



Rahm Emanuel
Mayor

Department of Police · City of Chicago
3510 S. Michigan Avenue · Chicago, Illinois 60653

Eddie T. Johnson
Superintendent of Police

December 15, 2017

Ms. Karen Sheley
ksheley@aclu-il.org

Ms. Rachel Murphy
rmurphy@aclu-il.org

Mr. Chris Romer
cromer@aclu-il.org

RE: NOTICE OF SUPPLEMENTAL RESPONSE TO FOIA REQUEST
REQUEST RECEIPT DATE: August 23, 2017
FOIA FILE NO.: P426706

Dear Ms. Sheley:

On behalf of the City of Chicago Police Department ("CPD"), this is the final response to your Freedom of Information Act ("FOIA") request originally dated August 22, 2017 and received in our offices on August 23, 2017. On September 7, 2017, CPD sent a response asserting that the request as originally constituted was unduly burdensome in accordance with Section 5 ILCS 140/3(g) of the FOIA statute. The original request was as follows:

- "1. All current policies and guidelines of the CPD regarding (a) when and how an officer may use a cell site simulator, (b) when and how an officer may apply for a court order to use a cell site simulator, (c) when and how an officer may use data collected through a cell site simulator, (d) when and how an officer must delete non-target data obtained through use of cell site simulators, and (e) when and how an officer may reveal the use of cell site simulators to the public, criminal defendants, or judges.*
- 2. Records regarding the CPD's acquisition of cell site simulators, or upgrades to, or software for, cell site simulators, including all invoices, contracts, and correspondence with companies providing the devices to the CPD, since 1/1/2017.*
- 3. Records describing the CPD's training program for officers using cell site simulators, and records showing how many officers have received this training.*
- 4. Records regarding any current arrangement or agreement or offer between the CPD and other law enforcement agencies in Illinois to share the use of cell site simulators.*
- 5. Records regarding any confidentiality or non-disclosure requests or agreements with any corporation providing cell site simulator devices to the CPD concerning the CPD's use or sharing of cell site simulators.*
- 6. Records regarding any confidentiality or non-disclosure requests or agreements with any state or federal agency concerning the CPD's use or sharing of cell site simulators.*

- 7. All communications or agreements between the CPD and wireless service providers (such as AT&T, Sprint or Verizon) concerning the use of cell site simulators since 1/1/2017, including all exigent circumstances request forms submitted by the CPD to such wireless service providers.*
- 8. Records showing the number of investigations in which the CPD used cell site simulators or in which cell site simulators owned by the CPD were used by others, including the number of those investigations that resulted in prosecutions, since 1/1/2017, including logs of site cell simulators being checked out or in by officers.*
- 9. Records reflecting the docket numbers or other identifying numbers of all cases in which the CPD used cell site simulators as part of an underlying investigation, or in which others used cell site simulators owned by the CPD as part of an underlying investigation, since 1/1/2017.*
- 10. All applications submitted to state or federal courts for orders or warrants authorizing the CPD to use cell site simulators in criminal investigations, or authorizing cell site simulators owned by the CPD to be used by other law enforcement officers in criminal investigations, plus any warrants or orders, denials of warrants or orders, and returns of warrants associated with those applications, since 1/1/2017.*
- 11. If any responsive documents are sealed, please provide documents sufficient to identify the court, date, and docket number for those documents."*

Following a telephone conversation it was agreed that items # 2, 5, and 6 would be withdrawn. As permitted by 5 ILCS 140/3(e), the time was extended in order to conduct a thorough search for these records. CPD has identified and provided records pertaining to your request items # 1 and 2, which were provided on November 27, 2017 and December 7, 2017. As for items # 3, 4, and 7, a search of our records was conducted based upon the parameters provided; I must inform you that a search of CPD records proved negative for a responsive record. Therefore, it is determined that there are no responsive records for these items in your request. In addition, for item # 3, there has not been any training completed since the new law on stingrays became effective on January 1, 2017.

It has been determined that items 8, 9, 10, and 11 are burdensome. Section 3(g) of FOIA provides that "requests for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information." 5 ILCS 140/3(g). As noted in the deposition provided in response to Items # 1 and 2, Boyle v. City Of Chicago et al (1:17-cv-00244), these records are not segregated. The records you seek consist of more than 6,000 pages. Each page would have to be reviewed for exempt material, and assuming that this process would take 3 minutes per page, it would take personnel trained in FOIA more than six 40 hour work weeks to fulfill this request, which is not inclusive of the time necessary to retrieve the documents, to the exclusion of all other tasks. The short response time allowed by the FOIA makes the task of reviewing and redacting the responsive records in a timely manner unduly burdensome upon CPD, and as such, it meets the statutory definition of overly burdensome under FOIA. As a result, CPD has determined that compliance with items # 8, 9, 10, and 11 of your request is unduly burdensome on the daily operations of CPD and that CPD's burden to process your request outweighs the public's interest.

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706. You may also seek judicial review pursuant to 5 ILCS 140/11 by filing a lawsuit in the Cook County Circuit Court.

If I can be of further assistance, you may contact me at (312) 745-5308, or by mail at the address below:

Sincerely,

A. Shulruff
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653