



Rahm Emanuel
Mayor

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

John J. Escalante
Interim Superintendent

January 29, 2016

Sent Via E-Mail: kalven@invisibleinstitute.com

Jamie Kalven
The Invisible Institute
6100 S Blackstone Ave
Chicago IL 60637
E-Mail: kalven@invisibleinstitute.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: 15-7058

Dear Mr. Kalven:

The Chicago Police Department is in receipt of your Freedom of Information Act (FOIA) request. In your request you indicate that you are seeking the following:

"I am writing in response to your letter of November 17, 2015. Thank you for your feedback regarding FOIA request #15-6588. At this time, I would like to narrow my request to cover the time period of September 26, 2006 to the current date, for the following information for each shooting incident. I believe this narrowed request incorporates the fields you indicated could be produced by the various CPD divisions mentioned in your letter, as well as fields that have been electronically available in previous FOIA productions. Please provide the responsive data in an electronic format such as Excel, SQL, Access, or the electronic format in which it is maintained by the CPD.

FOIA Request for all reported or investigated shootings by Chicago Police Officers, including but not limited to alleged shootings, shootings that were not investigated, and nonfatal shootings, between September 26, 2006 and the date of production, with all of the following data for each shooting incident:

- A. Initial Incident Category List code*
- B. Initial Incident Category description*
- D. The shooting log number or U number*
- E. The beat number in which the shooting took place*
- F. The address at which the shooting took place*
- H. The location description of the shooting incident*
- I. The date that the shooting incident took place*
- J. The time that the shooting incident took place*
- L. The date that the shooting file/investigation was closed, or indicate if it remains open*
- M. For each investigator assigned to the incident:*
 - 1. Name of each investigator*
 - 2. Agency of investigator (IAD, BIA, OPS, or IPRA, etc)*
 - 3. Assigned Team*
 - 5. Assignment date*
 - 6. Assignment time*
 - 7. Assigned by*

- N. The final outcome code of the investigation*
- O. The final outcome description of the investigation*
- P. The recommended outcome & discipline*
- Q. The final discipline imposed*
- R. Within each shooting incident, for each officer involved:*
 - 1. Name*
 - 3. Star number*
 - 4. Gender*
 - 5. Race*
 - 6. Age or year of birth*
 - 8. Unit of assignment on the date of production*
 - 10. Rank on the date of production*
 - 11. Date of appointment*
 - 12. Whether the officer was on-duty or off-duty at the time of the shooting incident*
- S. Within each shooting, for each Chicago police employee witness or reporting party:*
 - 1. Role*
 - 2. Name*
 - 4. Employee number*
 - 5. Unit of assignment on the date of the shooting incident*
 - 6. Rank on the date of the shooting incident*
 - 7. Gender*
 - 8. Race*
 - 9. Age or year of birth*
- T. Within each shooting, for each witness or reporting party who is not a CPD employee:*
 - 1. Gender*
 - 2. Race*
 - 3. Age or year of birth*
- U. The shooting type (intentional discharge, unintentional, animal, etc)*
- V. For the victim of the shooting:*
 - 1. Gender*
 - 2. Race*
 - 3. Age or year of birth"*

Our office received your narrowed FOIA request on November 30, 2015. Our office contacted you via telephone and written email correspondence on December 7, 2015 relating the CPD required additional time to complete your request. On the same date, our offices agreed to extend the deadline of the release until January 7, 2016. Via written email correspondence on December 29 and 30, 2015; the CPD and your office agreed to extend the deadline of release until January 21, 2016, as the CPD related it required additional time to complete your request. Later, our offices agreed to CPD's release of the responsive data until the week of January 25, 2016.

Your request was reviewed by the undersigned in consultation with personnel from the Bureau of Internal Affairs Analytical Section. Via telephone and written email communication it was explained and agreed upon that the following items will not be included in the reports: M. 2. Agency of Investigator (this will always be IPRA Agency), M. 3. Assigned team (CPD is unaware of team structures of IPRA - does not have this information), S. 5, 6. Assignments and rank at time of incident (CPD can not run reports that include an officer's rank, unit history but CPD will provide the assignment and rank at the time of production); T. 3 Civilian witness age (this information is not always divulged to the CPD, to the extent that it was available in reports, it will be provided in the released records). Please note that each City Department is a "Public Body" under Section 2 of FOIA, 5 ILCS 140/2(a). See *Duncan Publishing Inv v, City of Chicago*, 304ILL.App.3d 778, 784, 709 N.E. 2d 1281, 1282 (1st Dist 1999) (Clearly, each of the individual departments are subsidiary bodies of the

city and are "public bodies" as defined by the FOIA). A FOIA request must be directed to the Department that maintains the records you're seeking.

Also, on December 30, 2015 our office sought clarification regarding your FOIA request for "all reported or investigated shootings by Chicago Police Officers, including but not limited to alleged shootings, shootings that were not investigated, and nonfatal shootings", via written e mail correspondence you clarified your request and stated the following: " I seek data relating to any time a CPD member discharged a firearm whether or not someone was hit."

Additionally, you are requesting the above information to be furnished in an electronic format such as an Excel, Access, SPSS or SQL spreadsheet and not in PDF or paper printouts pursuant to 5 ILCS 140/6 (g) .

On November 17, 2015 under FOIA File No.: 15-6588, our office advised you that at the time of your initial request, there was no record currently in existence which captured all information sought in your request. While the FOIA requires a public body to produce documents (5 ILCS 140/3(a) ("Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in section 7 of this Act."), the FOIA does not require a public body to create documents. In *Kenyon v. Garrels*, 184 Ill. App. 3d 28, 32 (4th Dist. 1989), the Illinois Appellate Court noted, "...the Act is not designed to compel the compilation of data the governmental body does not ordinarily keep." See also: *Chicago Tribune Company v. The Department of Financial and Professional Regulation*, 2014 IL App (4th) 13042, ¶ 34. This position is also included in the plain language of Section 1 of the FOIA: "This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law." 5 ILCS 140/1.

As a courtesy, the BIA Analytical Section was able to compile this requested information into twenty two (22) Excel Reports which are responsive to your narrowed request. Attached electronically you will find twenty two (22) Microsoft Excel spread sheets that list all information requested. These records identify the following fields: initial category code and description; log number; beat of location; address of location; location code and description; incident date and time; complaint date; investigator's name; investigation end date; investigating agency; assignment date and time; officer name; star number; gender; race; age or year of birth; current unit and rank; date of appointment, disposition and final findings of the investigation; witness' gender, race, age and role; action taken, and investigating unit information.

Please note that any records pertaining to "U numbers" that were converted into a full disciplinary investigation Complaint Register (CR) numbers that may exist prior to 30 Nov 2011 are precluded from release as they are subject of a court order issued by Judge Peter Flynn on May 27, 2015, in the case of *FOP Chicago Lodge No. 7 et al. v. City of Chicago and Chicago Police Department*, Docket No. 14 CH 17454 (Cook County Circuit Court, Chancery Division). Please note, the FOIA exempts from release "information specifically prohibited from disclosure by a federal or State law or rules and regulations adopted under federal or state law." 5 ILCS 140/7(1)(a). In addition, the Illinois Attorney General's Public Access Counselor (PAC) previously determined that a public body is bound by the terms of a court order prohibiting disclosure of records. See 2012 PAC 16783 (Ill. Att'y Gen. PAC Opinion Ltr. 16783, issued August 27, 2012); see also 2014 PAC 23864 (Ill. Att'y Gen. PAC Opinion Ltr. 23864, issued February 4, 2014). As such, the CPD may release only records from the last four years.

Please be advised that the address of occurrence for each of these incidents has been provided at the block level due to the fact that some of these incidents occurred at private residences including officers' residences. Accordingly, this information is exempt from disclosure under the following exemptions found in the Illinois Freedom of Information Act:

5 ILCS 140/7 (1)(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.

5 ILCS 140/2(c-5) "Private information" means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

Furthermore, it would be extremely difficult, time consuming, and burdensome for the Department to make individual determinations as to the nature of the address of occurrence for each separate incident.

Also, the names of the civilian witnesses and off duty officers who provided information to the police have been redacted. The redacted information is exempt from disclosure under 5 ILCS 140/7 (1)(d)(iv), which enables a public body to redact information that would:

- (iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

There are no duplication or research costs.

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

Chicago Police Department
Office of Legal Affairs
Attention: Freedom of Information Officer
3510 S. Michigan Ave.
Chicago, IL 60653

You have a right of review by the Illinois Attorney General's Public Access Counselor. You can file a written request for review with the Public Access Counselor, who is located at 500 South Second Street, Springfield, Illinois 62706, or by telephone at 1-877-299-FOIA (1-877-299-3642), FAX at (217)-782-1396, or E-mail at publicaccess@atg.state.il.us. Note that you must file a request for review with the PAC within 60 calendar days from the date of this denial. You may also seek judicial review of a denial under 5 ILCS 140/11.

Sincerely,


P.O. W. Muzupappa # 14845
Freedom of Information Officer
Chicago Police Department
Office of Legal Affairs