek if it is in fact public information.
- This legislation would make it easier for persons who operate websites dedicated to posting criminal information (such as DUI's) which they offer to take the information down for a fee much easier. The City is unable to police these activities, and we think this is a serious negative consequence of this legislation.
- In 2012, the City of Lenexa (and a handful of other agencies) received an open records request from the American Civil Liberties Union (ACLU) of Kansas & Western Missouri requesting all records related to automatic license plate readers (ALPRS). The requested time frame was from 2006 to the date the request was received. For your consideration, I have included the request from the ACLU as it was received by Lenexa. The request was overbroad and because the information requested could contain sensitive information which is excluded from being disclosed under Kansas Statute, staff must review all documents before distributing. Lenexa does not randomly assign costs to requestors for public information so a great deal of time was spent evaluating what information was in fact a public record and the most efficient method for getting the information to the requestor. In several conversations, it became apparent the ACLU office requesting the information didn't even want it, but rather was phishing to see what cities would furnish the information and what information would be available.
- If this legislation passes, there is no disincentive from agencies such as the ACLU from bombarding cities with extremely broad request which would essentially shut government down.

In summary on open records, there is a cost for government to conduct its business. The City of Lenexa makes public information available and accessible free of charge in many instances. However, examples of broad requests, such as the 2012 request from the ACLU would prohibit the City from conducting the services our citizens and businesses expect by bogging down staff with obtaining information, that in the end they didn't have a genuine interest to obtain. Lenexa supports transparency, and open government, and as such we will continue to make routine information readily available. However, we strongly urge your consideration in prohibiting us from charging administrative time to broad requests.

Thank you for your consideration in this important matter.

City of Lenexa 2013 Schedule of Fees

MUNICIPAL COURT COSTS and FEES

<u>MUNICIPAL COURT FEES</u>		
<u>Dept</u>	<u>Description</u>	<u>Fee</u>
Courts	Application to Vacate Judgment Filing Fee	\$200
	County Jail Incarceration Fee	\$35/day
	Finger/Palm Printing Fee	\$30
	Motion to Admit Out-of-State Attorney Filing Fee	\$50
	Motion to Revoke Fee	up to \$100
	Municipal Court Monitoring Fees	\$30/month
	Petition for Expungement Filing Fee	\$200
	Warrant Fee	\$75
<u>MUNICIPAL COURT COSTS (City Code 2-12-L-1)</u>		
<u>Dept</u>	<u>Description</u>	<u>Fee</u>
Courts	Municipal Court Costs	\$35
		(effective 9/1/2010)

City of Lenexa 2013 Schedule of Fees

RESEARCH and DOCUMENTS FEES

<u>Dept</u>	<u>Description</u>	<u>Fee</u>
	<u>Police Department Records:</u>	
Police	Standby fee to review evidence/property.	Average pay rate per hour (including fringe benefits) x number of hours worked
Police	<u>Police Reports:</u>	
	1 to 10 pages	\$5
	11 to 25 pages	\$10
	26 or more pages	\$15
	(No fee for listed crime victim to obtain Police Report, open portion).	
Police	Tapes, CDs, DVDs, or other media containing video and/or audio	\$25/each
Police	CD or DVDs containing photographs	\$25/each
Police	<u>Printed photographs:</u>	
	Digital prints	\$10/each
	35 mm, Polaroid, or other film types	\$20/each
Police	Postage and handling	\$5
	<u>Planning and Zoning Documents:</u>	
Community Development	Comprehensive Plan	\$30
Community Development	Unified Development Code	\$30
Community Development	Maps (color zoning, comprehensive plan, other <u>map</u>):	
Community Development	Large (36x48 and larger)	\$15
Community Development	Medium (larger than 11x17 & smaller than 36x48)	\$10
Community Development	Small (11x17 & smaller)	\$2
Community Development	Aerials (per sheet)	\$5
Community Development	Building Plans and Plat Copies (per sheet)	\$4

City of Lenexa 2013 Schedule of Fees

RESEARCH and DOCUMENTS FEES

<u>Dept</u>	<u>Description</u>	<u>Fee</u>
	<u>Community Development Documents:</u>	
Community Development	Standard details	\$15.00/copy
Community Development	Specifications	\$30.00/copy
Community Development	Design Criteria	\$15.00/copy
Community Development	<u>Plan Sets:</u>	
	0 to 100 sheets	\$100
	100 to 200 sheets	\$300
	201 or more sheets	\$500
	<u>Other City Research and Document Fees:</u>	
Administration	Photocopies	\$0.15/page
Administration	Computer Printouts	\$0.50/page
Administration	Copies to Computer CD or other similar media	\$25.00/device
Administration	Postage and handling	\$5
Administration	Research/compilation of information	Actual staff hourly time (including wages & fringe benefits)
	(This fee applies to staff time used for searching, compiling, reviewing, redacting, sorting, providing access to and/or copying of records or data. This fee may be charged in any situation where greater than 15 minutes of staff time is incurred while responding to a request for information).	
Administration	Facsimile Transmission	\$2.00 for 1st page; \$1.00 for each additional page
	<u>Fire Department Records:</u>	
Fire	Fire Department Reports:	
	1 to 10 pages	\$5
	11 to 25 pages	\$10
	26 or more pages	\$15
Fire	Postage and handling	\$5



LEGAL DEPARTMENT

ACLU of Kansas & Western Missouri

3601 Main Street
Kansas City, MO 64111
Tel. (816) 756-3113
Fax (816) 756-0136

By First Class Mail & E-Mail: dbryant@lenexa.com

August 1, 2012

Mr. David Bryant, City Clerk
City Of Lenexa, KS
12350 West 87th Street Parkway
Lenexa, KS 66215-2882

**Re: Public Records Request – Automatic License Plate Readers
Our File No.:12-0005282**

Dear Mr. Bryant:

This letter is a request under the Kansas Open Records Act (KORA), K.S.A. 45-215 *et seq.*, by the American Civil Liberties Union Foundation of Kansas & Western Missouri. This request seeks records regarding automatic license plate readers (ALPRs). ALPRs are also sometimes referred to as Automatic Vehicle Identification, Car Plate Recognition or License Plate Recognition equipment and/or software. This records request uses ALPR in reference to any of this technology.

Records Requested

Please provide copies of the following records created from January 1, 2006 to the present:

1. All records regarding your policies, practices and procedures for procuring and using ALPR technology, and for storing, accessing and sharing data obtained through ALPR technology;
2. All records regarding the procurement of ALPR technology, including
 - a. sources of funds used to pay for ALPR technology;
 - b. invoices for the purchase of ALPR technology;
 - c. local government approval for any ALPR purchase;
 - d. interactions with vendors, suppliers and potential suppliers of ALPR technology, including materials and fact sheets supplied by vendors describing their products;
3. All records regarding the use of ALPR technology, including
 - a. what types of data are obtained;
 - b. number of license plates scanned and/or read in a given time period (day, month, year, etc.);

- c. the number of ALPR units or systems acquired;
 - d. the number of vehicles equipped with ALPR technology;
 - e. for stationary deployments, the number and physical location of ALPR units;
 - f. the technical capabilities of the ALPR units;
4. All records regarding the storage of data obtained using ALPR technology, including
 - a. what types of data are stored for any period longer than an hour;
 - b. how long data is stored;
 - c. when data must be discarded;
 - d. how many individual license plate scan records your agency currently stores;
 5. All records regarding access to ALPR data, including
 - a. the legal justification required before an individual accesses ALPR data;
 - b. purposes for which the data may be accessed;
 - c. purposes for which the data may *not* be accessed;
 - d. who may access the data, what procedures they must go through to obtain access, and who must authorize access;
 - e. the existence or non-existence of a system that records who accesses the data and when the data is accessed;
 6. All records regarding the sharing of data obtained through ALPR technology, including
 - a. what type of data is shared;
 - b. which databases your agency puts collected ALPR data into;
 - c. third parties, governmental or private, that may access your agency's ALPR data, including what procedures third parties must go through in order to access the data and any restrictions placed on third parties regarding further sharing of your ALPR data;
 - d. any agreements to share ALPR data with outside agencies, corporations or other entities;
 7. All records regarding obtaining ALPR data from third parties, including which databases your agency can access;
 8. All training materials used to instruct members of your agency in ALPR deployment, data management, or operation of automated records systems that contain ALPR data to which any member of your agency has access, including regional or shared ALPR databases.

Because this request is on a matter of public concern and because it is made on behalf of a non-profit organization, we request a fee waiver. If such a waiver is denied, however, we will reimburse you for the reasonable cost of copying. Please inform us in advance if the cost will be greater than \$100.00. Please send us documents in electronic form if at all possible.

Mr. David Bryant, City Clerk
August 1, 2012
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According to KORA, a custodian of public records shall comply with a request within three (3) business days after receipt of a request. Thank you for your prompt attention to this matter. Please furnish all applicable records to:

ACLU Foundation of Kansas and Western Missouri
Legal Department
3601 Main Street
Kansas City, Missouri 64111

If you have questions, please contact me. My direct phone number and e-mail address are below.

Sincerely,

A handwritten signature in cursive script that reads "Doug Bonney".

Doug Bonney
Chief Counsel & Legal Director
Direct Dial: (816) 994-3311