



Mailing Date: May 5, 2016

Alison Walsh
Prison Policy Initiative
69 Garfield Avenue
Floor 1
Easthampton, MA 01027

Re: Right to Know Law Request No. 16-0336

Dear Ms. Walsh:

This letter acknowledges receipt by the Pennsylvania Department of Transportation ("PennDOT") of your written correspondence, which is being processed under the Pennsylvania Right-to-Know Law ("RTKL"), 65 P.S. § 67.101 *et seq.* Our Open Records Office logged your correspondence as received on April 28, 2016. A copy of your correspondence is enclosed.

You requested the following, in pertinent part:

- 1 The number of driver's licenses that have been suspended for non-driving related drug offenses under 75 Pa.C.S. § 1532 for the past 3 fiscal or calendar years for which you have data available[.]
- 2 The number of these driver's licenses that have been reinstated following the expiration of the suspension period and receipt of the reinstatement fee under 75 Pa.C.S. § 1532 for the past 3 fiscal or calendar years for which you have data available[.]
- 3 The number of people who have been arrested for driving without a license after having their license suspended for a drug conviction under 75 Pa.C.S. § 1532 for the past 3 fiscal or calendar years for which you have data available[.]
- 4 The current fee to reinstate a driver's license suspended under 75 Pa.C.S. § 1532 for a non-driving related drug offense[.]

We will respond to your request item by item below.

Items 1 through 3. PennDOT personnel have diligently searched the appropriate files and we do not have in this agency's possession, custody or control any records responsive to these portions of your request. The records requested do not exist because PennDOT does not have a record that contains this data in the format you requested. Under the RTKL, PennDOT is not "required to create a record which does not currently exist or to compile, maintain, format or organize a record in a manner in which the agency does not currently compile, maintain, format, or organize a record." 65 P.S. § 67.705. Pursuant to the Office of Open Records Final Decision in *Jenkins vs. Pennsylvania Department of State*, Docket # AP 2009-065, it should be noted that: "[i]t is not a denial of access when an agency does not possess records and [there is no] legal obligation to obtain them (*see, e.g.* section 67.506 (d)(1))."

Please be advised, the structure of PennDOT's Driver and Vehicle Services database, in which some of the information you requested is stored, does not make the data requested accessible for the creation of a report with the parameters that you have requested. Programming for the mainframe database would need to be developed to retrieve the requested information through a system-wide search of all driver records. That information would then have to be transferred into a data warehouse, i.e., a relational database, capable of being queried.

Under the Vehicle Code, as compared to the RTKL, PennDOT may be able to create a customized report for you, which would provide the information being requested. If PennDOT were to create a record for you, at your request, it is authorized to collect a reasonable fee for compiling data and statistical information under Section 1955(b) of the Pennsylvania Vehicle Code. The established fee under Section 1955(b) is presently \$125.00 per hour. The estimated hours to create these customized reports are as follows:

- Item 1 – seven hours for a total cost estimate of \$875.00.
- Item 2 – eight hours for a total cost estimate of \$1,000.00
- Item 3 – seven hours for a total cost estimate of \$875.00

You can arrange to have these customized reports generated under the Vehicle Code processes, by contacting Mr. Terry Blount at 717-265-7588.

Item 4. The current fee to reinstate a driver's license suspended under 75 Pa.C.S. § 1532 for a non-driving related drug offense is \$70 for a non-CDL driver and \$100 for a CDL driver.

You may have a right to appeal this response in writing to the Executive Director, Office of Open Records (OOR), Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. If you choose to file an appeal you must do so within 15 business days of the mailing date of this response and send to the OOR:

- 1) this response;
- 2) your request; and
- 3) the reason why you think the agency is incorrect in its response.

Also, the OOR has an appeal form available on the OOR website at:

<http://www.openrecords.pa.gov/Pages/default.aspx>

Please be advised that this correspondence will serve to close your RTKL request with our office as permitted by law.

Sincerely,



E. Sheffey
Agency Open Records Officer
PENNDOT-RightToKnow@pa.gov