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July 22, 2015

**VIA E-MAIL**

Freddy Martinez  
Freddymartinez9@gmail.com

Re: NOTICE OF RESPONSE  
REQUEST RECEIVED: July 3, 2015  
FOIA FILE NO.: 15-3781

Dear Mr. Martinez:

The City of Chicago has retained Drinker Biddle & Reath LLP to assist in responding to an Illinois Freedom of Information Act request you submitted to the Chicago Police Department ("CPD") on July 3, 2015, a copy of which is attached. On July 10, 2015, CPD sought a timely five day extension pursuant to 5 ILCS 140/3(e), up to and including July 17, 2015, to respond to your FOIA request. You subsequently agreed to an extended response date of July 31, 2015. CPD is now timely responding to your request.

You initially submitted the following request for records:

*I am seeking under the Illinois Freedom of Information Act the following thread and similar documents. We had previously requested, and received under FOIA #15-0098 a email thread between Chicago Police Bureau of Organized Crime and the Federal Bureau of Investigations. (page 1-2) In it, it describes a "trial edition" of a new "platform" for use and testing.*

*I am seeking under the Freedom of Information Act, any correspondence between the BOC and the FBI related to any NDA or "non-disclosure agreement" with all attachments related to cell site simulators or "Hailstorms" or "Stingray". Further since, the actual "platform" is redacted, I request that you search for records related to the "redacted platform".*

*I further seek that all correspondence be unredacted or if they are redacted that the exact reason for the exemption be stated. For background, there are numerous NDAs related to "cell site simulators" from various parts of the US; I request the NDA between CPD and the FBI be unredacted in full.*

Freddy Martinez

July 22, 2015

Page 2

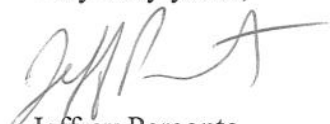
You subsequently narrowed the scope of this request during discussions and e-mail communications with CPD Officer Victor Castillo. Specifically, in a July 16, 2015, e-mail, you agreed to limit the scope of your request solely to the non-disclosure agreement between CPD and the FBI. A copy of this e-mail is attached.

The enclosed non-disclosure agreement is responsive to your request, as narrowed by your July 16, 2015, e-mail.

Section 7(1) of FOIA provides that "[w]hen a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying." Portions of the enclosed documents have been redacted under Section 7(1)(b), which exempts from disclosure "[p]rivate information, unless disclosure is required by another provision of [FOIA], a State or federal law or a court order." The non-disclosure agreement includes signatures and a phone number for a federal agent that is not publically known, which constitute private information under Section 7(1)(b). Accordingly, this information has been redacted from the enclosed responsive document.

You have a right of review of this response by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, Illinois 62706, or by telephone at (877) 299-3642. You may also seek judicial review of a denial under 5 ILCS 140/11 of FOIA.

Very truly yours,



Jeffrey Perconte

Enclosures

**FOIA Request: CPD NDA agreement**

Freddy [freddymartinez9@gmail.com]

Sent: Thursday, July 02, 2015 7:07 PM

To: FOIA

DUE 10 Jul  
REQ# 15-3781

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Greetings,

I am seeking under the Illinois Freedom of Information Act the following thread and similar documents. We had previously requested, and received under FOIA #15-0098 a email thread between Chicago Police Bureau of Organized Crime and the Federal Bureau of Investigations. (page 1-2) In it, it describes a "trial edition" of a new "platform" for use and testing.

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This request is for a non-commercial reason so I request all fees be waived if possible. I request that all correspondence be via email and that all documents be maintained with their original metadata.

Regards,  
Freddy Martinez  
freddymartinez9 AT gmail DOT com

**Re: FOIA Request: CPD NDA agreement**

Freddy Martinez [freddymartinez9@gmail.com]

**Sent:** Thursday, July 16, 2015 4:12 PM

**To:** FOIA

---

Hi

Yes that is correct. Given the NDA I would be willing to forgo the rest of the request.

Thanks

Freddy

On Thu, Jul 16, 2015 at 15:09 FOIA <[foia@chicagopolice.org](mailto:foia@chicagopolice.org)> wrote:

Mr. Martinez,

I wrote out the details and the dates for the responses. I hope that everything was correct. Can you please let me know about 15-3781? That is the FOIA concerning the NDA. We discussed two approaches, if you could let me know if you would be satisfied with the NDA for that FOIA it would help me to know where to concentrate.

Hope all is well. I should be at my desk between 0830 and 1200, then 1300 and 1630 barring any unforeseen issues. Or just reply via e-mail.

Regards,  
Vic Castillo

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From: Freddy [freddymartinez9@gmail.com]  
Sent: Tuesday, July 14, 2015 3:31 PM  
To: FOIA  
Subject: Re: FOIA Request: CPD NDA agreement

Hi Victor,

Can we confirm the dates we set for the FOIAs we discussed? I apologize I don't have the #'s in front of me but we discussed the CPIC checks, CPD NDA, PenLINK, and the Jonathan Lewin email search.

I believe July 31st was the latest date but I don't recall the breakdown per each FOIA.

Freddy Martinez

> On Fri, Jul 10, 2015 at 10:03 FOIA <[foia@chicagopolice.org](mailto:foia@chicagopolice.org)<<mailto:foia@chicagopolice.org>>>  
> wrote:  
> Mr. Martinez,  
>

> Please see the attached document which expresses the Chicago Police Department's exercise of the statutory extension of five business days allowable under the FOIA statute.

>

> Victor H. Castillo Jr.

> Office of Legal Affairs

> FOIA Section

> Chicago Police Department

>

> (Freddy, I think we were good on this anyway but I'm sending this letter so that I don't blow any timeline in the event that I misunderstood something. Talk to you Tuesday, have a nice weekend.)

>

>

> From: Freddy [[freddymartinez9@gmail.com](mailto:freddymartinez9@gmail.com)<<mailto:freddymartinez9@gmail.com>>]

> Sent: Thursday, July 02, 2015 7:07 PM

> To: FOIA

> Subject: FOIA Request: CPD NDA agreement

>

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> thread and similar documents. We had previously requested, and received  
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> This request is for a non-commercial reason so I request all fees be  
> waived if possible. I request that all correspondence be via email and  
> that all documents be maintained with their original metadata.

>

> Regards,

> Freddy Martinez

> freddymartinez9 AT gmail DOT com

>



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535-0001

October 14, 2011

Joseph Gorman  
Commander  
City of Chicago Police Department  
3510 South Michigan Avenue  
Chicago, IL 60653

Re: Purchase of Wireless Collection Equipment/Technology and Non-Disclosure Obligations

*LAW ENFORCEMENT SENSITIVE (LES): The information in this document is the property of the Federal Bureau of Investigation (FBI) and may be distributed within the Federal Government (and its contractors), U.S. intelligence, law enforcement, public safety or protection officials and individuals with a need to know. Distribution beyond these entities without FBI Operational Technology Division authorization is prohibited. Precautions should be taken to ensure this information is stored and/or destroyed in a manner that precludes unauthorized access. Information bearing the LES caveat may not be used in legal proceedings without first receiving authorization from the originating agency. Recipients are prohibited from subsequently posting the information marked LES on a website on an unclassified network.*

Dear Commander Gorman:

We have been advised by Harris Corporation of the City of Chicago Police Department's request to purchase certain wireless collection equipment/technology manufactured by Harris Corporation. Consistent with the conditions on the equipment authorization granted to Harris Corporation by the Federal Communications Commission (FCC), state and local law enforcement agencies must coordinate with the Federal Bureau of Investigation (FBI) to complete this non-disclosure agreement prior to the acquisition and use of the equipment/technology authorized by the FCC authorization.

As you are aware, law enforcement agencies increasingly rely on wireless collection equipment/technology to conduct lawfully-authorized electronic surveillance. Disclosing the existence of and the capabilities provided by such equipment/technology to the public would reveal sensitive technological capabilities possessed by the law enforcement community and may allow individuals who are the subject of investigation wherein this equipment/technology is used to employ countermeasures to avoid detection by law enforcement. This would not only potentially endanger the lives and physical safety of law enforcement officers and other



individuals, but also adversely impact criminal and national security investigations. That is, disclosure of this information could result in the FBI's inability to protect the public from terrorism and other criminal activity because, through public disclosures, this technology has been rendered essentially useless for future investigations. In order to ensure that such wireless collection equipment/technology continues to be available for use by the law enforcement community, the equipment/technology and any information related to its functions, operation, and use shall be protected from potential compromise by precluding disclosure of this information to the public in any manner including by not limited to: in press releases, in court documents, during judicial hearings, or during other public forums or proceedings. Accordingly, the City of Chicago Police Department agrees to the following conditions in connection with its purchase and use of the Harris Corporation equipment/technology:

1. The City of Chicago Police Department will ensure that operators of the equipment have met the operator training standards identified by the FBI and are certified to conduct operations.
2. The City of Chicago Police Department will coordinate with the FBI in advance of its use of the wireless collection equipment/technology to ensure de-confliction of respective missions.
3. The City of Chicago Police Department will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) to the public, including to any non-law enforcement individuals or agencies.
4. The City of Chicago Police Department will not distribute, disseminate, or otherwise disclose any information concerning the wireless collection equipment/technology or any software, operating manuals, or related technical documentation (including its technical/engineering description(s) and capabilities) provided to it any other law enforcement or government agency without the prior written approval of the FBI. Prior to any approved distribution, dissemination, or comparable disclosure of any information concerning the wireless collection equipment/technology or any software, manuals, or related technical documentation related to such equipment/technology, all materials shall be marked "Law Enforcement Sensitive, For Official Use Only - Not to be Disclosed Outside of the City of Chicago Police Department."
5. The City of Chicago Police Department shall not, in any civil or criminal proceeding, use or provide any information concerning the Harris Corporation wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology including, but not limited to, during pre-trial matters, in search warrants and related affidavits, in discovery, in response to court ordered disclosure, in other affidavits, in grand jury hearings, in the State's case-in-chief, rebuttal, or on appeal, or in testimony in any phase of civil or criminal trial, without the prior written approval of the FBI. If the

City of Chicago Police Department learns that a District Attorney, prosecutor, or a court is considering or intends to use or provide any information concerning the Harris Corporation wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities) beyond the evidentiary results obtained through the use of the equipment/technology in a manner that will cause law enforcement sensitive information relating to the technology to be made known to the public, the City of Chicago Police Department will immediately notify the FBI in order to allow sufficient time for the FBI to intervene to protect the equipment/technology and information from disclosure and potential compromise.

Notification shall be directed to the attention of:

Assistant Director  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod A  
Quantico, Virginia 22135  
(703) 985-6100

and

Unit Chief  
Tracking Technology Unit  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod B  
Quantico, Virginia 22135  
[REDACTED]

In addition, the City of Chicago Police Department will, at the request of the FBI, seek dismissal of the case in lieu of using or providing, or allowing others to use or provide, any information concerning the Harris Corporation wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (beyond the evidentiary results obtained through the use of the equipment/technology), if using or providing such information would potentially or actually compromise the equipment/technology.

6. A copy of any court order in any proceeding in which the City of Chicago Police Department is a party directing disclosure of information concerning the Harris Corporation equipment/technology and any associated software, operating manuals, or related documentation (including its technical/engineering description(s) and capabilities) will immediately be provided to the FBI in order to allow sufficient time for the FBI to



intervene to protect the equipment/technology and information from disclosure and potential compromise. Any such court orders shall be directed to the attention of:

Assistant Director  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod A  
Quantico, Virginia 22135  
(703) 985-6100


and

Unit Chief  
Tracking Technology Unit  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod B  
Quantico, Virginia 22135  
[REDACTED]

7. The City of Chicago Police Department will not publicize its purchase or use of the Harris Corporation equipment/technology or any of the capabilities afforded by such equipment/technology to the public, other law enforcement agencies, or other government agencies, including, but not limited to, in any news or press releases, interviews, or direct or indirect statements to the media.
8. In the event that the City of Chicago Police Department receives a request pursuant to the Freedom of Information Act (5 U.S.C. § 552) or an equivalent state or local law, the civil or criminal discovery process, or other judicial, legislative, or administrative process, to disclose information concerning the Harris Corporation wireless collection equipment/technology, its associated software, operating manuals, and any related documentation (including its technical/engineering description(s) and capabilities), the City of Chicago Police Department will immediately notify the FBI of any such request telephonically and in writing in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels. Notification shall be directed to the attention of:

Assistant Director  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod A  
Quantico, Virginia 22135  
(703) 985-6100

and

Unit Chief  
Tracking Technology Unit  
Operational Technology Division  
Federal Bureau of Investigation  
Engineering Research Facility  
Building 27958A, Pod B  
Quantico, Virginia 22135  


The City of Chicago Police Department's acceptance of the above conditions shall be evidenced by the signatures below of an authorized representative and wireless collection equipment operators of the City of Chicago Police Department.

Sincerely,



Robert D. Grant  
Special Agent in Charge  
Chicago Division  
Federal Bureau of Investigation

Acknowledged and agreed to this 15 day of November, 2011.



Joseph Gorman  
Commander  
City of Chicago Police Dept.  
Chicago, IL



James Washburn  
Sergeant



Walter Smith  
Detective



Ronald Bonadurer  
Tech/Organized Crime



Tony Green  
Tech/Organized Crime



David Heppner  
Tech/Organized Crime



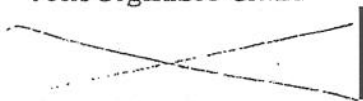
Emile Maccane  
Tech/Organized Crime



Frederick Black  
Tech/Organized Crime



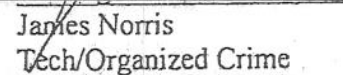
Brian Bresocnik  
Tech/Organized Crime



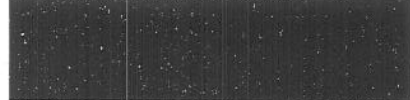
Jonathon Davis  
Tech/Organized Crime



Brian Roney  
Tech/Organized Crime



James Norris  
Tech/Organized Crime



David Dombkowski  
Police Officer/Org. Crime



Vincent Osuna  
Police Officer/Org. Crime



Christopher Paterno  
Police Officer/Org. Crime