



Lori E. Lightfoot
Mayor

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

Charlie Beck
Interim Superintendent of Police

December 9, 2019

Via Email:

Freddy Martinez
MuckRock
83935-17818067@requests.muckrock.com

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P545484

Dear Freddy Martinez:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received December 2, 2019 for the following:

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

*All officer body camera footage (un-altered and including any audio) and/or incident reports pertaining to any incidents taking place at E 79th and S Cottage Grove
(<https://www.google.com/maps/place/S+Cottage+Grove+Ave+%26+E+79th+St,+Chicago,+IL+60619/@41.7512948,-87.6052878,17z/>) on November 28th, 2019.*

Any TRRs, use of force, approved narratives or other documentation that was approved by CPD commanders in reporting the use of force.

All footage collected by Chicago Police including dash cam footage from CPD cars during the incident."

Your request was reviewed by the undersigned in collaboration with the Department's Bureau of Detectives, Field Services Section, Office of Legal Affairs (OLA), and in consultation with the City's Civilian Office of Police Accountability (COPA.) A search of CPD records was conducted utilizing the provided search parameters. It was determined that your request is granted in part and denied in part. CPD is providing you with the responsive Arrest Report and Original Case Incident Report.

Please be advised that certain information has been redacted from the enclosed responsive records pursuant to 5 ILCS 140/7(1)(b) and 5 ILCS 140/7(1)(c). Details of the redactions are set forth below.

Section 7(1)(b) exempts from disclosure “[p]rivate information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.” 5 ILCS 140/7(1)(b). The FOIA, in 5 ILCS 140/2(c-5), defines “private information” as follows:

“‘Private information’ means unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.”

Therefore, personal addresses, personal telephone numbers, driver’s license numbers, internal record numbers, SID numbers, FBI numbers, medical information, and employee user codes/numbers are exempt and were properly redacted pursuant to Section 7(1)(b).

In addition, dates of birth, medical information, and third party names and identifying information of persons referenced incidentally in reports were also redacted as the public interest in this information is not great while the privacy interests are significant; therefore, this information is exempt and protected from disclosure pursuant to 5 ILCS 140/7(1)(c) of FOIA. Section 7(1)(c) exempts from inspection and copying the following:

“[P]ersonal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy... ‘Unwarranted invasion of personal privacy’ means the disclosure of information is that highly personal or objectionable to reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” *Id.*

Please be advised that this is an ongoing investigation and it was determined that any other records pertaining to this case are exempt pursuant to FOIA under exemption 7(1)(d)(i) of FOIA (5 ILCS 140/7(1)(d)(i) (West 2010), as amended by Public Acts 97-333, effective August 12, 2011; 97- 385, effective August 15, 2011; 97-452, effective August 19, 2011), which allows a public body to withhold records that would interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by the law enforcement or correctional agency that received the FOIA request and (ii), which permits the withholding of documents created in the course of an administrative enforcement proceeding to the extent that disclosure would interfere with "pending or actually and reasonably contemplated law enforcement proceedings conducted by an law enforcement or correctional agency," or "active administrative enforcement proceedings."

In order to ascertain whether your request would interfere with an ongoing investigation, the matter was forwarded to BIA, OLA, and COPA. BIA stated that the requested records relate to an ongoing investigation recorded under CR #2019-0004852 that is being conducted by COPA. Per the consultation between OLA and COPA, it was determined that the requested records are exempt from production under 5 ILCS 140/7(1)(d)(i) and (ii). COPA stated that these records relate to an open and ongoing investigation into allegations of police misconduct and that the premature release of these records would interfere with their active investigation. Witnesses are still being contacted to be interviewed and the disclosure of these records would directly interfere with COPA's active investigation into this matter such that their

investigation is compromised if witnesses who have yet to meet with COPA are able to review the materials in COPA's possession, including but not limited to the statements of other witnesses, accused, and complainants. *See, e.g., Clark v. City of Chicago*, 10cv1803, 2010 U.S. Dist. Lexis 88124 (N.D. Ill. Aug 25, 2010); *Santiago v. City of Chicago*, 09cv3137, 2010 U.S. Dist. Lexis 29198 (N.D. Ill. Mar. 26, 2010). Release of such records would divulge information that would affect witness testimony, thereby challenging the integrity and jeopardizing the progress of the investigation. Therefore, these records must be withheld pursuant to 7(1)(d)(i) and (ii).

If I can be of further assistance, please contact me at the following address:

Chicago Police Department
Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 S. Michigan Avenue
Chicago, IL 60653
foia@chicagopolice.org

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

Sincerely,

A. Marlan
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653