



Rahm Emanuel
Mayor

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

Eddie T. Johnson
Superintendent of Police

November 23, 2016

Kashan Pathan
Invisible Institute
Response Via Email: kpathan@uchicago.edu

Re: **NOTICE OF RESPONSE TO FOIA REQUEST**
REQUEST DATE: November 18, 2016
FOIA FILE NO.: P054496

Dear Mr. Pathan,

The Chicago Police Department (CPD) is in receipt of your Freedom of Information ("the Act") request. Upon review by the undersigned, it was determined that you are seeking:

"all public information located in the Strategic Subject List Dashboard, as referenced in Special Order S09-11. This should include but not be limited to: (1) For each Subject: a. Demographic information about subjects including race, gender, and age. b. Each subject's score and charts that explain how each subject's score was calculated. c. Whether each subject has been flagged and which unit placed the subject on the list. d. Whether each subject has been flagged as TRAP eligible. e. Whether each subject has been the recipient of intervention activities and which activities.

the following documents or records regarding the Chicago Police Department's Strategic Subject List ("SSL"): Please provide screenshots of the following screens: 1. In the CLEAR system under the What's New section, the Information Services Division, the Technology Update Instruction Sheet 2. The blank entry form for adding a subject to the SSL 3. Any instruction pages regarding the use of the SSL Dashboard 4. A blank Violence Reduction Strategy Subject Profile page 5. A blank Activity page for a subject. 6. A blank Custom Notification Letter Please provide documents sufficient to show the following information (not including directives that are already public): 1. Any manuals or guides for the implementation and use of SSL Dashboard 2. A data dictionary defining the different categories of data stored in the SSL Dashboard 3. Any intra-department memos or instructions regarding the use of the SSL Dashboard 4. Any materials sent from the company that provided or provides SSL services to the Chicago Police Department, including training manuals, brochures, and contracts."

CPD has interpreted your request as documents relating to the CPD Strategic Subject List. After assessing its nature and scope, CPD has determined that your request for documents relating to the CPD Strategic Subject List is denied. While a responsive record was identified, this record is a plan that was developed by CPD in response to a significant increase of fatal incidents within the city of Chicago involving firearms and other dangerous weapons. Disclosing this record would enable offenders to anticipate and thwart police response strategies, exposing officers and the public to risk of harm. The Act permits a government body to withhold records "that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community" 5 ILCS 140/7(1)(d)(v). Given

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the imminent and ongoing nature of gun violence on city streets, the release of such documents would allow access to sensitive law enforcement data and jeopardize the physical safety of citizens of Chicago; as such, these documents must be withheld from disclosure pursuant to Section 7(1)(d)(v).

The documents you have requested are also exempt from disclosure pursuant to Section 7(1)(f) of the Act. Under this section, CPD is not required to release "[p]reliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated." 5 ILCS 140/7(1)(f). Documents that outline the Department's formulation of scores are part of the "deliberative process" used in developing CDP strategies to combat crime in the city of Chicago and are exempt under federal FOIA, which applies to "predecisional materials used by a public body in its deliberative process." *Kopchar v. City of Chicago*, 395 Ill. App 3d 762, 775(1st District, 2009); *Day v. City of Chicago*, 388 Ill. App. 3d 70, 79 (1st Dist. 2009); *Harwood V. McDonough*, 344 Ill App 3 d 242, 247(1st Dist. 2003). Given CPD's immediate concerns regarding public safety and the welfare of police personnel, as well as the deliberative and strategic nature of the documentation you have requested, such documents must necessarily be withheld pursuant to Sections 7(1)(f) and (v) of the Act.

Releasing this data would also violate Section 7(1)(c) of the act, which precludes the unwarranted invasion of personal privacy by exempting the disclosure of private information contained within public records. 5 ILCS 140/7(1)(c). Given that such a list would consist of the names of individuals with criminal backgrounds and potential gang ties, public dissemination of such information would be an invasion of the privacy interests of those named on said list. With access to such information, street gangs could potentially use the list to determine the identity of rival gang members, allowing discordant groups to directly target known enemies and increase street violence. The release of such a list could even be used against an individual by prospective employers, who might hesitate to retain the individual after noting her name on a list of known criminal offenders. Disclosure in this situation would thus be "objectionable to a reasonable person" and the individual's "right to privacy outweighs any legitimate public interest in obtaining the information," constituting a clearly unwarranted invasion of personal privacy. *Id.*

Moreover, with regard to your request as a whole, your request is unduly burdensome as written. FOIA provides in 5 ILCS 140/3(g) 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. In order to properly address the scope of your request and determine whether responsive records exist, this matter was referred to the CPD Bureau of Support Services and Bureau of Patrol. After reviewing this matter, the administrative sergeants in charge of these bureaus have indicated that they would need to generate several thousand pages of documents in order to properly respond to this request. This great quantity of documentation arises from the fact that tens of thousands of individuals are listed on the SSL, each with a unique calculation that must be reviewed independently. Even assuming, *arguendo*, that CPD could review and compile the responsive documents based on the aforementioned search, this task would take experienced FOIA Officers over 50 hours to complete.

This calculation was reached under the interpretation that a compilation of all the aforementioned documents would require the review of several thousand pages of responsive documents for information that is exempt under FOIA and other relevant state and federal statutes. Based on past requests, it would be reasonable to expect a trained FOIA officer to take at least one minute to review one page of responsive documents. Reviewing all responsive documents in the aggregate would consequently require well in excess of 50 hours to complete such a demanding task. The short response time allowed by FOIA makes the task of identifying, collecting, and reviewing potentially responsive records in a timely manner unduly burdensome

upon CPD. As a result, CPD has determined that compliance with your request is unduly burdensome and that CPD's burden to process your request outweighs the public's interest.

To the extent you seek email communications, your request requires further information. In order to determine whether such a search could be conducted, your request was forwarded to the CPD Bureau of Support Services: Information Services Division. In order to effectively run a search, Information Services has indicated that the following parameters must be defined: (1) the name or e-mail address of the account you wish searched; (2) key words you wish to search for; (3) the e-mail address of each individual's mailbox, if you seek e-mail correspondence to and from two individuals; and (4) the timeframe to be searched. While CPD has the ability to determine the email address of CPD members, the timeframe to be searched and any keywords must first be established. It should be emphasized that the Act neither requires nor allows CPD to speculate as to the details of any request; this information can only be provided by the petitioner.

At this time your request *as currently written* has been interpreted to seek documents pertaining to the the SSL and communications regarding the SSL. In light of the sheer volume of responsive documentation, it has been determined that your request requires further information. Again, it should be emphasized that the Act neither requires nor allows CPD to speculate as to the details of any request; this information can only be provided by the petitioner. Pursuant to section 3(g) of FOIA, we would like to extend to you an opportunity to modify your request to make it more manageable. Once this is determined, a new FOIA request can be submitted to CPD, specifying the records you would like CPD to provide. Unless and until a modified FOIA request is submitted within 48 hours of this communication, this FOIA number will be closed in our system.

In the event that responsive information has been exempted by CPD, such decisions may be reviewed by the Public Access Counselor (PAC) at the Office of the Illinois Attorney General, 500 S. 2nd Street, Springfield, Illinois 62706, (877) 299-3642. You also have the right to seek judicial review of your denial by filing a lawsuit in the Circuit Court of Cook County. Any and all appeals to the Circuit Court of Cook County must be filed within two years of the alleged violation.

If you require additional assistance, feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dane J. Rohrer', with a long horizontal flourish extending to the right.

Dane J. Rohrer
Freedom of Information Officer

City of Chicago Department of Police
Office of Legal Affairs-FOIA Unit
3510 South Michigan, Fourth Floor
Chicago, Illinois 60653
(312) 745-5308
foia@chicagopolice.org