

From: Open Records openrecords@bankscountysoga.org
Subject: Re: ORR - Flock
Date: September 23, 2026 at 10:18 AM
To: Kevin Angell kevin@nowgeorgia.com
Cc: Open Records openrecords@bankscountysoga.org



Mr. Angell, we have consulted with legal counsel and we maintain our position at this time. While the Sheriff's Office does use Flock software for law enforcement purposes, the records you have requested are not subject to public disclosure pursuant to OCGA 35-1-22(f) as the information and data sought is captured by or derived from Flock.

Have a blessed day.

Respectfully,

Stephanie Rhodes

*Agency TAC / Central Supervisor / Records Custodian / SOR Registry
Administrative Bureau
Banks County Sheriff's Office
706-677-2248
bankscountysheriff.org*

Psalms 73:26

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From: Kevin Angell <kevin@nowgeorgia.com>
Sent: Wednesday, September 23, 2026 6:35 AM
To: Open Records <openrecords@bankscountysoga.org>
Subject: Re: ORR - Flock

Snarky. I like it.

Doesn't align well with the spiritual psalm you included.

Maybe your agency will "follow the law" like it chooses to "follow the chain of command".

Consider responding next time that you've forwarded a request through the chain of command instead of no answer. That's government customer service. Not this sarcastic email.

Have a great day.

On Sep 23, 2026, at 6:22 AM, Open Records <openrecords@bankscountysoga.org> wrote:

No. It is our agencies position to follow chain of command. Once I receive an

answer from them, I will let you know.

Respectfully,

Stephanie Rhodes

Agency TAC | Central Supervisor | Records Custodian | SOR Registry

Administrative Bureau

Banks County Sheriff's Office

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Psalms 73:26

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From: Kevin Angell <kevin@nowgeorgia.com>
Sent: Tuesday, September 22, 2026 8:47 AM
To: Open Records <openrecords@bankscountysoga.org>
Subject: Re: ORR - Flock

Is it your agencies position that you do not need to respond to my objections regarding the Flock ORR?

Dr. Kevin Angell, PhD, Crime Reporter/True Crimes Podcast Host

Now Georgia
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(1-844-669-6397) ext 108
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**Mobile email use. Please forgive any shortened request or misspellings.

On Fri, Sep 18, 2026 at 8:50 AM Kevin Angell <kevin@nowgeorgia.com> wrote:

Thank you for your response regarding our Georgia Open Records Act request for records concerning the Banks County Sheriff's Office's use of the Flock Safety automated license plate recognition system.

After reviewing your response, the statutes cited therein, and applicable Georgia appellate decisions interpreting the Open Records Act, Now Georgia respectfully requests that the Sheriff's Office and its legal counsel reconsider the blanket denial and clarify what records were actually searched for, what records exist, who maintains those records, and precisely which portions of those records the Sheriff's Office contends fall within the definition of "captured license plate data" under O.C.G.A. § 35-1-22(a)(2).

Your response appears to advance two separate propositions: first, that the requested records are exempt from disclosure under O.C.G.A. § 35-1-22(f); and second, that the Sheriff's Office does not maintain the requested records and therefore has no responsive records.

These are materially different positions, and each requires clarification.

those are materially different positions, and each requires clarification.

O.C.G.A. § 35-1-22(a)(2) defines “captured license plate data” as:

“the global positioning device coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automated license plate recognition system or any other source.”

Subsection (f) provides that “[c]aptured license plate data collected by a law enforcement agency shall not be subject to public disclosure pursuant to Article 4 of Chapter 18 of Title 50.”

Now Georgia does not dispute that information actually falling within the statutory definition of “captured license plate data” is protected from mandatory public disclosure under subsection (f). For example, if a responsive record contains a photograph of a vehicle, its license plate number, GPS coordinates associated with a detection, or other information constituting captured license plate data, the statute plainly applies to that information.

What we dispute is the apparent conclusion that every administrative, audit, user-access, search, activity or accountability record associated with the Flock system automatically becomes “captured license plate data” merely because the record exists within, was exported from, or relates to an automated license plate recognition platform.

Our request concerns government use of the system, including records reflecting who used it, which governmental organization conducted searches, the frequency of searches, administrative activity, audit activity and similar accountability information. Those records are analytically different from the underlying vehicle detections that O.C.G.A. § 35-1-22 expressly protects.

If the Sheriff’s Office contends otherwise, please identify the statutory basis for concluding that each category of administrative or audit information requested constitutes “captured license plate data” within O.C.G.A. § 35-1-22(a)(2).

The distinction is important because Georgia courts have repeatedly held that exemptions to the Open Records Act must be construed narrowly rather than expanded to shield an entire record merely because some portion of that record contains exempt information.

O.C.G.A. § 50-18-72(b) provides that the exemptions contained within that Code section are to be interpreted narrowly so that only the portion of a public record to which an exclusion directly applies is withheld, while the remaining portions are provided for inspection or copying.

More importantly, the Georgia Supreme Court has applied that same principle to exemptions located outside O.C.G.A. § 50-18-72.

In *Hardaway Co. v. Rives*, 262 Ga. 631, 634, 422 S.E.2d 854 (1992), the Georgia Supreme Court explained that although the narrow-construction language appears within the Open Records Act, “it would be incongruous were the same standard of narrow construction not applied to exemptions found in other parts of the Code.” The Court therefore held that “any purported statutory exemption from disclosure under the Open Records Act must be narrowly construed.”

That principle is directly relevant here because the exemption being asserted by Banks County is found outside O.C.G.A. § 50-18-72 — specifically in O.C.G.A. § 35-1-22(f).

The Georgia Court of Appeals reaffirmed this principle in *Blau v. Georgia Department of Corrections*, 364 Ga. App. 1 (2022). There, the Court rejected an interpretation of a separate confidentiality statute that would have created a blanket exemption for entire records when protected information could instead be redacted. Citing *Hardaway*, the Court explained that the narrow-construction principle extends to statutory exemptions found outside the Open Records Act.

More recently, in *Appen Media Group, Inc. v. City of Sandy Springs*, 375 Ga. App. 539 (2025), the Court of Appeals again rejected the proposition that the presence of exempt information necessarily makes an entire document exempt. The Court explained that the Open Records Act does not create a blanket exclusion merely because some information contained in a document may properly be withheld; exempt information can be redacted while nonexempt information is disclosed.

The Georgia Supreme Court reached the same fundamental conclusion decades earlier in *Atlanta Journal & Constitution v. City of Brunswick*, 265 Ga. 413, 457 S.E.2d 176 (1995).

That case is particularly instructive because it involved law-enforcement records containing sensitive information. The existence of confidential information did not automatically transform otherwise disclosable portions of an incident report into an entirely exempt record. The Court recognized that confidential portions could be withheld without suppressing the entire record.

That is precisely the distinction we are asking Banks County to address here.

Consider an ordinary police incident report containing the identity and personal information of a protected victim. The fact that the report contains information that cannot lawfully be disclosed does not necessarily mean the entire incident report disappears from the reach of the Open Records Act. The agency ordinarily identifies the protected information, redacts the portions subject to a statutory exemption, and produces the remainder when the law requires disclosure.

The same question arises here.

If an Flock audit record contains an actual license plate number that qualifies as “captured license plate data,” why does Banks County believe the presence of that plate number permits withholding the entire audit record rather than redacting the protected information and producing the remainder?

If a record identifies the GPS coordinates of an ALPR detection, why could those coordinates not be redacted while nonexempt administrative information is disclosed?

If a record contains a photograph captured by an ALPR camera, why would the photograph’s exemption necessarily transform unrelated information concerning the user, agency, search activity, audit history or administrative activity into “captured license plate data”?

And if Banks County contends that redaction is legally insufficient in this particular context, please identify the statute or controlling appellate authority establishing that O.C.G.A. § 35-1-22(f) creates a blanket exemption for the entirety of any

record containing some captured license plate data, notwithstanding Hardaway, Blau, City of Brunswick and the narrow-construction principles governing Georgia's Open Records Act.

There is also a separate problem with the statement that "the records requested are not maintained by this office and, therefore, we have no responsive records to provide."

If the Sheriff's Office's position is that responsive records exist but are physically maintained by Flock Safety or another contractor on behalf of the Sheriff's Office, physical possession is not necessarily dispositive under Georgia law.

O.C.G.A. § 50-18-70(b)(2) expressly includes within the definition of public records documents, computer-generated information, data and similar materials prepared or maintained by a private person or entity in the performance of a service or function for or on behalf of a government agency, as well as records transferred to a private entity for storage or future governmental use.

The Georgia Supreme Court addressed this issue directly in *Milliron v. Antonakakis*, 319 Ga. 616, 905 S.E.2d 657 (2024).

The Court held that records prepared or maintained by a private contractor in the performance of services for or on behalf of a public agency can constitute public records under the Open Records Act. The Court specifically rejected the proposition that records cease to be public records merely because a private contractor, rather than the government agency itself, possesses them.

That principle has particular relevance to Flock Safety.

Indeed, O.C.G.A. § 35-1-22(d)(2) expressly anticipates this arrangement. It provides that nothing in the statute prevents a law enforcement agency from "contracting with a person to hold and maintain captured license plate data for such law enforcement agency."

Thus, the General Assembly itself recognized that an outside contractor may physically "hold and maintain" ALPR information for a law enforcement agency.

Accordingly, please clarify what the Sheriff's Office means when it states that the requested records "are not maintained by this office."

Does the Sheriff's Office mean:

The records do not exist at all;

the records exist but are maintained on Flock Safety's servers;

the records exist but can only be accessed through the Sheriff's Office's Flock account;

the records exist and are maintained by Flock Safety on behalf of the Sheriff's Office;

the records exist but the Sheriff's Office believes they are exempt under O.C.G.A. § 35-1-22(f); or

some combination of the above?

Those are not interchangeable propositions.

If Flock Safety maintains records in the performance of its contractual services for the Banks County Sheriff's Office, then the Sheriff's Office's lack of physical possession does not, standing alone, resolve whether those records constitute public records. *Milliron* makes that clear.

Likewise, the Georgia Supreme Court held in *Smith v. Northside Hospital, Inc.*, 302 Ga. 517, 807 S.E.2d 909 (2017), that a private entity can maintain public records while performing governmental functions on behalf of an agency. The Court explained that an agency does not necessarily have to direct every detail of the contractor's work or even know every detail for records of that work to qualify as public records.

This is also not merely a theoretical question for Now Georgia.

In the course of our reporting concerning law enforcement use of Flock Safety systems in Northeast Georgia, Now Georgia has requested substantially similar Flock audit and usage records from multiple law enforcement agencies.

Rabun County provided records.

White County provided records.

Habersham County provided records.

Hall County provided records.

And after initially raising legal concerns concerning disclosure, Stephens County also provided records.

Those disclosures have allowed Now Georgia to report on government use of ALPR technology without requiring publication of information that legitimately identifies innocent motorists or otherwise falls within the protections of O.C.G.A. § 35-1-22.

Banks County's interpretation therefore appears materially different from the interpretation and practices of neighboring Georgia law enforcement agencies responding to substantially similar requests.

We recognize, of course, that the actions of another county do not independently determine the legal obligations of Banks County. Nevertheless, when five other Northeast Georgia counties have been able to provide substantially similar Flock usage or audit records — including through redaction where appropriate — Banks County's categorical position warrants a more specific explanation.

Put simply: What makes the records maintained for the Banks County Sheriff's Office legally different from substantially similar records provided by Rabun, White, Habersham, Hall and Stephens counties?

similar records provided by Rabun, White, Habersham, Hall and Stephens counties:

If there is a material difference, please identify it.

If Banks County's legal counsel believes those other agencies incorrectly interpreted Georgia law, please explain the legal basis for that conclusion.

If the difference instead concerns the particular format of Banks County's records, please identify what portions of those records the Sheriff's Office contends constitute captured license plate data and explain why the remaining information cannot be segregated and produced.

We are not requesting that Banks County disclose information that Georgia law expressly prohibits from mandatory public disclosure.

We are asking the Sheriff's Office to distinguish protected captured license plate data from governmental accountability records concerning the operation and use of a taxpayer-funded law-enforcement surveillance system.

Georgia's public-records jurisprudence has consistently emphasized that the Open Records Act exists so citizens can examine the operation of their government.

The General Assembly declared in O.C.G.A. § 50-18-70(a) that Georgia has a strong public policy favoring open government; that open government is essential to a free, open and democratic society; and that public access to governmental records should be encouraged so citizens can evaluate the expenditure of public funds and the efficient and proper functioning of government institutions.

The Georgia Supreme Court recognized this purpose as early as *Athens Observer, Inc. v. Anderson*, 245 Ga. 63, 263 S.E.2d 128 (1980), explaining that public access permits citizens to evaluate the expenditure of public funds and the efficient and proper functioning of government institutions while fostering confidence in government through openness.

That public interest is particularly pronounced where the requested information concerns the government's own use of a surveillance system rather than the movements of a particular private citizen.

Accordingly, Now Georgia respectfully requests that the Banks County Sheriff's Office reconsider its response and:

1. Conduct or confirm a search for the requested administrative, audit, user-access and usage records, including responsive records maintained by Flock Safety or another contractor for or on behalf of the Sheriff's Office;
2. Clarify whether responsive records actually exist but are maintained by Flock Safety, as opposed to stating simply that the Sheriff's Office has "no responsive records";
3. Identify which specific categories or fields within the responsive records the Sheriff's Office contends constitute "captured license plate data" under O.C.G.A. § 35-1-22(a)(2);
4. Produce all reasonably segregable, nonexempt portions of the responsive records after redacting information the Sheriff's Office determines is actually protected by O.C.G.A. § 35-1-22(f) or another applicable exemption;
5. If the Sheriff's Office maintains that an entire category of records is exempt, identify with specificity the statutory provision supporting that determination and explain why redaction cannot reasonably separate protected captured license plate data from otherwise nonexempt administrative or audit information; and
6. Explain the legal or factual distinction Banks County believes exists between its records and substantially similar Flock usage and audit records that have been provided to Now Georgia by Rabun, White, Habersham, Hall and Stephens counties.

If counsel's position remains that the entirety of the requested records is exempt, please consider this correspondence a request for a more specific written explanation of that determination so that we can accurately understand and report Banks County's legal position.

Now Georgia is not asking the Sheriff's Office to disclose protected photographs, vehicle-location information or other information that the General Assembly has expressly exempted from mandatory public disclosure. We are seeking governmental accountability records concerning how a law enforcement agency and its authorized users employ a publicly funded surveillance system.

Those are materially different interests, and a blanket invocation of O.C.G.A. § 35-1-22(f) does not explain why they should be treated identically.

We appreciate your reconsideration and look forward to your response.

Dr. Kevin Angell, PhD, Crime Reporter/True Crimes Podcast Host

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URL: NowGeorgia.com

**Mobile email use. Please forgive any shortened request or misspellings.

On Fri, Sep 18, 2026 at 8:39 AM Open Records <openrecords@bankscountysoga.org> wrote:

After review of your request and consultation with legal counsel, we have been advised that, pursuant to O.C.G.A. § 35-1-22(a)(2) "Captured license plate data" means the global positioning device coordinates, date and time,

photograph, license plate number, and any other data captured by or derived from an automated license plate recognition system or any other source and (f) Captured license plate data collected by a law enforcement agency shall not be subject to public disclosure pursuant to Article 4 of Chapter 18 of Title 50 of the same statute, the records requested are not maintained by this office and, therefore, we have no responsive records to provide.

Accordingly, the Sheriff's Office has no records responsive to your request.

Have a blessed day.

Respectfully,

Stephanie Rhodes

Agency TAC | Central Supervisor | Records Custodian | SOR Registry

Administrative Bureau

Banks County Sheriff's Office

706-677-2248

bankscountysheriff.org

Psalms 73:26

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From: Open Records <openrecords@bankscountysoga.org>

Sent: Thursday, September 10, 2026 10:04 AM

To: Kevin Angell <kevin@nowgeorgia.com>; Open Records <openrecords@bankscountysoga.org>

Subject: Re: ORR - Flock

This email confirms receipt of your open records request.

Your request is currently being processed, and we will respond in accordance with applicable open records laws.

If clarification or additional information is needed, you will be contacted.

Thank you.

Respectfully,

Stephanie Rhodes

Agency TAC | Central Supervisor | Records Custodian | SOR Registry

Administrative Bureau

Banks County Sheriff's Office

706-677-2248

bankscountysheriff.org

Psalms 73:26

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From: Kevin Angell <kevin@nowgeorgia.com>
Sent: Tuesday, September 8, 2026 2:38 PM
To: Open Records <openrecords@bankscountysoga.org>
Subject: Re: ORR - Flock

I found the matching sent email: "ORR - Flock audit," sent August 10, 2026, to four agencies via BCC: Hall County Sheriff's Office, White County, Rabun County, and Stephens County.

ORR - Flock audit

Here is the body text:

To the Open Records Custodian:

Pursuant to the Georgia Open Records Act, O.C.G.A. § 50-18-70 et seq., I respectfully request inspection and electronic production of the public records described below.

This request concerns the agency's use of Flock Safety systems, including but not limited to automated license plate recognition ("ALPR/LPR") technology, FlockOS, Flock Safety administrative or investigative portals, and any associated audit, compliance, monitoring, supervisory, or user-account functionality.

Relevant Time Period: January 1, 2026, through August 1, 2026.

I request all existing records reflecting, documenting, identifying, flagging, reporting, auditing, reviewing, or otherwise relating to potentially unauthorized, improper, anomalous, questionable, noncompliant, or policy-inconsistent use of Flock Safety systems by any employee, officer, contractor, administrator, or other person utilizing the system through or on behalf of this agency during the above-referenced period.

For avoidance of doubt, this request is intended to encompass responsive records regardless of the terminology, report title, software module, dashboard, or nomenclature used by the agency or Flock Safety. Responsive records therefore include, but are not limited to:

- Any Flock Safety Audit Assistance, Network Audit, audit report, audit log, compliance report, exception report, anomaly report, administrative report, user-activity report, search audit, query audit, access audit, or substantially similar record;

- Any automated or manually generated alert, flag, notification, warning, exception, recommendation, or other record identifying or suggesting unusual, anomalous, potentially unauthorized, improper, questionable, or policy-inconsistent use of the Flock Safety system;
- Any report, log, export, spreadsheet, CSV file, PDF, dashboard output, database extract, electronic record, or other existing compilation reflecting searches or queries that were subsequently flagged, reviewed, questioned, referred, investigated, or otherwise subjected to administrative or supervisory scrutiny;
- Any communication, notification, correspondence, memorandum, email, system-generated message, or other record transmitted between Flock Safety and this agency concerning potentially improper, unauthorized, anomalous, questionable, or noncompliant system usage;
- Any existing record reflecting an internal administrative, supervisory, professional-standards, internal-affairs, or command-level review initiated as a result of information contained within a Flock Safety audit, alert, log, report, or other system-generated record; and
- Any existing record identifying a user account that was suspended, restricted, disabled, reviewed, referred for investigation, subjected to remedial action, or otherwise administratively addressed because of the user's access to, search of, or use of the Flock Safety system.

This request should be construed to encompass responsive records maintained by the agency or on the agency's behalf by Flock Safety or another third-party service provider, to the extent such records constitute public records within the meaning of O.C.G.A. § 50-18-70(b)(2). The Act expressly encompasses computer-based or computer-generated information, data, data fields, and similar material prepared, maintained, or received by an agency or by a private entity performing a service or function for or on behalf of an agency.

The terminology utilized above is descriptive rather than restrictive. This request is not limited to records formally titled "Audit Assistance," "Network Audit," "misuse report," or any particular Flock Safety product or feature name. If substantially responsive information is maintained under a different title, module, database, report type, administrative function, or nomenclature, please construe this request to encompass those existing records.

Likewise, I am not requesting that the agency create a new report, conduct an investigation, perform a new analysis, or reach a determination as to whether any particular use constituted misconduct. Rather, consistent with O.C.G.A. § 50-18-71, I am requesting the production of existing responsive records and electronically stored information maintained by or for the agency.

Production and Redaction

Please provide responsive records electronically in their native electronic format where reasonably practicable, including searchable PDF, CSV, XLS/XLSX, or other existing export format, rather than printed or scanned copies.

If any portion of a responsive record is claimed to be exempt from disclosure, please redact only the specifically exempt information and produce the reasonably segregable nonexempt remainder. Pursuant to O.C.G.A. §§ 50-18-71 and 50-18-72, please identify with specificity the statutory provision relied upon for each withholding or redaction.

The existence of potentially exempt information within a record should not be construed as a request to withhold an otherwise responsive record in its entirety where nonexempt portions are reasonably segregable.

Response Required by the Act

Pursuant to O.C.G.A. § 50-18-71(b), responsive records should be produced within the statutory period where available. If responsive records cannot be produced within three business days, please provide the response required by the Act identifying the responsive records, when they will be available, and any lawful estimated costs associated with production.

If the agency contends that no responsive records exist as to any category above, please state that expressly rather than construing the absence of one specifically named report or Flock Safety feature as the absence of responsive records generally.

If anticipated search, retrieval, redaction, or production costs will exceed \$25.00, please provide a written estimate before incurring those costs.

This request is intended to obtain existing public records concerning the governmental use and oversight of a law-enforcement surveillance and investigative system. Nothing herein requests the creation of a new record, legal opinion, investigative conclusion, or compilation that does not presently exist.

Please acknowledge receipt of this request and provide all responsive records electronically.

Respectfully,

