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8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
9 **IN AND FOR PIERCE COUNTY**

10 JOSE RODRIGUEZ,

11 Plaintiff,

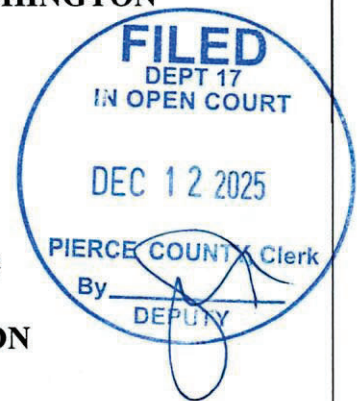
12 v.

13 CITY OF LAKEWOOD,

14 Defendant.
15
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No. 25-2-11627-7

**ORDER GRANTING
CITY'S SUMMARY
JUDGMENT MOTION**



17 **ORDER**

18 The City's Motion for an Order for Summary Judgment is GRANTED. This Order
19 designates the following documents and evidence called to the attention of the Court.

20 **I. DOCUMENTS.**

21 A. The City's Motion for Summary Judgment and the declarations in support
22 of the Motion: Declaration of Schumacher (Ex.1); Declaration of Thomas (Ex.2);
23 Declaration of Alwine (Ex.3); and Declaration of Atkins (Ex.4).
24

25 B. The Plaintiff's Response to the City's Motion and the declaration in support
of the Response: Declaration of Rodriguez.

1 C. The City's Rebuttal to the Plaintiff's Response and the declaration in
2 support of the Rebuttal: Declaration of Pennington (Ex. A).

3 II. EVIDENCE.

4 A. Summary Judgment.

5 1. Summary judgment is an appropriate procedure in public disclosure act
6 cases. *Bldg Indus. Ass'n of Wash. V. McCarthy*, 152 Wn. App 720, 218 P.3d 196 (2009)
7 citing *Spokane Research & Def. Fund v. City of Spokane*, 155 Wn.2d 89, 106, 117 P.3d
8 1117 (2005). The City has the burden of showing that "there is no genuine issue as to any
9 material fact and that the (City) is entitled to a judgment as a matter of law." *Id.* A
10 "material fact" is a fact upon which the outcome of the action depends, and the City bears
11 the initial burden of showing the absence of an issue of material fact. *Id.*
12

13 If the City "meets this burden, the plaintiff must respond by making a prima facie
14 showing of the essential elements of the case." *Id.* Mere allegations, argumentative
15 assertions, conclusory statements and speculation do not create a genuine issue of material
16 fact. *Greenhalgh v. Dep't of Corr.*, 160 Wn. App 706, 714, 248 P. 3d 150 (2011).
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18 2. The City has met its burden of proof in this case. The evidence
19 demonstrates that the City conducted an adequate search when 1) the City focused its
20 search on retained records, not transitory records with no retention value as defined by
21 state retention guidelines and RCW 42.56.100; and 2) the Plaintiff failed to timely and
22 adequately identify the records sought.

23 The evidence also demonstrates that RCW 46.63.220, which prohibits disclosure of
24 automated camera data, applies to the automated camera data Plaintiff sought as an "other
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1 statute” exemption under the Public Records Act, Chapter 42.56 RCW (PRA) because it
2 prohibits or exempts the release of the same type of records Plaintiff requested.

3 **B. Public Records Act.**

4 3. The PRA requires agencies to adopt and enforce reasonable rules and
5 regulations to provide access and prevent destruction of public records; prevent
6 interference with essential agency functions; and provide prompt responses to requests.
7 *RCW 42.56.100*. The PRA also requires agencies to “retain possession” of a record that “is
8 scheduled for destruction” until the request is resolved. *Id.* The PRA’s references to
9 “retain(ing) possession” of something that is “scheduled for destruction” presumes that the
10 record in question has some retention value and some schedule for destruction.
11

12 4. State retention guidelines assign no retention value to transitory records
13 such as the Flock images at issue in this case; they are simply disposable. *Washington*
14 *Secretary of State Retention Guidelines - 6.4 Violations and Traffic Enforcement –*
15 *LE2010-055 (“Retain until verification that a significant image has not been captured then*
16 *Destroy.”)* Nor do the guidelines mandate a particular schedule for destruction; again, they
17 may simply be discarded. *Id.*
18

19 5. The courts have found that using state retention guidelines is a reasonable
20 way to manage agency records. *Bldg. Indus. Ass’n of Wash. v. McCarthy*, 152 Wn. App.
21 720, 736-739, 218 P.3d 196 (2009).

22 6. The City adopted rules and regulations to retain and preserve public records
23 pursuant to the PRA. *Declaration of Schumacher, EX.1*. These rules and regulations are
24 based on state retention guidelines. *Id.* The City’s rules and regulations reasonably do *not*
25

1 include a process to *retain, preserve, or provide transitory records*; they direct staff to
2 *dispose of transitory records as simply trash. Id (emphasis added).*

3 7. The PRA requires agencies to perform an “adequate search” for public
4 records in response to a request. *Neighborhood Alliance of Spokane County v. Spokane*
5 *County*, 172 Wn.2d 702, 261 P.3d 119 (2011). A search need not be perfect, only
6 “adequate.” *Id.* Adequacy of the search is judged by what is reasonable under the facts of
7 the case and “must be reasonably calculated to uncover all relevant documents.” *Id.*, at
8 p.719-720. The focus of the inquiry in PRA cases is not whether responsive documents do
9 in fact exist, but whether the search itself was adequate. *Id.*

11 8. In this case, the City conducted an adequate search, reasonably calculated to
12 produce responsive records, and promptly responded to the requester. Specifically, the
13 City’s Records Specialist reasonably believed records responsive to this request would be
14 found at the Lakewood Police Department (LPD) and set that search in motion within
15 hours of receiving the request. *Declaration of Atkins, EX.4.*

17 LPD reasonably believed the requester sought Flock records downloaded by the
18 LPD and promptly searched for those records. *Declarations of Alwine, EX.3 and Atkins,*
19 *EX.4.* Reasonably, LPD did not search its transitory records. When LPD found no
20 responsive records, they communicated that information promptly to the Records
21 Specialist; within four business hours of receipt of the request and less than a full day after
22 the request was submitted by the Requester. *Id.* Before closing the request on the fifth
23 business day, the Records Specialist double checked with LPD, which confirmed that there
24 were no responsive records to provide to the Plaintiff. *Id.*

1 **C. Clarity of Request.**

2 9. The ability to conduct an adequate search necessarily depends on the clarity
3 of the request made. This is why the PRA requires requesters to “identify the documents
4 with sufficient clarity to allow the agency to locate them.” *Hobbs v. State*, 183 Wn. App.
5 925, 944, 335 P.3d 1004 (2014).

6 10. The evidence in this case demonstrates that although aware of the transitory
7 nature of the records sought, Plaintiff afforded little clarity or time for the City to respond
8 to the request by submitting the request days before the City’s contractor destroyed the
9 images and a single day before the PRA required the City to provide a 5-day response to
10 the request. *Declaration of Atkins, EX.4*.

11 The evidence also demonstrates that when records – even discarded, transitory
12 records – are clearly and timely identified, the City is willing and may be able to retrieve
13 and preserve them. *Declaration of Pennington, Ex. A*. Specifically, in subsequent requests,
14 submitted the day *after* the City filed the present motion, the Plaintiff notified the City it
15 sought discarded records. *Id.* Having been given that critical detail, the City was able to
16 locate the discarded records and is working to secure and preserve them. *Id.*

17 11. The evidence also demonstrates that Plaintiff and their counsel could not
18 reach agreement on what the Plaintiff actually requested. *Id.* As noted in the City’s Motion
19 for Summary Judgment, Plaintiff requested “data logs.” *Id.* On October 20, 2025, the City
20 spoke with Plaintiff’s counsel who said that Plaintiff really meant to ask for an “audit
21 trail.” *Id.* That same day, the City provided Plaintiff with the audit trail, which consisted of
22 a single entry. *Id.* In the City’s October 29, 2025 motion for summary judgment, the City
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1 noted that it had provided the audit trail to Plaintiff after speaking with Plaintiff's counsel.
2 *Id.*

3 However, after the City provided Plaintiff with the audit trail, and after the City
4 filed the present motion, it became clear that Plaintiff and their counsel could not agree on
5 what Plaintiff had originally requested. *Id.*

6 At a minimum, a person seeking documents under the PRA must identify the
7 documents with sufficient clarity to allow the agency to locate them. *Hangartner v. City of*
8 *Seattle, 151 Wn.2d 439, 447, 90 P.3d 26 (2004)*. Agencies are not required to be mind
9 readers. *Bonamy v. City of Seattle, 92 Wn. App. 403, 409, 960 P.2d 447 (1998)* and *Hobbs*
10 *v. Wash. State Auditor's Office, 183 Wn. App. 925, 944, 335 P.3d 1004, 1013 (2014)*.

11
12 12. Judged under what is reasonable under the particular facts of the case, the
13 City's search was adequate in this case. Plaintiff failed to timely or sufficiently identify the
14 records sought - even after filing this action.

15 13. The PRA requires agencies to respond to requests "promptly" - within 5
16 business days. *RCW 42.56.520*. In this case, Plaintiff submitted their request after business
17 hours on June 5, 2025 (at 7:15 pm). Therefore, the 5-day response period began the
18 following business day; June 6, 2025. Because the City responded to the Plaintiff on June
19 6, 2025, at 7:45 am and again on June 13, 2025 at 11:19 am, both of which dates/responses
20 are within 5 business days, the City complied with the PRA's 5-day deadline.

21
22 **D. Records sought are exempt under PRA's "other" statute exemption.**

23 14. The PRA was passed by initiative because: "full access to information
24 concerning the conduct of government on every level must be assured as a fundamental
25 and necessary precondition to the sound governance of a free society." *Progressive Animal*

1 *Welfare Soc'y v. Univ. of Wash.*, 125 Wn.2d 243, 251, 884 P.2d 592 (1994) (PAWS); *RCW*
2 *42.17.001 (11)*. At the same time, the Legislature identified hundreds of exemptions to the
3 release of certain public records in the PRA. *RCW 42.56.230-475*.

4 15. There are three sources of PRA exemptions: (1) enumerated exemptions
5 contained in the PRA itself (noted above), (2) any "other statute" that exempts or prohibits
6 disclosure as provided in *RCW 42.56.070(1)*, and (3) the Washington Constitution. *SEIU*
7 *775 v. Dep't of Soc. & Health Servs.*, 198 Wn. App. 745, 749, 396 P.3d 369, 372 (2017).
8 The agency carries the burden of proving that the law supports any refusal to produce
9 requested records. *Pilloud v. Emp't Sec. Dep't*, 33 Wn. App. 2d 644, 566 P.3d 124 (2025).

10 16. PRA's "other statute" exemption "does not need to expressly address the
11 PRA, but it must expressly prohibit or exempt the release of records." *Id.*, citing *John Doe*
12 *A v. Wash. State Patrol*, 185 Wn.2d 363, 372, 374 P.3d 63 (2016).

13 Stated another way, if the records sought are of the same type expressly prohibited
14 or exempt from release in an "other statute," they are prohibited or exempt from release in
15 the case before this court. See, e.g., *Ameriquist Mortg. Co. v. Office of Att'y Gen.*, 170
16 Wn.2d 418, 439-40, 241 P.3d 1245 (2010) (*Ameriquist I*) (federal Gramm-Leach-Bliley
17 Act, 15 U.S.C. §§ 6801-6809, is an "other statute" exempting covered information from
18 PRA disclosure); *Hangartner v. City of Seattle*, 151 Wn.2d 439, 453, 90 P.3d 26 (2004)
19 (attorney-client privilege is an "other statute" under what is now *RCW 42.56.070(1)*)
20 (formerly *RCW 42.17.260* (1997)); *Planned Parenthood of Great Northwest v. Bloedow*,
21 187 Wn. App. 606, 623, 350 P.3d 660 (2015) (*RCW 43.70.050(2)* is an "other statute"
22 exempting the disclosure of Department of Health records of induced abortions for named
23 health care providers because it was health care data in which the patient or provider could
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1 be identified); *Wright v. Department of Social & Health Services*, 176 Wn. App. 585, 597,
2 309 P.3d 662 (2013) (PRA did not apply to a request for juvenile justice records because
3 chapter 13.50 RCW provided the “sole method for obtaining juvenile records maintained
4 under that chapter”); and *Deer v. Dep't of Soc. & Health Servs.*, 122 Wn. App. 84, 92, 93
5 P.3d 195 (2004) (“chapter 13.50 RCW is an ‘other statute’ that ‘exempts or prohibits’
6 disclosure of particular documents to particular people”).
7

8 17. In this case, the City operates two types of automated cameras; traffic
9 cameras and Flock license plate cameras, accessible only to law enforcement. *Declaration*
10 *of Alwine, Ex.3.*

11 18. The evidence shows that there is no difference between the way the City
12 operates its two kinds of automated cameras (traffic cameras and Flock cameras) or in the
13 records the cameras produce. *Id.* Both cameras are synchronized to automatically record
14 one or more sequenced photographs, microphotographs, or electronic images of the front
15 or rear of a motor vehicle for law enforcement purposes. *Id and Declaration of Thomas,*
16 *Ex.2.*
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18 19. Plaintiff argues that the City’s Flock cameras at issue are different from the
19 City’s traffic cameras because the Flock cameras are prohibited from being used to issue
20 tickets. However, the fact that Flock cameras are prohibited from being used to issue
21 tickets does not distinguish between the two types of automated cameras, but instead,
22 underscores the fact that both cameras function the same way and produce the same type of
23 records. While both automated cameras are capable of being used to issue traffic tickets,
24 only one does so. The other type of camera – the Flock camera – is not used this way.
25 Flock cameras focus on solving crime and protecting people. *Id; see also the WATPA 2024*

1 *Annual Report* [https://waautotheftpreventionauthority.org/wp-](https://waautotheftpreventionauthority.org/wp-content/uploads/2025/02/WA-AUTO-THEFT-PREVENTION-AUTHORITY-5.pdf)
2 *content/uploads/2025/02/WA-AUTO-THEFT-PREVENTION-AUTHORITY-5.pdf*, link
3 *provided in City's Motion ("For the first time since 2020, Washington experienced a*
4 *decline in auto thefts. Auto thefts were down 31% when compared to 2023.")*

5 20. The evidence also shows that state retention guidelines treat records
6 produced by both cameras the same way; that is, unless law enforcement finds the record
7 significant, the record is considered transitory, with no retention value. *Washington*
8 *Secretary of State Retention Guidelines - 6.4 Violations and Traffic Enforcement –*
9 *LE2010-055 (Automatic License Plate Recognition Images – Not Case-specific) and*
10 *LE2010-053 (Automated Traffic Safety Cameras – Citation or Notice of Infraction Not*
11 *Issued).*

12
13 21. In this case, PRA's "other statute" exemption applies to the records at issue.
14 Specifically, Plaintiff requested automated license plate camera data. Such data are the
15 same type of data produced by automated traffic cameras and the Legislature has
16 determined that such data are "not open to the public." *RCW 46.63.220*.

17
18 22. The City must act as a responsible custodian of public records containing
19 information that is private or otherwise prohibited from release. *RCW 43.105.369*.
20 Therefore, even if the PRA required the City to search transitory records for responsive
21 records within the narrow window of time Plaintiff allowed, the City would have been
22 required to withhold the images because they are prohibited or otherwise exempt from
23 release by an "other statute." *RCW 42.56.050; and 070 (PRA exemptions and other statutes*
24 *- RCW 46.63.220(11))*. Plaintiff was not and is not entitled to the images sought – and
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1 Plaintiff is not entitled to relief under PRA. *Pilloud v. Emp't Sec. Dep't*, 33 Wn. App. 2d
2 644, 566 P.3d 124 (2025).

3 **III. ORDER.**

4 It is hereby ORDERED that the City's Motion for Summary Judgment is
5 GRANTED and all claims asserted in this action against Respondent City of Lakewood are
6 DISMISSED, with prejudice.

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8 SO ORDERED this 12 day of December, 2025.

9
10 
HONORABLE KARENA KIRKENDOLL

11 Presented By:

12 CITY OF LAKEWOOD
13 HEIDI ANN WATCHER, CITY ATTORNEY

14 
15 Eileen M. McKain, WSBA #17792
16 Assistant City Attorney
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17 Approved as to form by:

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19
20 
21 TIMOTHY HALL, WSBA # 36372
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