



January 4, 2018

Via Electronic Mail

Nelson D. Hermilla
Chief, FOIA/PA Branch
BICN Bldg., Room 3234
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Email: CRT.FOIArequests@usdoj.gov

RE: Freedom of Information Act Request

Dear Mr. Hermilla:

On behalf of the American Civil Liberties Union and American Civil Liberties Union Foundation, The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund, and the NAACP Legal Defense and Educational Fund, Inc. (LDF), we request the inspection and copying of certain public records under the Freedom of Information Act, 5 U.S.C. §552, concerning activities undertaken by the U.S. Department of Justice (DOJ) Civil Rights Division to investigate law enforcement agencies (LEA) or officers pursuant to the Attorney General's authority under 34 U.S.C. §12601¹ (Section 12601) and 18 U.S.C. §242. Unless otherwise indicated, this request is for information for the period beginning on January 1, 2017, to the present.

Please be advised that "document" means notes, reports, memoranda, letters, correspondence, recordings or any writing of any kind whatsoever, e-mail messages and correspondence, drawings, graphs, charts, photographs, tape recordings, video footage, diaries, appointment books, calendars, telephone records, telephone messages, computer records and any other data from which information can be obtained including originals, non-identical copies, and drafts.

We request the following categories of information:

1. Any and all documents containing information, policies, guidance, opinions, directives, or memoranda resulting from DOJ's review of existing or

¹ Originally codified at 42 U.S.C. §14141.

contemplated consent decrees or reform agreements pursuant to the Attorney General's memorandum on March 31, 2017.²

2. Any and all documents, including policies, records, or reports, containing information on, describing, referring to, or revealing the staffing and funding levels for the Civil Rights Division, particularly the special litigation and criminal sections.
3. Any and all documents, including policies, records, or reports, containing information on, describing, referring to, or revealing how the Civil Rights Division works with U.S. Attorneys' Offices, federal agencies, and outside entities or consultants to conduct investigations of LEAs or individual officers.
4. Any and all documents pertaining to any modification to DOJ policies, practices, processes, regulations, guidelines, or materials governing inquiries into or investigations of LEAs for potential pattern or practice violations under Section 12601, including, but not limited to, anything governing:
 - i. the pre-investigative stage, including preliminary inquiries, examinations, reviews, or research of LEAs;
 - ii. prioritization of preliminary inquiries or investigations of LEAs;
 - iii. the decision to initiate or close a preliminary inquiry or investigation of an LEA;
 - iv. legal interpretations of when a violation of the Constitution or federal laws is established or when there is reasonable cause to believe a violation of the Constitution or federal laws has occurred;
 - v. the nature of federal intervention when there is reasonable cause to believe an LEA has violated the Constitution or federal laws under Section 12601; and
 - vi. which DOJ employees, staff, or components are authorized to initiate, approve, or end a preliminary inquiry, investigation, or enforcement action (e.g. civil lawsuit, reform agreement) under Section 12601.

² Memorandum from Jeff Sessions, Attorney General, U.S. Department of Justice, to Heads of Department Components and U.S. Attorneys, March 31, 2017, <https://www.documentcloud.org/documents/3535148-Consentdecreebaltimore.html>.

5. Any and all documents pertaining to any modification to DOJ policies, practices, processes, guidelines, regulations, or materials governing consent decrees or reform agreements with LEAs or local governments, including, but not limited to anything governing:
 - i. the decision to enter into a reform agreement or consent decree;
 - ii. which DOJ employees, staff, or components are authorized to approve or decide whether to enter into a reform agreement or consent decree;
 - iii. the process for negotiating reform agreements or consent decrees;
 - iv. the structure of reform agreements, consent decrees, or reform models;
 - v. the substantive components of reform agreements or consent decrees;
 - vi. outcome measures used to assess progress under reform agreements or consent decrees; and
 - vii. the selection and appointment of independent monitoring teams.
6. Any and all correspondence, including letters, emails, and attachments, between DOJ and law enforcement, city, or county personnel or officials involved in existing reform agreements or consent decrees.
7. Any and all correspondence, including letters, emails, and attachments, between DOJ and representatives of police labor organizations, membership-based police organizations, or any other professional associations of current or former police officers that concerns reform agreements or consent decrees.
8. Any and all documents with information indicating the number of preliminary inquiries and investigations of LEAs opened, initiated, or given a case or other tracking number by the Civil Rights Division between January 1, 2016, and the present, the date each case was opened or initiated, the identity of each LEA that is the subject of the preliminary inquiry or investigation, and the reasons for the preliminary inquiry or investigation (e.g., racial bias, excessive force (including sexual assault), First Amendment violations).
9. Any and all documents pertaining to any preliminary inquiry or investigation of an LEA that was closed between January 1, 2016, and the present, including, but not limited to, information regarding the number of preliminary inquiries or investigations that have been closed, the date each case was closed, the identity of each LEA that was the subject of the preliminary inquiry or investigation, the reasons for the preliminary inquiry or investigation, and the reasons the case was closed.

10. Any and all documents pertaining to any inquiry, examination, or review of an LEA undertaken by the Civil Rights Division that resulted in a decision between January 1, 2016, and the present to not open an investigation, including, but not limited to, information regarding the date of the decision, the identity of the LEA that was being reviewed, the reasons for the inquiry, and the reasons for the decision to not open the investigation. These requests include all recommendation memoranda, including, but not limited to, "J memos" or "S10 memos."
11. Any and all documents with information indicating the number of decisions between January 1, 2016, and the present to not open an investigation of an LEA after a recommendation for an investigation by one or more DOJ career employees, including information regarding the date of the decision, the identity of each LEA that was the subject of the inquiry, the reasons for the recommendation, and the reasons for the decision to not open the investigation.
12. Any and all documents indicating the number of justification memos (including "J memos" and "S 10 memos") supporting a recommendation made between January 1, 2016, and the present for an enforcement action against an LEA for a pattern or practice violation, the date of the recommendation, the identity of each LEA that is the subject of the justification memo, the reason for the recommended enforcement action, information regarding whether the recommendation was adopted, and information regarding why the recommendation was or was not adopted.
13. Any and all documents indicating the number of individual or multi-party complaints, allegations, or reports of misconduct that have been received by the Civil Rights Division for potential pattern or practice violations by an LEA between January 1, 2016, and the present, including information on the identity of the LEA that is the subject of each complaint, the date the complaint was received, and the reason for the complaint. This request includes information captured in the Citizen Complaint Tracking System, controlled correspondence, and any other communication.
14. Any and all documents pertaining to complaints, allegations, reports, or referrals that have been received by the Civil Rights Division for potential pattern or practice violations by an LEA between January 1, 2016, and the present, that were obtained from other agencies or components of DOJ, such as U.S. Attorneys' Offices, the Office of Justice Programs, or the Federal Bureau of Investigation.

15. Any and all documents pertaining to complaints, allegations, reports, or referrals received by the Civil Rights Division for potential pattern or practice violations by an LEA between January 1, 2016, and the present, that were submitted by a federal, state, or local public official.
16. Any and all documents indicating the number of preliminary inquiries and investigations that have been opened between January 1, 2016, and the present by the Civil Rights Division, or other components of DOJ (e.g. U.S. Attorney's offices) in consultation with the Civil Rights Division, pursuant to 18 U.S.C. §242 against law enforcement officers.
17. Any and all documents indicating the number of recommendations made by career staff of the Civil Rights Division, or by other components of DOJ, between January 1, 2016, and the present to prosecute a law enforcement officer pursuant to 18 U.S.C. §242 and information on whether or not that recommendation was adopted.
18. Any and all documents pertaining to the number of individual or multi-party complaints, allegations, reports, or referrals that have been received by the Civil Rights Division between January 1, 2016, and the present against law enforcement officers for potential violations of 18 U.S.C. §242.

We seek your response no later than 20 business days after receipt of this request. If necessary, please provide the information on a rolling basis.

Additionally, if possible, please provide the requested information in an electronic format that is searchable and analyzable. Please also provide any individual computer records or scanned documents in a searchable format such as Microsoft Word or searchable Adobe Acrobat pdf. and any data and statistical information in a format that is searchable and analyzable, such as a txt. or .csv file or an excel spreadsheet. Documents and data extracts should include necessary variable definitions and descriptions to facilitate understanding and analysis.

We request the entire record containing the responsive information. Accordingly, we seek each document in its entirety; please do not redact portions of any record as "non-responsive" or "out of scope."

If it is your position that responsive records exist, but those records or portions of those records are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. Please provide the nonexempt portions of the records.

Request for Waiver or Limitation of Fees

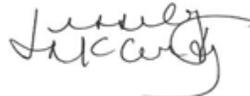
We respectfully request a waiver of all fees associated with this request, because we are 501(c)(3) non-profit organizations, do not seek the records for a commercial purpose, and disclosure of the records is in the public interest as it will contribute significantly to the public's understanding of changes to policy and enforcement by the Civil Rights Division. If the Civil Rights Division declines our request for a waiver, we agree to pay the \$25 FOIA processing fee, and request an invoice detailing additional reasonable standard charges prior to fulfilling this request.

Please do not hesitate to contact Sonia Gill Hernandez, Policy Counsel, Policing Reform Campaign at LDF, at sgill@naacpldf.org or 202-682-1300 with any questions regarding this request.

Sincerely yours,



Kristine Lucius
Executive Vice President
The Leadership Conference on Civil and
Human Rights and The Leadership
Conference Education Fund



Jesselyn McCurdy
Deputy Director
Washington Legislative Office
American Civil Liberties Union and
American Civil Liberties Union
Foundation



Sonia Gill Hernandez
Policy Counsel
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