

PUBLIC RECORDS REQUESTS (FOIA) WORKSHOP

Lucy Parsons Labs

WHAT IS A PUBLIC RECORDS REQUEST?

- A tool to obtain data/records from (most) public agencies.
- i.e., a means to dig into nagging questions you have regarding both local and federal government.

WHAT IS CONSIDERED A "PUBLIC RECORD"?

This can differ from state to state, but you can try for any tangible record created or maintained by government employees. Here is how the Illinois FOIA statute defines a Public Record:

(c) "Public records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.

WHO CAN MAKE A PUBLIC RECORDS REQUEST?

- Federally, citizens and non-citizens with some exception.
- Only three states require in-state residency and proof of such.
- There are other restrictions sometimes (people in prison).
- In Illinois (at least): Anonymous requesters.
- Others on your behalf.

WHAT SHOULD I KNOW BEFORE FILING A PUBLIC RECORDS REQUEST?

- Research the contact information for the agency's FOIA/Public Records department and how to send them a request.
- Know your **state/federal** FOIA laws (the more you know, the better).
- What others have been able to request (note that all FOIA requests are public).
- Understand that the process can be a long one.

THE PROCESS

1. A framework:

What do you want to know?

What kind of documents are you looking for?

What is your endgame?

THE PROCESS

2. Write up your request.

Be specific in your request 95% of the time..

..be broad in your request for the other 5%.

THE PROCESS

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Any internal documentation - including notes, slides, audio recordings, video recordings, etc - relating to the agency's participation in any panels at the 123rd annual International Association of Chiefs of Police conference and exposition in San Diego (other known as IACP 2016)

I am confident that there are records involved with this request due to the fact that it is publicly known that employees of Mountain View Police Department participated and presented at this conference (source: <https://www.predpol.com/microsoft-predpol-showcase-cloud-enabled-solutions-law-enforcement-iACP-2016/>), particularly with PredPol and Microsoft.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

THE PROCESS

3. After the request is *acknowledged* by the agency, they have a time limit to respond to the request. They can, however, extend this by some means.

RE: FOIA Request for records.

Dear J Ader,

The Office of Emergency Management and Communications received your Freedom of Information Act Request on November 28, 2017. At this time, we are seeking an extension of five (5) additional working days for one or more of the following reasons:

THE PROCESS

Some agencies will require fees to be paid for the amount of work. Sometimes state agencies quantify fees by breaking down the amount of work and "personnel-hours" that need to go into processing the request/responsive documents. Many times federal agencies require fees without much insight.

DON'T TRUST FEE ESTIMATES.

Many states have limits on the costs agencies can charge for requests. You can challenge an agency if you believe it has set an unrealistic price via an *appeal* or lawsuit. Other times, they have no right to charge for records at all. Reading the local statute helps. Agencies, especially police departments, often lie about how much work needs to be done.

THE PROCESS

Your request is granted as to existing, non-exempt records in the possession of the Michigan State Police (MSP) that fall within the scope of your request. To process your request, the MSP estimates a FOIA processing fee of \$1,622.56 to search for, retrieve, review, examine, and separate exempt material, if any.

You may pay the deposit online at <http://mistatepolicepmts.state.mi.us/crsearch> using a credit card or check in the amount of \$811.28 to cover the required deposit of the estimated processing fee. You will need to provide your name or reference number listed above to utilize the online payment option. Please note there is a \$2.00 processing fee for using this service.

If you prefer, you can submit a check or money order made payable to the STATE OF MICHIGAN and mail to P.O. Box 30266, Lansing, MI 48909. To ensure proper credit, please enclose a copy of this letter with your payment.

Upon receipt of the deposit, the MSP will complete the processing of your request. You will be notified of the balance due before mailing of the records, and of the statutory basis for the exemption of any records or portions of records, and of your statutory remedial rights, if applicable. The MSP estimates a processing time of 35 business days after receipt of payment.

Under the FOIA Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

THE PROCESS

By letter dated 9/21, you indicated your willingness to pay \$0.00 in FOIA processing fees. The Federal Bureau of Investigation (FBI) has located approximately 5,062 pages of records potentially responsive to the subject of your request. By DOJ regulation, the FBI notifies requesters when anticipated fees exceed \$25.00. Below you will find check boxes and informational paragraphs about your request. Please read each one carefully.

Please be advised that you are entitled to the first 100 pages free of charge. If the release is made on Compact Disc (CD), you will receive the cost equivalent (\$5.00) as a credit.

- If all potentially responsive pages are released on CD, you will owe \$160.00 in duplication fees (11 CDs at \$15.00 each, less \$5.00 credit for the first CD). Releases are made on CD unless otherwise requested. Each CD contains approximately 500 reviewed pages per release. The 500 page estimate is based on our business practice of processing complex cases in segments.

Should you request that the release be made in paper, you will owe \$253.10 based on a duplication fee of five cents per page. See 28 CFR §16.10 and 16.49.

- You submitted your request via the FBI's eFOIPA system. Releases will be made to you electronically, and you will owe \$160.00 in duplication fees (11 releases at \$15.00 each, less \$5.00 credit for the first release).
- The FBI's eFOIPA system cannot transmit digital media files, and they will need to be released on CD. The FBI located audio and video files that are potentially responsive to the subject of your request. If all of the potentially-responsive media is released, you will owe \$_____ (____ CDs at \$15.00 each, less \$5.00 credit for the first CD).
- CDs will not be sent to a correctional institution. You will only qualify for CD releases if an alternate address is provided.
- You will owe approximately \$____ in international shipping fees.

The estimated total cost for processing your request is approximately \$160.00 for CD releases or \$253.10 for paper releases.

THE PROCESS

4. The waiting game.



THE PROCESS

At this point (after the waiting) a number of things can happen:

- 5a. You will hopefully be endowed with responsive records from the agency.
- 5b. You might get be asked to narrow your records.
- 5c. You might have your request denied for various reasons.
- 5d. No response at all.

DENIALS

In addition, after consulting with the Organized Crime Bureau, it was determined that your request is **denied**. The records you seek are ***used for investigative techniques***, precluded from disclosure and are therefore being withheld in their entirety.

5 ILCS 140/7.5(h) precludes from disclosure records "of any lawfully created state of local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act." The state act referenced in Section 7.5(h) is the Executive Ethics Commission and Executive Inspectors General Act. Section 20-95 of that Act specifically provides that:

All investigatory files (materials) and reports of the Office of an Executive Inspector General, other than monthly reports required under Section 20-85, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to a law enforcement authority, (ii) to the ultimate jurisdictional authority, (iii) to the Executive Ethics Commission, (iv) to another Inspector General appointed pursuant to this Act, or (v) to an Inspector General appointed or employed by a Regional Transit Board in accordance with Section 75-10. 5 ILCS 430-20-95(d)

DENIALS

Pursuant to your above-referenced request for records, attached please find a contract between the City of Elgin and PredPol, as well as between the City of Elgin and Saas.

There are no documents responsive to your request for the following items:

- Initial bid documents
- Requests for proposals
- Memorandums of understanding
- Privacy impact assessments
- Use policies and standard operating procedures
- Data retention policies
- Informal agreements
- Letters of interest
- Usage policies

This is also to advise you that your request for records pursuant to the Freedom of Information Act is hereby partially denied as to instructional materials.

The partial denial is based upon the following statutory exemption:

5 ILCS 140/7(1)(d)(vi), which exempts from the disclosure requirements of the Act which exempts from the disclosure requirements of the Act, information which, if disclosed, would endanger the life or physical safety of law enforcement personnel or any other person.

DENIALS - FIGHTING BACK

You are not completely defenseless regarding denials to your request. There are a few options here:

1. Appeal (often must be ~20 days after rejection)
2. Seek legal aid.

DENIALS - FIGHTING BACK

VIA E-MAIL

51858-72354875@requests.muckrock.com

J. Ader
Department MR 51858
411A Highland Ave.
Somerville, MA 02144-2516

RE: Freedom of Information Act Request Number W027579-032718

Dear Mr. Ader:

Upon further review, a determination has been made to provide you with the initially denied materials responsive to your above-captioned request for records; namely, instruction materials. Attached please find such materials.

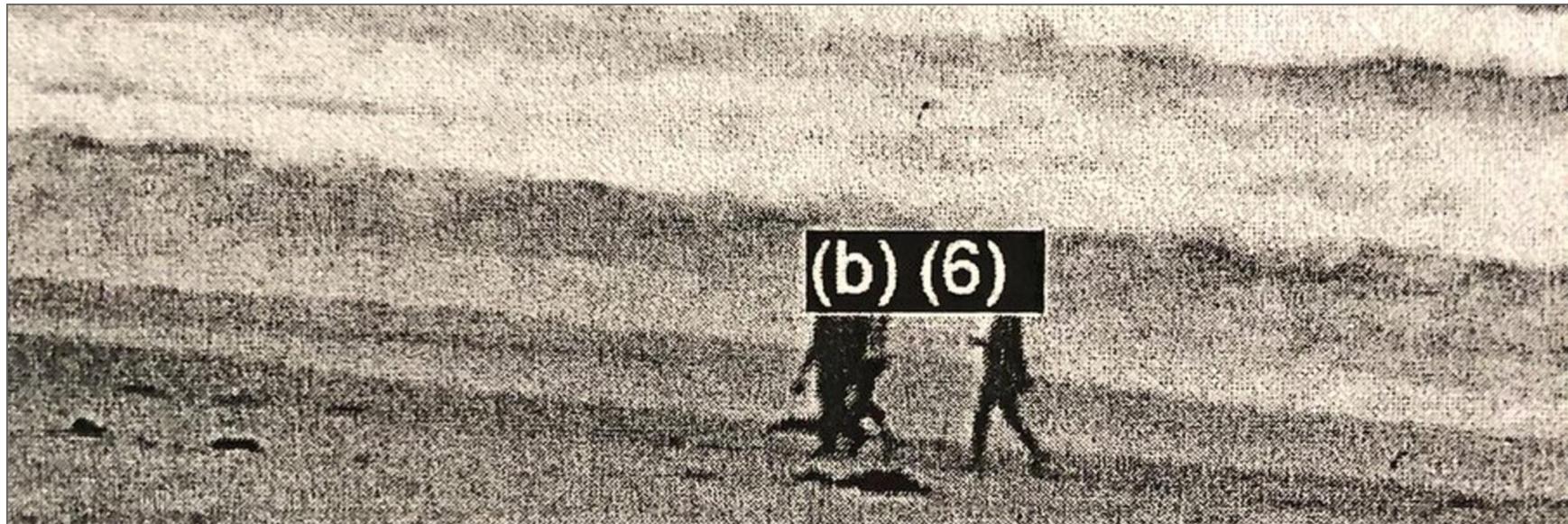
In the event you have any questions or wish to discuss, please feel free to contact me at 847/931-5658.

Very truly yours,



Michael R. Gehrman
Assistant Corporation Counsel

REDACTIONS

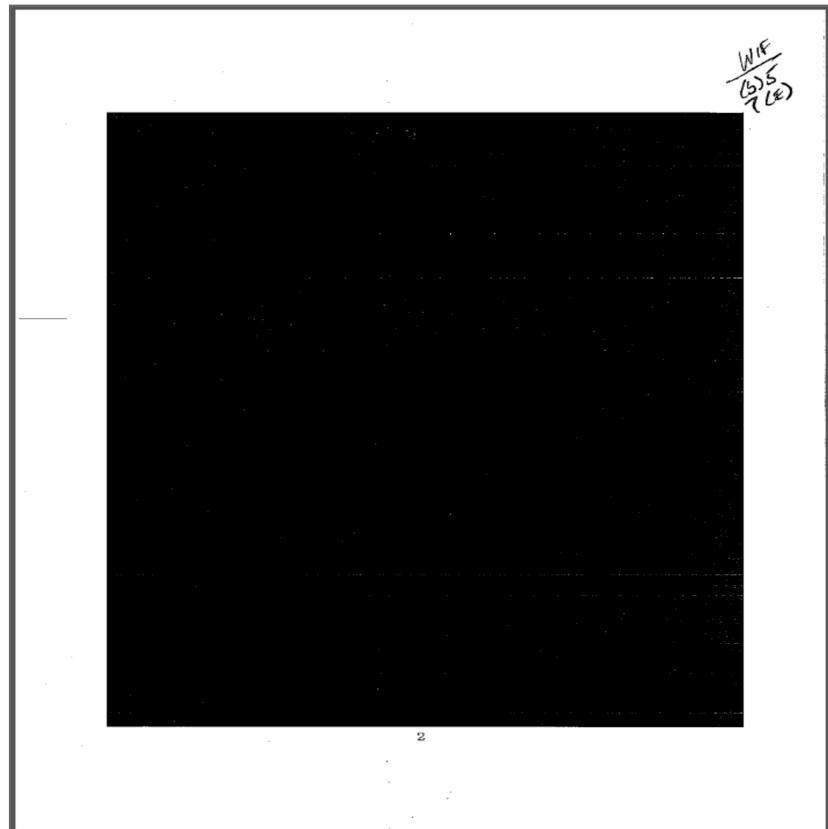


REDACTIONS

“Exemption (b)(6) permits the government to withhold all information about individuals in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy.””

REDACTIONS

Redactions will happen. Agencies are required to cite *exemptions* within the state or federal public records law for redactions. They are often worth fighting.



EXEMPTIONS - FEDERAL

(b)(1) - classified for "National Security"

(b)(2) - internal personnel rules

(b)(3) - exempt by any other statute

(b)(4) - trade secrets/commercial financial info

(b)(5) - "Privileged" memos/letters

EXEMPTIONS - FEDERAL

(b)(6) - Privacy (personnel or medical files)

(b)(7) - Law enforcement records (can be vague)

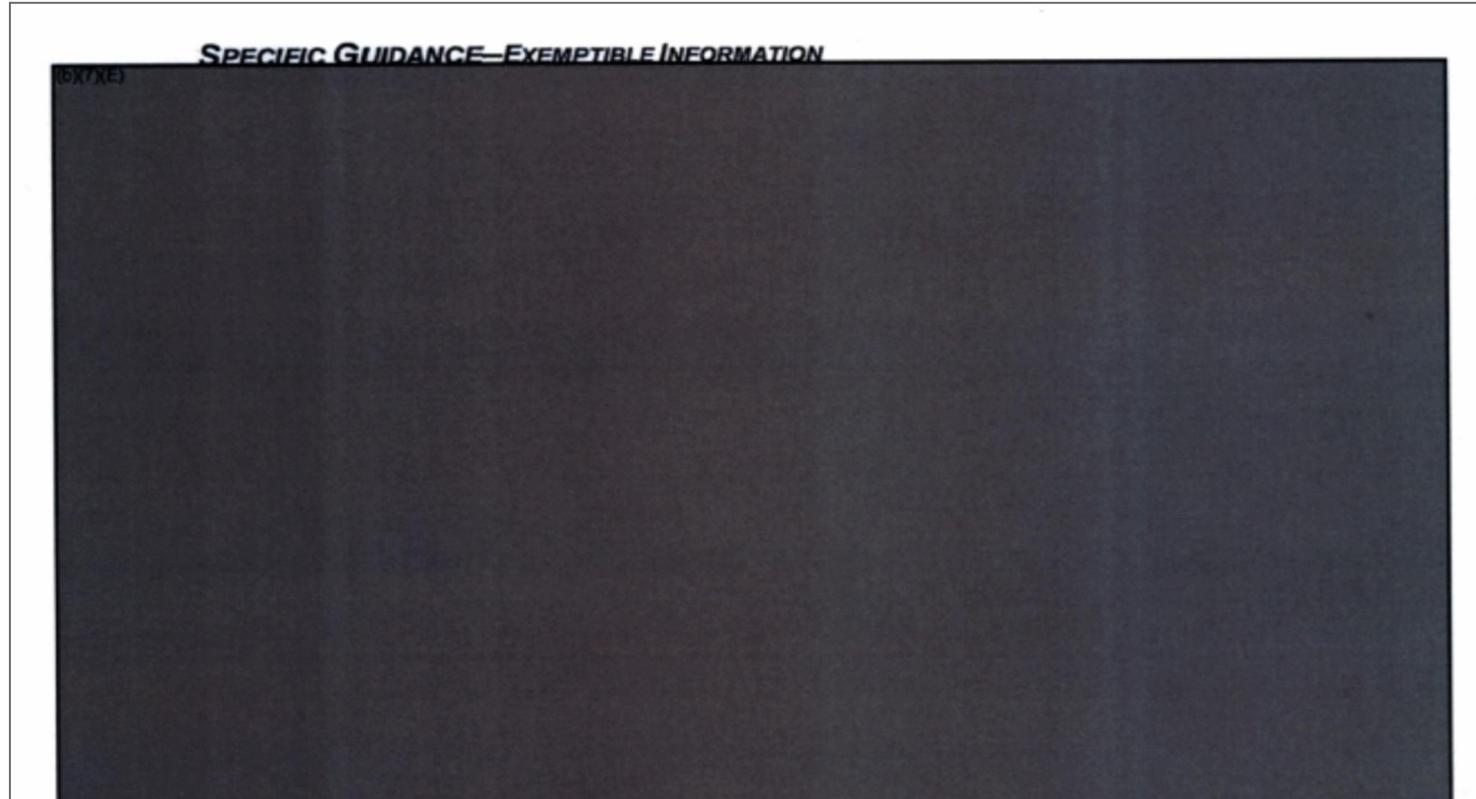
(b)(8) - Financial institution regulatory records

(b)(9) - "Geological and geophysical information and data, including maps, concerning wells."

EXEMPTIONS

EXEMPTIONS

"Pentagon claims list of information exempt from FOIA is exempt from FOIA"



EXEMPTIONS



TIPS

"MULLIGAN"

You can always re-send a (botched, rejected, etc) request to an agency. This also applies to re-sending the same request a separate individual has made in the past to an agency.

TIPS

"PROVE IT."

Sec. 1.2. Presumption. All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt. (Source: P.A. 96-542, eff. 1-1-10.)

TIPS

TELL THEM.

Never submit requests in the form of a question. Agencies are not obliged to respond to these. Always make sure to state what you are looking for, not ask if it exists.

TIPS

DIG THROUGH RECORDS.

Many agencies have FOIA portals available to see the requests others have submitted in the past and their responses, but you can always FOIA an agency for their internal FOIA logs.

TIPS

COPA FOIA Log										
REQUESTOR NAME	ORGANIZATION	DESCRIPTION OF REQUEST	DATE RECEIVED	INITIAL DUE DATE	EXTENDED DUE DATE	DATE RESPONDED	COPA Number	Staff Assigned	Details	
Sam Stocklow	City Bureau	Summary reports for provided log #s	1/4/2016	1/11/2016		1/6/2016	16-056-001			
Debby Nielsen	Unknown	Excessive force complaints for listed officers	1/4/2016	1/11/2016		1/5/2016	16-056-002		PO Barango #15937 and Fennell #15220	
John Mulvey	Unknown	file related to a shooting between October 1978 and April 1981 for listed officer	1/6/2016	1/12/2016		1/6/2016	16-056-003		Officer "Kovac"	
Ryan Wallace	Community Renewal Society	list of cases with Aff Overides	1/5/2016	1/12/2016		1/12/2016	16-056-004			
Andrew Grimm	Sun Times	investigation reports for two taser deaths in 2014, and investigation reports on any IPRA investigations of complaints related to the use of lasers, and investigation reports tagged by IPRA because the victim was exceptionally young or elderly	1/5/2016	1/12/2016		1/14/2016	16-056-005		Extension sent. Due 1/20. CLEAR search.	
Edwin Tolentino	Unknown	various information from prior requests	1/6/2016	1/13/2016		1/8/2015	16-056-006		Junkovic # 8143 and Landendo #20417 See 15-180 and 15-226	
Brandon V. Wyatt	Unknown	records for listed officers	1/7/2016	1/14/2016		1/7/2016	16-056-007		Robert McVicker #20891, Donald E. Buis Jr.	
Lisa Capitanini	NBC	all video, audio, dispatch info, police reports, and photos related to the shootings on December 26, 2015	1/7/2016	1/14/2016		1/7/2016	16-056-008		[REDACTED]	
Frank Emmons	Nixon Peabody LLP	investigative file for listed log # and complaints filed by a civilian and against two named officers	1/7/2016	1/14/2016		1/11/2016	16-056-009		Rowe #19768 and Torres #11392	
Mark Peters	The Wall Street Journal	public records containing the name, age and race of individuals shot by CPD in the last 5 years	1/7/2016	1/14/2016		1/13/2016	16-056-010			
Mark Peters	The Wall Street Journal	public records containing the name, age and race of individuals fatally shot by CPD in the last 5 years	1/7/2016	1/14/2016		1/13/2016	16-056-011			
Jamell Murphy	Unknown	Investigative files for two named officers	1/7/2016	1/14/2016		1/12/2016	16-056-012			
Michael Pell	Thomson Reuters	Sustained case file including specific named fields	1/8/2016	1/15/2016		1/15/2016	16-056-013		1/27/16 done	
Jeffrey Endo	Federal Defender Program	Names of individuals listed on current and past "heat lists"	1/8/2016	1/15/2016		1/13/2016	16-056-014			
Messieel Ojeda	Marsal Avila Law Group	Investigative files for named officer, investigative file related to specific complainant	1/11/2016	1/19/2016		1/12/2016	16-056-015		Majeed # 20561	
Azante Bentley	CPS	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-016			
Kashan Pathan	UCHicago	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-017			
Jaquan Vinson	CPS	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-018			
Christina Simmons	CPS	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-019			
Bryanna Hughes	CPS	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-020			
Audrey Petty	Unknown	Summary digests and attachment list related to listed CRs	1/12/2016	1/20/2016		1/13/2016	16-056-021			
Tom Needham	Needham Law	complaint and disciplinary history of listed officers	1/13/2016	1/21/2016		1/13/2016	16-056-022		Sgt. Sean M Martin #1662 and PO Chris F Chmilar #18896	
James Wilkerson	Unknown	Information regarding and complaints against a named officer	1/13/2016	1/21/2016		1/14/2016	16-056-023			
Michael Pell	Thomson Reuters	Disciplinary records for officers for the last 10 years, commendations awarded over the last 10 years	1/13/2016	1/21/2016		1/21/2016	16-056-024			
Anna Sczymczak	Hamilton Law Office	Complaint register files, log files, and summary reports for listed log numbers	1/13/2016	1/21/2016		1/15/2016	16-056-025			
Carly Luque	CBS	All written communication regarding a shooting incident	1/14/2016	1/22/2016		1/22/2016	16-056-026		Sent extension. Open extension.	
Monica Davey	New York Times	All personnel records for named officer	1/14/2016	1/22/2016		1/14/2016	16-056-027		Robert Rialmo #15588	
Michele Youngerman	CBS News	all records for listed officer	1/14/2016	1/22/2016		1/19/2016	16-056-028		Edward Acevedo	
Tony Williams	Unknown	disciplinary questionnaire	1/14/2016	1/22/2016		1/19/2016	16-056-029		NRD	
Mark Parks	Paris & Spencer	All records related to 2 CR #'s	1/15/2016	1/25/2016		1/19/2016	16-056-030		CR #'s 1068842 and 1061816	
Linda Rosul	Unknown	Fatal shootings including race and gender of victim from 2008 - 2014	1/15/2016	1/25/2016		1/19/2016	16-056-031			
Rebecca Kaiser	Henderson Adam	All written guidelines for conducting interviews of witnesses, victims, and officers	1/15/2016	1/25/2016		1/25/2016	16-056-032		No extension sought, phone call with requester on 1/27/16 due to Shannon out of the office, requester said 1/28/16 response date is fine	
Andrew Colucci	Sun Times	records related to 2 cases	1/16/2016	1/26/2016		1/20/2016	16-056-033			

TIPS

MUCKROCK IS YOUR FRIEND:

www.muckrock.com



TIPS

USE PUBLIC FORMS.

Some agencies have a decent amount of forms, directives, procedures, and program information available on webpages or databases that are public facing. This can help you research or prepare for FOIA requests. Additionally, public news reports sometimes contain good hints.

TIPS

INVESTIGATORY STOP REPORT
CHICAGO POLICE DEPARTMENT

ADULT

JUVENILE

ISR NO.	EVENT NO.	DATE	TIME OF STOP				
SUBMITTING BEAT NO.	BEAT OF OCCURRENCE	LOCATION CODE NO.	ADDRESS OF STOP (Number/Direction/Street Name)				
NAME (Last, First, Middle)		NICKNAME(S)	RECORDED: <input type="checkbox"/> IN-CAR CAM. <input type="checkbox"/> BODY WORN CAM.				
ADDRESS OF RESIDENCE (Number/Direction/Street Name/Apt./Floor/City/State/Zipcode)		HOME PHONE NO.	CELL PHONE NO.				
DATE OF BIRTH	AGE / ESTIMATED AGE RANGE	RELATED ISR NO. (To Identify Associates)					
WHICH OF THE FOLLOWING DO YOU BELIEVE IS THE RACE OF THE PERSON STOPPED?							
<input type="checkbox"/> AMERICAN INDIAN OR ALASKA NATIVE		<input type="checkbox"/> BLACK OR AFRICAN AMERICAN	<input type="checkbox"/> NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER				
<input type="checkbox"/> ASIAN		<input type="checkbox"/> HISPANIC OR LATINO	<input type="checkbox"/> WHITE				
SEX	HEIGHT	WEIGHT	BUILD	EYE COLOR	HAIR COLOR	HAIRSTYLE	COMPLEXION
CLOTHING TYPE/COLOR			SCARS/MARKS/TATTOOS			FACIAL HAIR	
EMPLOYER'S NAME			EMPLOYER'S ADDRESS				
SCHOOL'S NAME		SCHOOL'S ADDRESS		EVENT ASSIGNED BY		<input type="checkbox"/> DISPATCHED <input type="checkbox"/> ON VIEW <input type="checkbox"/> OTHER _____	
WAS THE SUBJECT OF THE STOP HANDCUFFED		NAME VERIFIED BY ID		DRIVERS LICENSE NO/STATE ID NO.		OTHER ID TYPE OR MEANS	
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO					
DID THE STOP INVOLVE A VEHICLE		WAS THE VEHICLE CURBED AS A RESULT OF THIS STOP		LICENSE PLATE NO.	TYPE/STATE/EXP. (OR TEMP. TAG NO.)		
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO					
V.I.N. NO.	VEHICLE YEAR	MAKE	MODEL		BODY STYLE	COLOR	
MISSION NO.	BOC-I NO.		HOT SPOT NO.		RD NO. (If Related)		
GANG/NARCOTIC RELATED ENFORCEMENT		DISPERSAL TIME			NUMBER OF PERSONS DISPERSED		
<input type="checkbox"/> YES <input type="checkbox"/> NO AS SPECIFIED IN S10-02-03.							
COMPLETE BELOW ONLY IF INCIDENT/SUBJECT HAS GANG INVOLVEMENT:							
GANG/FACTION		GANG KNOWN HANG-OUTS					
TYPES OF GANG CRIMINAL ACTIVITIES (Describe in Investigatory Stop Narrative)							
<input type="checkbox"/> GANG LOOKOUT <input type="checkbox"/> GANG SECURITY <input type="checkbox"/> INTIMIDATION <input type="checkbox"/> SUSPECT NARCOTIC ACTIVITY							
<input type="checkbox"/> OTHER (Describe)							

DISPOSITION OF THE STOP: IF YES, CHECK APPLICABLE BOX BELOW.		CITED VIOLATIONS/CHARGES
ENFORCEMENT ACTION TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> ARREST PERSONAL SERVICE CITATION (CIT. #) _____ <input type="checkbox"/> ANOV (CIT. #) _____	<input type="checkbox"/> OTHER (Specify) _____

WHAT WERE THE REASONABLE ARTICULABLE SUSPICION FACTORS THAT LED TO THE STOP?

(Check all that apply. All checked items must be described in the Investigatory Stop Narrative.)

- | | |
|--|--|
| <input type="checkbox"/> ACTIONS INDICATIVE OF ENGAGING IN DRUG TRANSACTION | <input type="checkbox"/> ACTIONS INDICATIVE OF "CASING" VICTIM OR LOCATION |
| <input type="checkbox"/> FITS DESCRIPTION FROM FLASH MESSAGE | <input type="checkbox"/> PROXIMITY TO THE REPORTED CRIME LOCATION |
| <input type="checkbox"/> FITS DESCRIPTION OF AN OFFENDER AS DESCRIBED BY VICTIM OR WITNESS | <input type="checkbox"/> GANG/NARCOTIC RELATED ENFORCEMENT |
| | <input type="checkbox"/> OTHER |

INVESTIGATORY STOP NARRATIVE (Must include factors that support Reasonable Articulable Suspicion to justify the Investigatory Stop) Continued on back.

CPD-11.910 (1/16)

SIDE 1

TIPS

DIVIDE & CONQUER.

Sometimes a request may be denied for being *unduly burdensome*. Agencies use this denial often. In most states there is a "**balancing test**" between the public's right to know and the burden placed on the agency's operations. Sometimes it may be easier to split up a request into smaller requests and file multiple smaller requests at the same time for the information.

TIPS

PROCESS TRANSPARENCY.

Think you're FOIA request may have been mishandled? You can always file a separate request asking for how a FOIA request was processed with the respective agency. Just remember to cite the request number and when it was submitted within your new request.

TIPS

DECIDING WHEN TO SUE.

FOIA Lawyers generally *like* pro-bono work, specifically because FOIA violations usually result in compensation, and the cases aren't difficult. Usually you'll want to sue if the agency has completely ignored your request, has continued to double-down on very expensive fees, or the appeals process has awarded you nothing. There are **guides**.

TIPS

BUILDING LARGER PROJECTS.

“After numerous FOIA requests and lawsuits, Lucy Parsons Labs—in collaboration with Muckrock, independent journalist Joel Handley, and the Chicago Reader—liberated the full record of CPD’s forfeiture income and expenditures from 2009 through 2015.”

HAPPY FILING!

info@lucyparsonslabs.com

sanjin@lucyparsonslabs.com

jake@lucyparsonslabs.com

matt.chapman@freeourinfo.com