

January 9, 2018

Via First Class and Electronic Mail

Melanie Ann Pustay, Director
Office of Information Policy
U.S. Department of Justice
1425 New York Avenue, NW, Suite 11050
Washington, DC 20530-0001

Re: **Freedom of Information Act Appeal of COPS 2017-FOI-073**

Dear Director Pustay:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF) and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(6), we submit this appeal of the above-captioned partial denial of LDF's FOIA request to the U.S. Department of Justice Office of Community Oriented Policing Services (COPS Office or Office). LDF's request seeks access to five categories of records relating to funding and technical assistance provided by the COPS Office to the North Charleston, South Carolina Police Department (NCPD). The COPS Office provided 62 pages that responded to items 1, 2 and 3 of the FOIA request, and is withholding 331 pages, in their entirety, which are responsive to items 2 and 3 arguing that they are protected by the deliberative process privilege. Additionally, the Office claims there are no records responsive to items 4 and 5.

LDF challenges the denial of the 331 documents responsive to items 2 and 3 of our FOIA request, which seeks documents pertaining to the COPS Office's provision of technical assistance, including its comprehensive assessment of NCPD policies and practices, because (1) the deliberative process privilege generally does not shield from disclosure documents that contain purely factual information or factual portions of deliberative documents; (2) documents responsive to item 3 do not fall within the privilege because they are not inter- or intra- agency records, and (3) even if the privilege applies to some of the withheld documents, the COPS Office must partially or fully disclose them because there is no reasonably foreseeable harm to an interest protected by the deliberative privilege. Additionally, LDF challenges the COPS Office's determination that it does not have documents responsive to items 4 and 5 of the FOIA request, seeking information exchanged between the COPS Office and North Charleston elected officials regarding the NCPD assessment, because there is evidence that the Office failed to conduct a reasonable search of its records.

We respectfully urge you to require the COPS Office to release the withheld documents for the reasons stated below. We further request that you require the COPS Office to conduct a reasonable search of its records and disclose responsive documents.

I. Factual Background.

On April 4, 2015, a bystander's video recorded former North Charleston police officer Michael Slager, who is White, fatally shooting 50-year-old Walter Scott, an unarmed Black man, in the back as he ran away during a routine traffic stop. State and federal officials responded by bringing criminal charges against Officer Slager, who was immediately fired from the police force. One year later, Mr. Slager pled guilty to federal charges and received a sentence of 20 years of imprisonment from a federal judge.¹ Believing that Mr. Scott's police-involved death was only one example of racially-biased policing practices by the NCPD, in July 2015, LDF and over two dozen North Charleston leaders submitted a letter to then-U.S. Attorney General Loretta Lynch requesting that the U.S. Department of Justice (DOJ) open a civil rights investigation of NCPD.² In that letter, we documented incidents of alleged misconduct of NCPD officers, including excessive use of force, unconstitutional stops and arrests and racial disparities in policing practices.

In response to mounting public pressure from residents, in April 2016, North Charleston Mayor Keith Summey and Police Chief Eddie Driggers sent a letter to the COPS Office requesting technical assistance with building police-community trust in the aftermath of Walter Scott's death.³ The COPS Office approved this request and entered into a Memorandum of Agreement with North Charleston elected officials to provide services through its Collaborative Reform Initiative for Technical Assistance.⁴ The expected work product of the voluntary process was a series of findings and recommendations in the form of publicly-released written reports, based on information assembled from "subject matter experts, interviews, analysis of departmental data, surveys, community forums, and direct observations."⁵ While collaborative, the process was also "an objective and independent means to institute long-term reform in a way that is transparent to all community stakeholders."⁶

As the COPS Office conducted its assessment of the NCPD, LDF and North Charleston residents and civic organizations communicated periodically with representatives of the Office to provide information about policing practices and to stay apprised of progress; this ongoing dialogue included communication with representatives of the Police Foundation, which served as

¹ Alan Blinder, *Michael Slager, Officer in Walter Scott Shooting, Gets 20-Year Sentence*, The New York Times, Dec. 7, 2017, <https://www.nytimes.com/2017/12/07/us/michael-slager-sentence-walter-scott.html>.

² Letter from Sherrilyn Ifill, President and Director Counsel, LDF, *et al* to Loretta Lynch, U.S. Attorney General, July 13, 2015, <http://www.naacpldf.org/files/about-us/NAACP%20LDF%20et%20al%20Letter%20to%20Attorney%20General%20Lynch%20re%20N.%20Charleston%20-%20FINAL%20UPDATED.pdf>

³ *See*, Letter from R. Keith Summey, Mayor and Eddie Driggers, Chief of Police, North Charleston to Tawana Elliott, Sr. Program Specialist, COPS Office, dated Apr. 21, 2016. [Attachment 1]

⁴ Memorandum of Agreement between U.S. Dep't of Justice, Office of Community-Oriented Policing Services and North Charleston Police Dep't for Collaborative Reform Initiative for Technical Assistance (MOA) (Sept. 20, 2016). [Attachment 2]

⁵ *Id.*

⁶ *Id.*

a consultant to the COPS Office.⁷ In July 2017, LDF and North Charleston community leaders sent a letter to the COPS Office requesting the status of the assessment after there had been no contact with the Office for months.⁸ We did not receive a response. North Charleston Mayor Summey also requested the status of the assessment in a letter to the COPS Office, dated August 9, 2017.⁹

On August 24, 2017, LDF submitted a FOIA request to the COPS Office seeking five categories of documents relating to the collaborative reform assessment of the NCPD.¹⁰ The Office acknowledged receipt of our request on August 28, 2017.¹¹ As we awaited a final response, the U.S. Attorney General announced on September 15, 2017, that the COPS Office's Collaborative Reform Initiative for Technical Assistance would no longer conduct comprehensive assessments of law enforcement agencies, but he did not state whether the agency would complete pending, long-awaited assessments.¹²

On September 22, 2017, the COPS Office provided an interim response to LDF's FOIA request by releasing 58 documents in response to Item 1 concerning information about grants from the Office to the NCPD.¹³ After reviewing additional documents that would respond to items 2 through 5 of our request, the COPS Office sent a final response on October 11, 2017, releasing three additional pages and stating that the COPS Office is withholding 331 pages of documents, in their entirety, which are responsive to items 2 and 3 pursuant to Exemption 5 of FOIA, 5, U.S.C. § 552(b)(5), which prohibits disclosure of certain inter-agency and intra-agency communications protected by the deliberative process privilege.¹⁴ It stated further that the withheld documents were inappropriate for discretionary disclosure. The COPS Office asserted it does not have documents responsive to Items 4 and 5 of our request, and informed LDF that we could appeal the

⁷ Dominic Holden, *The Justice Department is Now Neglecting Police Departments It Agreed to Help*, BuzzFeed, News, Aug. 30, 2017 (stating that the Justice Department hired Police Foundation to conduct the review and write the assessment), https://www.buzzfeed.com/dominicholden/doj-and-police-reforms?utm_term=.edYzwKJZLP#.itY61wk5Ym.

⁸ Letter from Sherrilyn Ifill, President and Director Counsel, LDF, *et al.* to Russ Washington, Acting Director, COPS Office, July 13, 2017, <http://www.naacpldf.org/files/about-us/NAACP%20LDF%20and%20North%20Charleston%20Leaders%20Letter%20to%20COPS%20Office%20-%20FINAL%207.2017.0.pdf>

⁹ See, Dustin Waters, *The slow death of the North Charleston Police Department federal review*, Charleston City Paper, Oct. 20, 2017, <https://www.charlestoncitypaper.com/charleston/the-slow-death-of-the-north-charleston-police-departments-federal-review/Content?oid=12114081>.

¹⁰ Letter from Monique Dixon *et al.*, LDF, to Russell Washington, Acting Director, COPS Office, U.S. Dep't of Justice (Aug. 24, 2017), [Attachment 3].

¹¹ Letter from Chaun Eason, FOIA Officer, COPS Office, U.S. Dep't of Justice, to Monique Dixon, LDF (Aug. 28, 2017), [Attachment 4].

¹² Press Release, *Department of Justice Announces Changes to the Collaborative Reform Initiative*, Office of Public Affairs, U.S. Department of Justice, Sept. 15, 2017, <https://www.justice.gov/opa/pr/departments-justice-announces-changes-collaborative-reform-initiative>.

¹³ Letter from Chaun Eason, FOIA Officer, COPS Office, U.S. Dep't of Justice, to Monique Dixon, LDF (Sept. 22, 2017), [Attachment 5].

¹⁴ Letter from Chaun Eason, FOIA Officer, COPS Office, U.S. Dep't of Justice, to Monique Dixon, LDF (Oct. 11, 2017), [Attachment 6].

final response within 90 days. We now submit this appeal to object to the partial denial of our FOIA request.

II. The Deliberative Process Privilege Does Not Protect from Disclosure Documents Responsive to Items 2 and 3.

FOIA requires disclosure of federal agency records upon request, unless the documents are exempt from disclosure.¹⁵ The nine categories of exemption under FOIA “do not obscure the basic policy that disclosure, not secrecy, is the dominant objective of the Act,” and therefore the exemptions must be narrowly interpreted.¹⁶ The presumption of disclosure ensures that citizens are able to discover “what their government is up to.”¹⁷ FOIA further requires that even records that fall within an exemption must be disclosed, unless it is reasonably foreseeable that disclosure would harm an interest protected by the exemption.¹⁸ The burden ultimately lies with the agency to show that information may be withheld under FOIA,¹⁹ and in so doing, the agency cannot support its determination with conclusory and generalized allegations of exemptions.²⁰

At issue here, Exemption 5 of FOIA protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency...”²¹ To be exempt, the documents must be inter- or intra-agency documents and normally protected by a privilege in the civil discovery context, which includes the deliberative process privilege.²² In addition to the threshold requirement that the documents be inter-agency or intra-agency, the test for whether the deliberative process privilege shields documents from disclosure requires that the documents be (1) “pre-decisional,” created before the adoption of an agency policy, and (2) “deliberative,” meaning they “reflect personal opinions of the writer” or “the give-and-take of the consultative process by which the decision itself is made.”²³ However, “purely factual material contained in deliberative memoranda and severable from its context would

¹⁵ *Dep’t of the Interior and Bur. Of Indian Affairs v. Klamath Water Users Protective Assoc.*, 532 U.S. 1, 7 (2001).

¹⁶ *Id.* at 8. The nine exemptions protect federal agency communications that are 1) classified; 2) solely related to the internal personnel rules and practices of the agency; 3) specifically exempted from disclosure by statute; 4) trade secrets; 5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency; 6) personnel and medical files of which disclosure would constitute an unwarranted invasion of privacy; 7) records or information compiled for law enforcement purposes; 8) related to regulators or supervisors of financial institutions; and 9) geographical information and data concerning wells. *See* FOIA, 5 U.S.C. § 552(b)(1)-(9).

¹⁷ *100Reporters v. U.S. Dep’t of Justice*, 248 F.Supp.3d 115, 131 (D.D.C. 2017)

¹⁸ FOIA, 5 U.S.C. § 552(a)(8)(A).

¹⁹ FOIA, 5 U.S.C. § 552(a)(4)(B) (“On complaint...the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.”) (emphasis added); *see also* *100 Reporters*, 248 F.Supp.3d at 132.

²⁰ *See 100Reporters*, 248 F.Supp.3d at 132-33 (internal citations and quotation marks omitted).

²¹ FOIA, 5 U.S.C. § 552(b)(5).

²² *See Klamath Water Users Protective Assoc.*, 532 U.S. at 8; *See also, Citizens for Responsibility and Ethics in Washington v. DHS*, 648 F. Supp. 2d 152, 156 (D.D.C. 2008).

²³ *Coastal States Gas Corp. v. Dep’t. of Energy*, 617 F.2d 854, 866 (1980).

generally ...” not fall within the deliberative process privilege under Exemption 5 of FOIA,²⁴ agencies are required to consider whether partial disclosure of information is possible and take reasonable steps to segregate and release nonexempt information.²⁵

Applying this standard to the facts of this appeal, items 2 and 3 of LDF’s FOIA request seeks the following categories of documents:

2. Any and all documents, including but not limited to data, statistical information and analyses, emails, memoranda, policies, draft documents, and/or correspondence transmitted, electronically or otherwise, between the COPS Office and Police Foundation or other consultants regarding the Collaborative Reform Initiative for Technical Assistance with NCPD (Collaborative Reform Initiative), which the COPS Office began in or about May 2016.
3. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents, and/or correspondence transmitted, electronically or otherwise, between the COPS Office or its consultants and NCPD concerning: ... [NCPD use of force and de-escalation policies, practices, and training; information about pedestrian and traffic stops; policies and procedures and training to address biased policing; community-policing policies and plans; patterns and trends in citizen complaints against NCPD personnel; and policies and practices concerning recruitment, hiring and promotions of officers].²⁶

The COPS Office is withholding 331 pages that are responsive to items 2 and 3 of LDF’s FOIA request claiming that these documents, in their entirety, are inter-agency and intra-agency communications protected by deliberative process privilege under Exemption 5 of FOIA. The Office does not explain in its final response why the withheld documents fall within the privilege. Nonetheless, we challenge its determination on the basis that (a) at least some documents responsive to items 2 and 3 are not deliberative because they are purely factual in nature; and (b) documents responsive to item 3 are not protected by the privilege because they are not inter-agency or intra-agency records.

A. The COPS Office Must Fully or Partially Release Documents Responsive to Items 2 and 3 that Include Factual Information

It is well settled that purely factual information, or factual portions of deliberative documents, are not protected by the deliberative process privilege, because this material would generally be available to a private party in litigation.²⁷ Courts have found that FOIA requests for

²⁴ *EPA v. Mink*, 410 U.S. 73, 87-91 (1973).

²⁵ FOIA, 5 U.S.C. § 552(a)(8)(A).

²⁶ See, *supra* note 10, Attachment 3 for the full text of the FOIA request.

²⁷ See, e.g., *Citizens for Responsibility and Ethics in Washington*, 648 F. Supp.2d at 156.

factual information contained in emails,²⁸ policies,²⁹ and statistical reports,³⁰ were not covered by the privilege and ordered them to be released to the requester.

LDF has reason to believe that at least some of the documents responsive to items 2 and 3 of the FOIA request contain factual information that is easily segregable from any deliberative documents. Previous publicly-released assessments conducted by the COPS Office as part of the Collaborative Reform Initiative contain sections that include only factual background information about the police department that was being evaluated. For example, an assessment of the St. Louis County Police Department conducted by the Police Foundation for the COPS Office includes several chapters that include purely factual information about the demographics of the police department and the community, background information about the police department's training and recruitment practices, and statistics based on police data, among other things.³¹

We also have reason to believe that a draft assessment similar to the St. Louis County Police Department or related documents exist, based on news report that confirmed a draft report was under consideration by the COPS Office.³² Moreover, the COPS Office cannot reasonably contend that disclosure of the factual content would reveal deliberative processes of the COPS Office, because, until recently, the COPS Office has been open and transparent about the Collaborative Reform Initiative process,³³ and, in particular, transparent about the review, analysis, and goals of the Collaborative Reform Initiative agreement with NCPD.³⁴

²⁸ *Id.* at 159 (concluding that emails from the Custom and Border Protection stating the date and purpose of a meeting was “almost entirely factual and therefore is not properly withheld under Exemption 5’s deliberative process privilege).

²⁹ *See, e.g., Coastal States Gas Corp.*, 617 F.2d at 870 (memoranda interpreting regulations within context of particular facts for the purpose of compliance review were not exempt under the deliberative process privilege of Exemption 5 because memoranda were unlikely to contain anything that was not discussed with the company being audited.).

³⁰ *See, e.g., Pacific Molasses Co., v. Nat’l Labor Relations Bd*, 577 F.2d 1172, 1183 (5th Cir. 1978) (concluding that deliberative process privilege did not apply to purely factual “mechanically compiled statistical report”).

³¹ Blake Norton, et al, *An Assessment of the St. Louis County Police Department*, 15-17 and 25, Collaborative Reform Initiative, Office of Community Oriented Policing Services (2015), <https://www.policefoundation.org/publication/collaborative-reform-initiative-an-assessment-of-the-st-louis-county-police-department/>.

³² *See, e.g., Dominic Holden, The Justice Department is Now Neglecting Police Departments It Agreed to Help*, BuzzFeed, News, Aug. 30, 2017 (stating that the Police Foundation’s Vice President, Blake Norton, commented that the organization delivered a draft report of the NCPD assessment to the COPS Office), https://www.buzzfeed.com/dominicholden/doj-and-police-reforms?utm_term=.edYzwKJZLP#.itY61wk5Ym.

³³ *See, e.g., Office of Community Oriented Policing Services, U.S. Department of Justice, The Collaborative Reform Initiative Process, Experiences of Selected Sites, 2017*, <https://ric-zai-inc.com/Publications/cops-w0835-pub.pdf>.

³⁴ *See, e.g., Office of Community Oriented Policing Services, U.S. Department of Justice, Goal and Objectives Statement for the Collaborative Reform Initiative for Technical Assistance with the North Charleston Police Department*, https://cops.usdoj.gov/pdf/crita/crita_goal_and_objectives_ncpd.pdf. *See also*, Memorandum of Agreement between U.S. Dep’t of Justice, Office of Community-Oriented Policing Services and North Charleston Police Dep’t for Collaborative Reform Initiative for Technical Assistance (Sept. 20, 2016). [Attachment 2]

B. Documents Responsive to Item 3 of the FOIA Request Are Not Inter- or Intra-Agency Documents Protected by the Deliberative Process Privilege

With respect to item 3, the COPS Office cannot argue convincingly that any documents received by it or its consultant from the NCPD are intra- or inter-agency documents under Exemption 5. FOIA defines “agency” as:

each authority of the Government of the U.S., . . . and includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.³⁵

Based on the plain language of FOIA, the NCPD is not a part of the federal government. Therefore, any documents provided to the COPS Office by the NCPD are not inter-agency or intra-agency documents³⁶ and should be released.

Also, the Office cannot argue credibly that the NCPD served as a consultant to the collaborative process, rendering any documents received from the NCPD to fall within Exemption 5. In the FOIA context, courts have concluded that consultants hired by federal agencies typically do not represent their own interest when they advise the agency; rather, they have similar functions to an employee, which is why consultant documents are considered intra or inter-agency for the purposes of Exemption 5.³⁷ While the assessment was collaborative, the Memorandum of Agreement between the COPS Office and NCPD clearly states that the process was “an objective and independent means to institute long-term reform . . . ,” and it did not “preclude any future investigation into the patterns and practices of the [NCPD] by the DOJ Civil Rights Division.”³⁸ Thus, the position and interest of NCPD was very different from those of a paid consultant of the COPS Office. The NCPD would have representing its own interest—and presumably trying to avoid additional investigations by the federal government— if it provided documents to the agency. It was not a consultant, and therefore documents provided by NCPD at the request of the COPS Office are not intra or inter-agency or protected by Exemption 5.³⁹

Nor is it tenable for the COPS Office to argue that the documents are protected by the common interest doctrine, which may protect documents the COPS Office has shared with an outside part it is pursuing a shared interest with. The common interest doctrine only extends protection to privileged documents exchanged with a non-agency party if a shared legal interest

³⁵ FOIA, 5 U.S.C §§ 551(1) and 552(f)(1).

³⁶ *Dep't of the Interior and Bur. Of Indian Affairs*, 532 U.S. 1, 8-9 (explaining that Exemption 5 protects documents that are generated by a U.S. Government agency).

³⁷ *Id.* at 9-10 (explaining that courts have extended Exemption 5 to communications between government agencies and outside consultants hired by them).

³⁸ MOA, *supra* note 4, at 1 and 3.

³⁹ *See, e.g., Dep't of the Interior and Bur. Of Indian Affairs*, 532 U.S. at 11-16 (holding that FOIA Exemption 5 did not protect from disclosure documents submitted by Indian tribes at the request of the Department of Interior during administrative and adjudicative proceedings in which the tribes had a direct interest).

exists.⁴⁰ There is clearly no shared legal interest at issue between the COPS Office and NCPD that qualifies for protection under the common interest doctrine.⁴¹

III. There is no Reasonably Foreseeable Harm That Would Result from the Disclosure of Exempted Documents Responsive to Items 2 and 3 and Partial Disclosure of these Documents is Warranted

The COPS Office may only withhold information subject to an exemption if the agency “reasonably foresees that disclosure would harm an interest protected by an exemption . . .”⁴² The Office has not met this standard with respect to Items 2 and 3 of our request.

In general, the deliberative process privilege is intended to protect the quality of agency decisions.⁴³ Courts have subdivided this principle into three well-established purposes: (i) to encourage open, frank discussion, (ii) to protect against premature disclosure of proposed policies, and (iii) to guard against public confusion from the disclosure of reasons and rationales that were not ultimately the basis for agency decisions.⁴⁴ None of these considerations support withholding documents responsive to Items 2 and 3. Disclosure of these documents would not harm the COPS Office’s ability to engage in open discussions during any specific deliberative process because the COPS Office has ended the program to which our FOIA request pertains. Indeed, the final response to our FOIA states, “[c]onsistent with the Attorney General’s commitment to respecting local law enforcement control and accountability, the COPS Office will no longer be issuing Collaborative Reform assessment reports.”⁴⁵ Because there is no foreseeable continuing process of agency decision-making for this now-defunct service, there is no risk posed to future open and frank deliberations under Principle (i). Principles (ii) and (iii) above are not implicated either, since there is no expectation of a future agency policy or decision on comprehensive assessments offered to law enforcement agencies by the COPS Office.

Additionally, the COPS Office’s decision to withhold in its entirety over 300 documents that are responsive to items 2 and 3 of LDF’s FOIA suggests that it has failed to consider whether any partial disclosure of information is possible and to “take reasonable steps necessary to segregate and release nonexempt information.”⁴⁶ Where requested information is subject to a FOIA exemption, the COPS Office is required to provide any reasonably segregable portion of the record.⁴⁷ As explained above in Section IIA, we have reason to believe that disclosable, factual information exists, and, accordingly, the COPS Office has a duty to take affirmative steps to segregate and release this information.

⁴⁰ See *Hunton & Williams v. U.S. Dep’t of Justice*, 590 F.3d 272, 277 (4th Cir. 2010).

⁴¹ See *id.*

⁴² 5 U.S.C. §552(a)(8)(A)(i)(I).

⁴³ *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975).

⁴⁴ See *Coastal States Gas*, 617 F.2d at 866.

⁴⁵ See Letter from Chaun Eason, *supra* note 10.

⁴⁶ 5 U.S.C. §552(a)(8)(A)(ii).

⁴⁷ 5 U.S.C. §552(b).

IV. The COPS Office failed to conduct a reasonable search for requested documents

In its final response to LDF's FOIA, the COPS Office stated that it did not have records responsive to items 4 and 5 of LDF's request, which follows:

4. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents and/or correspondence transmitted, electronically or otherwise, between the COPS Office and the Office of the Mayor of North Charleston, South Carolina.
5. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents and/or correspondence transmitted, electronically or otherwise, between the COPS Office and any members of the North Charleston City Council.

An agency responding to a FOIA request must use good-faith to conduct a search reasonably calculated to uncover the relevant documents.⁴⁸ LDF is aware of one document that is responsive to item 4 that the COPS Office did not disclose. Specifically, in response to its FOIA request to the COPS Office, The Post and Courier newspaper received a letter, dated April 21, 2016, from North Charleston Mayor Summey and Police Chief Driggers to the COPS Office requesting technical assistance.⁴⁹ The COPS Office's failure to provide this document to LDF undermines our confidence in the diligence of its search efforts. Accordingly, we urge you to require the COPS Office to conduct another search for documents that are responsive to items 4 and 5 of LDF's FOIA request.

IV. Conclusion

Succumbing to public demands for policing reforms, North Charleston's Mayor and Police Chief asked the COPS Office to conduct a comprehensive and independent assessment of the NCPD's policing practices with the goal of improving community-police relations in the aftermath of the police-involved killing of Walter Scott. The COPS Office committed to providing this technical assistance. North Charleston residents cooperated with the process and have been waiting over one year for the outcome. Now, the COPS Office seeks to withhold crucial information gathered by the COPS Office that would help residents understand and address alleged racially-biased policing practices.

For the reasons stated above, we urge you to assist us with realizing the goal of FOIA – to provide members of the public with information that uncovers “what their government is up to” – by concluding that the COPS Office must release additional documents responsive to items 2 and 3 of LDF's FOIA request, and conduct a reasonable search for documents that are responsive to items 4 and 5.

⁴⁸ *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990).

⁴⁹ See *supra* note 3.

Thank you for considering this appeal. We look forward to receiving a final determination with respect to this appeal within 20 business days after receipt.⁵⁰ Please do not hesitate to contact Monique L. Dixon or Sonia Gill Hernandez at 202-682-1300 with any questions or concerns.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Todd A. Cox".

Todd A. Cox
Director of Policy

Monique Dixon
Deputy Director of Policy & Senior
Counsel

Sonia Gill Hernandez
Policy Counsel, Policing Reform
Campaign

⁵⁰ See, FOIA, 5 U.S.C. § 552(a)(6)(A)(ii).

Attachment 1

April 21, 2016

Ms. Tawana Elliott
Sr. Program Specialist
Partnerships and Technical Assistance Division
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street, NE
Washington, DC 20530

Re: Request for Assistance

Dear Tawana:

Please accept this letter as a request for assistance by the City of North Charleston Police Department (NCPD). As you know, the April 4, 2015 shooting of Walter Scott by former Officer Michael Slager had a significant impact on the city and the nation. As a result of the shooting, our community, and especially NCPD, found itself subject to intense scrutiny and under constant stress. Well prior to the Scott shooting, the NCPD had been engaged in proactive efforts to ensure that the Department's policing practices were consistent with its mission to protect the city's residents while also respecting their constitutional rights. However, the Scott shooting and the scrutiny that resulted made these efforts more urgent and more challenging. Trust and communication are essential for improvement, and, as you can imagine, the death of Walter Scott damaged trust and made communication more difficult. NCPD has, however, worked hard and made substantial progress. Our efforts have uncovered some areas in which we could benefit from outside assistance. We hope that your office may now be in a position to facilitate that.

Background

The City of North Charleston is comprised of approximately 76 square miles of territory. Our population is racially diverse, with the most recent census numbers reflecting roughly 41.6% Caucasian, 47.2% African American, and 11.2% other. We are proud of our diversity and extremely proud of the way the community held together after the Walter Scott and Mother Emmanuel tragedies.

The City has experienced dramatic growth and changes over the years. Prior to the early 1970's the area was unincorporated and often known for significant smokestack industry with supporting blue-collar housing. The City incorporated in 1972. Since that time the City has transformed itself from relying for employment on smoke stack-industry to overwhelmingly "clean" industry. We have become the leading retail sales jurisdiction in the state, and above all, become a sought-after

renaissance housing area. Population has grown from approximately 22,000 in 1972 to nearly 110,000.

Dramatic growth is not always smooth. In particular, the City had to respond to periods of significant crime. A low point in this regard came in 2007 when North Charleston was named the seventh (7th) most dangerous City in America by the "City Crime Rankings: Crime in Metropolitan America." The community, not surprisingly, demanded change. NCPD, like scores of federal and state law enforcement agencies across the country, began to tighten enforcement. (You may recall this was an era in which the "Broken Windows / Zero Tolerance" approach to policing was in vogue.) Crime numbers fell dramatically over a period of years, to a point where by 2013 North Charleston was not even in the top 100 on the same crime rate list. Then new problems emerged. The community began voicing concerns that enforcement was too zealous. Again, NCPD undertook change.

Changes Prior to April 4, 2015

Change at NCPD began most publicly on January 28, 2013 when Eddie Driggers was sworn in to replace Chief Jon Zumalt. Chief Driggers grew up in the community, policed it for a full career as a Sheriff's Deputy and then entered the ministry upon retirement from law enforcement. When Mayor Summey decided that NCPD needed a new, more collaborative, approach to policing, he persuaded Chief Driggers to leave retirement and take over the reins.

The Chief's initial steps were practical and not flashy. Step one was to watch, listen and learn. This involved observing and listening to his department. More importantly it involved watching and listening in the community. The Chief is now well known for casual, conversational encounters in our streets and NCPD's halls. Only after listening and learning did he start developing ideas for improvements.

The Chief's initial changes were also practical and not flashy. They were, however, extremely important. The Chief communicated, by word and deed, a shift in approach. Perhaps this shift is best summed up by the change in philosophy from the oft-cited "Own Your Zone" mantra to Chief Drigger's "*Know Your Zone*." The Chief also recognized that the benefit gained by "one more stop" could, in a long-term sense, undermine overall public safety goals if the additional stop alienated the community or undercut trust.

Over time, the Chief's more personalized and compassionate view of policing began to work its way into the Department. As one example, January of 2015 marked the beginning of a downward trend of traffic ticket levels that started at approximately 4,100 for that month. By April 1 stops had fallen 54% to roughly 1,900 stops for the month. (This trend ultimately continued after Walter Scott, eventually leveling out at approximately 1,800 stops per month on average.) As another example, the ratio of internal affairs complaint sources began to shift

positively under Chief Driggers. The percentage of citizen complaints fell while the ratio of officer complaints rose, evidencing a willingness of the officers to police themselves.

Chief Driggers also worked hard on a number of community outreach, communication, and trust building initiatives. Powder-puff Football, Front Porch Visits, Citizens Public Safety Academy, Neighborhood Spotlight Walks, and a revitalization of the North Charleston Police Department's Immersion Program are among a number of measures taken to connect the police department to the community. The programs are meant to reach every demographic in our diverse community.

Efforts Since April 4, 2015

NCPD has worked tirelessly on improvement and change since April 4, 2015. The Mayor and Chief immediately engaged the Scott family to express the City's sadness. Behind the scenes the City began dialogue with Walter Atkinson of the Department of Justice's Community Relations Service and stepped up its communications with the community. The City funded body worn cameras for all street officers on an emergency basis. The City has hosted and participated in numerous forums and workshops. The City has been working with your office. The City has also been monitoring its own progress. As one measure of this, we note that the reduced level of traffic stops that began in January 2015 has continued through the present day.

Along with the efforts highlighted above, NCPD has, in the past, worked with the Police Executive Research Forum (PERF) to address department and community concerns about crime control, best practices, and relationship building. In addition, the department has eight (8) officers and two (2) supervisors assigned to the Neighborhood Resource Officer Unit, which works directly with community members to solve community problems. Most recently, in 2016, NCPD made a commitment to move Community Oriented Policing to the forefront and dedicate resources and personnel to train and equip the police department in community-oriented problem solving skills. In March of 2016 NCPD also completed re-certification of its "national accredited status" by the Commission on Accreditation for Law Enforcement Agencies (CALEA). This re-certification by an outside agency confirms NCPD's commitment to CALEA's proven modern management model and the 484 standards CALEA has promulgated as the best practices and procedures in policing today.

Areas In Which We Request Assistance

NCPD'S efforts, while extremely important and helpful, have not been able to fully achieve all of the City's goals. The City believes that the COPS Offices (a

division of the Department of Justice) could provide assistance that would further NCPD's desire for positive change. The following are specific areas of interest:

- **Accurate Assessment of Public Perceptions.** NCPD believes that full information is essential as it charts a course towards its goal of being a national leader in best practices policing. Full information means that the City must engage in critical self-judgment. An important part of that is to accept and process the strong and frequent criticism NCPD received in the wake of the Walter Scott shooting. At the same time, however, NCPD recognizes that in large communities the loudest and / or most frequent critiques may not always reflect the view of a majority of citizens. This effect is sometimes termed "the silent majority." While the silent majority may share some of the concerns expressed by more vocal critics, it is also possible that a silent majority may have different concerns that should also be factored in to policy making. Only by gathering information can we know. For obvious reasons, however, it is difficult to solicit suggestions and input from the silent majority. NCPD would be interested in COPS assistance in obtaining accurate, fully inclusive data. For instance, are there alternatives such as door to door canvassing (similar to census taking), polling, or other means¹ that have proven more effective than merely scheduling public meetings after work when folks are tired and want to go home?

- **Improve Public Perception / Relations.** NCPD had undergone significant change prior to Walter Scott and has accomplished still more since. Without question, NCPD has still more improvement ahead of it. For obvious reasons, though, public perception lags behind. However, public perception is *vital* important to a department's changes being successful. NCPD's success, and the community's success, are both dependent on the community trusting police to be honest, responsive, fair, impartial, and successful. Without trust, the police cannot protect the people they are sworn to serve. Without trust, the people fear and avoid police rather than working with them. The challenge is to make positive changes and then find ways to restore trust over a period of years. As mentioned, the City believes that there are a handful of departments across the country that have had to work through this trust building / public perception process under similar circumstances. COPS assistance could help the City join the list of success stories.

- **Ongoing Police / Community Panel Success.** The City believes that a large number of departments across the country have, at one time or another, experimented with Police / Community panels. Our observation is that some number of these fail over time due to (a) a waning of participation and interest; and (b) an inability to engage a true cross section of the community rather than only

¹ The City recognizes that obtaining opinion data ("polling" for lack of a better term) is a highly technical field and that "what is asked" can sometimes be overshadowed by "who asks" and "how it is asked." Expert guidance on how to obtain accurate, reliable data is something that COPS knowledge base could perhaps further.

those vocal at the polar extremes. NCPD would be interested in peer-to-peer guidance from departments that have been able to avoid those pitfalls and find sustained success.

- Fair and Impartial Policing Training. The City of North Charleston would like to specifically request COPS funding to send NCPD officers through the Fair and Impartial Training program. We understand that The Department of Justice's COPS program is a major proponent of this training.

The City also requests more wide ranging assistance than listed in the specific points above. You may recall that at our meeting at City Hall on March 9th I expressed interest in receiving the maximum amount of assistance that the COPS program could provide. At that meeting I inquired about the possibility of working together via the extended Collaborative Reform process. There was some uncertainty about whether NCPD would be granted that level of assistance versus a lower level of Technical Assistance. I hope that the COPS program will again consider my request.

Conclusion

NCPD is committed to emerging from the Walter Scott tragedy as a national leader in community / department relations and in best policing practices. We have begun that journey. Your favorable consideration of the City's request would be most appreciated.

Sincerely,



R. Keith Summey
Mayor



Eddie Driggers
Chief of Police

cc: Members of City Council

Attachment 2



U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
145 N Street NE, Washington, DC 20530

COPS

MEMORANDUM OF AGREEMENT
between
U.S. DEPARTMENT OF JUSTICE,
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
and
NORTH CHARLESTON POLICE DEPARTMENT
for
COLLABORATIVE REFORM INITIATIVE FOR TECHNICAL ASSISTANCE

The Office of Community Oriented Policing Services (COPS Office) is responsible for advancing public safety through the practice of community policing by the nation's law enforcement agencies through information and grant resources. The community policing philosophy promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues.

As a form of community policing, the COPS Office developed the Collaborative Reform Initiative for Technical Assistance (CRI-TA) in 2011 in order to partner with law enforcement agencies that may need assistance on a wide variety of issues that can negatively affect law enforcement/community relations—including such things as use of force practices, officer involved shootings, racial profiling, accountability systems, agency transparency, and external communication mechanisms. The purpose of CRI-TA is to improve trust between agencies and the communities they serve by providing a means to organizational transformation through an analysis of policies, practices, training, tactics, and systems of accountability. It is not a short-term solution for a serious deficiency but a long-term strategy that first identifies issues within an agency that may affect public trust and then offers recommendations on how to resolve those issues and enhance the relationship between the police and the community. Agency participation in this collaborative process is voluntary; however, to be eligible for this form of technical assistance, agencies must demonstrate a willingness to implement the recommended reforms.

Using subject matter experts, interviews, analysis of departmental data, surveys, community forums, and direct observation, findings and recommendations are designed to assist law enforcement agencies with enhancing and improving their policies and procedures, systems, and relationships with the communities they serve. These findings and recommendations are issued in a publicly released report. Agencies are then provided assistance with the implementation of those recommendations through technical assistance and training. Agency progress towards achievement of these recommendations is monitored and two public reports are issued documenting this progress at six- and twelve-month intervals after the issuance of the assessment report. While CRI-TA is a collaborative process, it is also an objective and independent means to institute long-term reform in a way that is transparent to all community stakeholders. Projects may last approximately 24 to 36 months.

There are a number of requirements for your agency and local government officials in order for the collaborative process to be successful. Expectations for your law enforcement agency and local government officials include the following:

1. Acceptance that after work commences, the U.S. Department of Justice determines the goals and objectives necessary to implement collaborative reform effectively.
2. Acceptance that participating in CRI-TA will, at minimum, include an assessment of departmental training, policies, procedures, and incidents for community oriented policing

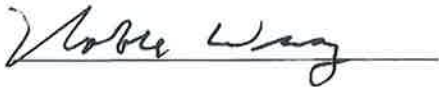
practices and disparate treatment of historically and present-day marginalized populations, including racial and ethnic minorities. This includes traffic stops, pedestrian stops, use of force, and officer-involved shootings.

3. Assignment of a key point of contact within the Office of the Police Executive.
4. Assignment of a senior-level agency executive to oversee the implementation of reforms resulting from CRI-TA and other internal or external processes.
5. Provision of full access by assessment team to relevant departmental records and data, as well as relevant data from other sources available to the local government.
6. Willingness to implement the recommendations, which will be based on professional standards, best practices, research, Collaborative Reform Initiative standards, the President's Task Force on 21st Century Policing, local circumstances, and U.S. Department of Justice priorities.
7. Acknowledgement that all reports will be publicly presented and widely disseminated. We encourage you to review previous reports at <http://www.cops.usdoj.gov/Default.asp?Item=2807>.
8. Disclosure of any real or apparent conflicts of interest before commencement of work and prompt identification of any conflicts that may arise throughout the duration of the project.
9. Commitment from the chief law enforcement officer and chief government executive to complete the CRI-TA process.
10. Commitment that chief law enforcement officer will proactively communicate their support for the goals and objectives of the assessment throughout the ranks of the agency.
11. Facilitation of the identification of key internal and external stakeholders who will be interviewed and consulted at various points during the process.
12. As needed, coordination of interviews with officers and civilians of varying ranks within the agency, members of community organizations, and other stakeholders.
13. Unless already completed and documented, commit to providing all department personnel with training on (a) procedural justice and (b) the science of unconscious bias and law enforcement.
14. Commitment to public transparency of police operational data and policies, unless doing so would undermine the legitimate public safety goals of the agency or violate any existing contractual agreements, laws, or regulations. As such, the department is encouraged to participate in the national Police Data Initiative (see <http://publicsafetydataportal.org/>).
15. Commitment to public reporting on the progress the agency is making in the reform process.
16. Continuation of organizational learning and reform after the Collaborative Reform process is completed.

17. Acknowledgement that participation in the CRI-TA program does not preclude any future investigations into the patterns and practices of the law enforcement agency by the DOJ Civil Rights Division.

Before work can formally commence on your project, the chief law enforcement executive and chief government executive must sign, date, and return this Memorandum of Agreement (MOA) to the COPS Office. This MOA is not an obligation of funds nor does it create a legally binding commitment. Nothing in this MOA creates an employment relationship with the Federal Government or requires any provision of benefits incident to employment. By signing this MOA, the chief law enforcement executive and chief government executive understand and agree to the terms of this MOA and acknowledge that failure to meet the terms of the MOA may result in termination of the Collaborative Reform process.

On behalf of the organization that I represent, I am authorized to sign this MOA and will contribute to its success to the best of my ability.



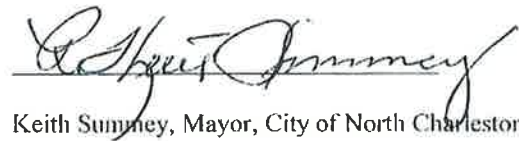
Date: 9-20, 2016

Noble Wray, Chief, Police Practice and Accountability Unit, COPS Office



Date: July 7, 2016

Edward Driggers, Chief of Police, North Charleston Police Department



Date: July 7, 2016

Keith Summey, Mayor, City of North Charleston

Supporting Documentation Attached: Yes _____ No X_____

Attachment 3

August 24, 2017

Via First Class and Electronic Mail (cops.foia@usdoj.gov)

Russ Washington, Acting Director
U.S. Department of Justice
Office of Community Oriented Policing Services
145 N Street, NE
Washington, DC 20530

RE: North Charleston, S.C. Police Department

Dear Acting Director Washington:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we write to request copies of the following documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. §552, relating to grant awards and technical assistance provided to the North Charleston, S.C. Police Department (NCPD) or other North Charleston city officials by the Office of Community Oriented Policing Services (COPS Office). Unless otherwise specified, the information requested relates to the period from January 1, 2007 to the present.

1. Any and all documents, such as, applications, reports, statistical information and analyses, emails, memoranda, draft documents and/or correspondence, concerning the NCPD, including but not limited to:
 - a. Grant applications and reports between the City of North Charleston and the COPS Office, such as the \$1.8 million grant awarded to North Charleston through the COPS Hiring Program in 2015.¹
 - b. Grant award letters to North Charleston city officials from the COPS Office.
2. Any and all documents, including but not limited to data, statistical information and analyses, emails, memoranda, policies, draft documents, and/or correspondence transmitted, electronically or otherwise, between the COPS Office and Police Foundation or other consultants regarding the Collaborative Reform Initiative for Technical Assistance with NCPD (Collaborative Reform Initiative),² which the COPS Office began in or about May 2016.
3. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents, and/or correspondence transmitted,

¹ See, Office of Community Oriented Policing Services, U.S. Dep't of Justice, *COPS Hiring Program Award List 2015*, https://cops.usdoj.gov/pdf/2015AwardDocs/chp/CHP_Award_List.pdf.

² See, Office of Community Oriented Policing Services, U.S. Dep't of Justice, *Goal and Objectives Statement for the Collaborative Reform Initiative for Technical Assistance with the North Charleston Police Department*, https://cops.usdoj.gov/pdf/crita/CRITA_Goal_and_Objectives_NCPD.pdf.

electronically or otherwise, between the COPS Office or its consultants and NCPD concerning:

- a. the NCPD's use of force practices and outcomes, including but not limited to:
 - i. policies and procedures on use of force and de-escalation;
 - ii. officers' training in use of force;
 - iii. criminal and administrative investigations; and
 - iv. patterns and trends in use of force by city geography, community characteristics, departmental units, subject demographics, and officer demographics.
 - b. the impact of enforcement operations on historically marginalized and discriminated against populations, such as racial and ethnic minorities, the LGBTQ community, persons with mental illness, persons with physical disabilities; and the homeless population, including but not limited to:
 - i. policies, procedures, and training to address biased policing;
 - ii. patterns and trends in pedestrian, traffic, and investigative stops of members of the public;
 - iii. oversight and accountability mechanisms to address bias.
 - c. community-oriented policing policies and practices, including but not limited to:
 - i. policies, practices and training to adopt fair and impartial policing as an organizational philosophy;
 - ii. organizational plans and strategies for community policing;
 - iii. participatory decision making with the public.
 - d. the citizen complaint process, including but not limited to:
 - i. patterns and trends in citizen complaints, case processing, and outcomes;
 - ii. roles, authority, and operational responsibilities throughout the process;
 - iii. remediation and disciplinary mechanisms for officers found to have engaged in misconduct; and
 - e. recruitment, hiring, promotions, and personnel policies and practices.
4. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents and/or correspondence transmitted, electronically or otherwise, between the COPS Office and the Office of the Mayor of North Charleston, South Carolina.



5. Any and all documents relating to the Collaborative Reform Initiative, including but not limited to emails, memoranda, draft documents and/or correspondence transmitted, electronically or otherwise, between the COPS Office and any members of the North Charleston City Council.

LDF seeks your response no later than 20 business days after receipt of this request. 5 U.S.C. §552(a)(6)(A). Please provide the documents in an electronic format, 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.

If the COPS Office provides photocopies of any records, then LDF respectfully requests a waiver of copying and other fees, because it is a 501(c)(3) non-profit organization, does 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 the COPS Office's involvement in assessing the policies and practices of the North Charleston Police Department. 5 U.S.C. § 552(a)(4)(A)(iii). If the COPS Office declines LDF's 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.

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 also provide the nonexempt portions of the records. 5 U.S.C § 552(b)

Thank you for your prompt attention to this matter. Please do not hesitate to contact Monique Dixon at 202-682-1300 or Raymond Audain at 212-965-2200, with any questions or concerns.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Monique L. Dixon".

Monique L. Dixon
Deputy Director of Policy and
Senior Counsel

Raymond Audain
Senior Counsel

Attachment 4



U.S. Department of Justice
Office of Community Oriented Policing Services

Legal Division
Two Constitution Square
145 N Street, N.E.
Washington, DC 20530
(202) 514-3750
(202) 514-3456 (fax)

2017-FOI-073

August 28, 2017

Monique Dixon
NAACP Legal Defense and
Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor
Washington, DC 20005

Dear Ms. Dixon:

This letter is to acknowledge receipt of your Freedom of Information Act (FOIA) request dated and received in this office on August 24, 2017, in which you requested documents relating to grant awards and technical assistance provided to the North Charleston, South Carolina Police Department or other North Charleston city officials.

We have not yet made a decision on your request for a fee waiver. We will do so after we determine whether the processing of your request will result in any assessable fees. I note that in your letter you agreed to pay fees up to \$25 in the event that a fee waiver is not granted.

Your request has been placed in chronological order based on the date of receipt and has been assigned FOIA number 2017-FOI-073. Your request will be handled as quickly as possible. If you have any questions regarding the status of your request, you may contact me by telephone or you may write to me at COPS.FOIA@usdoj.gov. Lastly, you may contact our FOIA Public Liaison at the telephone number at 202-514-1873 to discuss any aspect of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Eason", is written over a horizontal line.

Chaun Eason
FOIA Officer

Attachment 5



U.S. Department of Justice
Office of Community Oriented Policing Services

Legal Division
Two Constitution Square
145 N Street, N.E.
Washington, DC 20530
(202) 514-3750
(202) 514-3456 (fax)

2017-FOI-073

September 22, 2017

Monique Dixon
NAACP Legal Defense and
Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor
Washington, DC 20005

Dear Ms. Dixon:

This is an interim response to your Freedom of Information Act (FOIA) request dated August 24, 2016, seeking documents relating to grant awards and technical assistance provided to the North Charleston, South Carolina Police Department or other North Charleston city officials.

Due to the need to examine a voluminous amount of records, your request falls within "unusual circumstances." See 5 U.S.C. § 552(a)(6)(B)(i)-(iii). Because of these unusual circumstances, we are extending the time limit to respond to your request for ten additional days. The time needed to process your request will necessarily depend on the volume and complexity of the records to be reviewed. To allow us to respond more quickly to you, you may wish to narrow the scope of your request to limit the number of potentially responsive records or agree to an alternative time frame for processing.

At this time, we have identified 58 pages of documents responsive to your request item 1 of your request. I have determined that 44 pages are appropriate for release without removals and a copy is enclosed. Also enclosed are 14 pages which are appropriate for release with removals made pursuant to 5 U.S.C. § 552 (b)(6) and (b)(4) of the FOIA. Exemption 6 (5 U.S.C. § 552 (b)(6)) pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties. The email addresses relating to a third party have been removed on the basis of FOIA Exemption 6. Exemption 4 (5 U.S.C. § 552 (b)(4)) pertains to commercial or financial information that is obtained from a person that is privileged or confidential. None of the information being withheld is appropriate for discretionary disclosure.

We are continuing to review documents which may be responsive to items 2-5 of your request. We anticipate a final response by October 9, 2017.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison Melissa Fiere-Fetrow at 202-514-1873 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you have any questions, please contact me at 202-616-0825. If you would like further information about the COPS Office, please visit our Internet site at <http://www.cops.usdoj.gov>.

Sincerely,



Chaun Eason
FOIA Officer

Attachment 6

Monique Dixon

From: COPS FOIA <COPS.FOIA@usdoj.gov>
Sent: Wednesday, October 11, 2017 3:08 PM
To: Monique Dixon; COPS FOIA
Cc: Raymond Audain
Subject: COPS 2017-FOI-073--RE: NAACP LDF FOIA to COPS Officer regarding North Charleston
Attachments: CRI-TA MOA FINAL_NCPD_Approved and Signed_Final.pdf

COPS 2017-FOI-073

October 11, 2017

Monique Dixon
NAACP Legal Defense and
Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor
Washington, DC 20005

Dear Ms. Dixon:

This is a final response to your Freedom of Information Act (FOIA) request dated August 24, 2017, seeking documents relating to grant awards and technical assistance provided to the North Charleston, South Carolina Police Department or other North Charleston city officials.

On September 22, 2017, we provided 58 pages responsive to item 1 of your request. At this time, we have identified 334 pages of draft documents and emails responsive to items 2 and 3 of your request. I have determined that three pages which are appropriate for release without removals and a copy is enclosed. We are withholding 331 pages in their entirety pursuant to 5 U.S.C. § 552 (b)(5) of the FOIA. Exemption 5 (5 U.S.C. § 552 (b)(5)) pertains to certain inter-agency and intra-agency communications protected by the deliberative process privilege. We do not have any records responsive to items 4 and 5 of your request. None of the information being withheld is appropriate for discretionary disclosure. Consistent with the Attorney General's commitment to respecting local law enforcement control and accountability, the COPS Office will no longer be issuing Collaborative Reform assessment reports.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may contact our FOIA Public Liaison Melissa Fiere-Fetrow at 202-514-1873 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park,

Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions, please contact me at 202-616-0825. If you would like further information about the COPS Office, please visit our Internet site at <https://www.cops.usdoj.gov>.

Sincerely,

Chaun Eason
FOIA Officer

From: Monique Dixon [mailto:mdixon@naacpldf.org]
Sent: Monday, August 28, 2017 9:21 AM
To: COPS FOIA <_FOIA@cops.usdoj.gov>
Cc: Raymond Audain <raudain@naacpldf.org>
Subject: RE: COPS 2017-FOI-073--RE: NAACP LDF FOIA to COPS Officer regarding North Charleston

Good morning:

Thank you.

Monique L. Dixon
Deputy Director of Policy and Senior Counsel
NAACP Legal Defense and Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor, Washington, DC 20005
202-682-1300 * mdixon@naacpldf.org * @mdixonLDF
www.naacpldf.org

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From: COPS FOIA [mailto:COPS.FOIA@usdoj.gov]
Sent: Monday, August 28, 2017 9:04 AM
To: Monique Dixon <mdixon@naacpldf.org>
Cc: Raymond Audain <raudain@naacpldf.org>
Subject: COPS 2017-FOI-073--RE: NAACP LDF FOIA to COPS Officer regarding North Charleston

Good morning,

Attached is the acknowledgement letter in reference to your FOIA request.

Chaun Eason
COPS FOIA Officer

From: Monique Dixon [<mailto:mdixon@naacpldf.org>]
Sent: Thursday, August 24, 2017 12:29 PM
To: Washington, Russell (COPS) <rwashington@cops.usdoj.gov>; COPS FOIA <FOIA@cops.usdoj.gov>
Cc: Raymond Audain <raudain@naacpldf.org>
Subject: NAACP LDF FOIA to COPS Officer regarding North Charleston

Dear Director Washington and COPS Office FOIA Officer:

On behalf of the NAACP Legal Defense and Educational Fund, Inc., I am attaching a Freedom of Information Act request for documents relating to grant awards and technical assistance provided to the North Charleston, S.C. Police Department by the Office of Community Oriented Policing Services. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Monique L. Dixon
Deputy Director of Policy and Senior Counsel
NAACP Legal Defense and Educational Fund, Inc.
1444 Eye Street, NW, 10th Floor, Washington, DC 20005
202-682-1300 * mdixon@naacpldf.org * @mdixonLDF
www.naacpldf.org

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