



March 3, 2015

Chief Edward Flynn
Milwaukee Police Department
749 West State Street
Milwaukee, WI 53233

Public Records Request – Certified Mail

Dear Chief Flynn,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (collectively “ACLU”)¹ and the American Civil Liberties Union of Wisconsin (“ACLU-WI”)² submit this request under the Wisconsin Open Records Act, Wis. Stat. § 19.31-39, for records³ concerning the Milwaukee Police Department’s (“MPD”) documentation of pedestrian and traffic stops, frisks, and searches, and management of data collected through these police-civilian encounters. Specifically, we request that you provide any and all records reflecting the following:

- 1) The Field Interview Card form currently used by MPD officers, and all previous paper and electronic versions of the form used since January 1, 2008.

¹ The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educates the public about the civil rights and civil liberties implications of pending and proposed state and federal legislation, provides analyses of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators. The American Civil Liberties Union is a separate non-profit, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

² The American Civil Liberties Union of Wisconsin is an ACLU affiliate and seeks to protect the civil liberties and civil rights of all Wisconsin residents.

³ The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to, correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

- 2) All policies, procedures, guidelines, protocols, directives, regulations, and/or rules in force since January 1, 2008, setting forth the circumstances under which MPD officers are required and/or permitted:
 - a. to complete Field Interview Cards to document a police-civilian encounter;
 - b. to document a police-civilian encounter that involves the frisk of a civilian;
 - c. to document a police-civilian encounter that involves a non-custodial search of a civilian; and
 - d. to document “social contacts” between police officers and civilians, and the method(s) by which such encounters are documented.
- 3) All records describing the types of police-civilian encounters captured in Tiburon (*e.g.*, social contact, *Terry* stop⁴, frisk, non-custodial search, arrest).
- 4) All records describing the types of police-civilian encounters (*e.g.*, social contact, stop, frisk, non-custodial search, arrest), and categories of information MPD officers are required and/or permitted to enter into the Tiburon Field Interview module.
- 5) All records describing the circumstances under which information from Field Interview Cards may and/or must be transferred to the Tiburon Field Interview module.
- 6) All policies, procedures, guidelines, protocols, directives, regulations, and/or rules in force since January 1, 2008, describing the procedures for documenting an arrest, and how MPD officers are to indicate whether an arrest resulted from a *Terry* stop.
- 7) All records addressing how strip searches are documented in Tiburon, including records addressing whether information from Strip Search Authorization Forms are entered into Tiburon.
- 8) All records addressing how consent searches are documented in Tiburon, including records addressing how information from Consent to Search Authorization Forms are entered into Tiburon.

⁴ A *Terry* stop refers to any instance in which an MPD officer detains a civilian in order to determine whether the person is engaged in criminal activity, during which detention the civilian is not free to leave the scene, pursuant to the U.S. Supreme Court’s decision in *Terry v. Ohio*, 392 U.S. 1 (1968).

- 9) All records addressing how to distinguish between Consent to Search entries and Field Interview entries in Tiburon.
- 10) All records describing the types of police-civilian encounters (*e.g.*, social contact, stop, frisk, non-custodial search, arrest), and the categories of information MPD officers are required and/or permitted to enter into the TRACS database, TRACS Citizen Contact, and TRACS TSDC.
- 11) All records describing the relationship between the TRACS database, TRACS Citizen Contact, and TRACS TSDC.
- 12) All records describing the circumstances under which an MPD officer identifies the disposition of a police-civilian encounter documented in TRACS Citizen Contact.
- 13) All records describing whether Computer Aided Dispatch Reports are recorded in a manner that permits those reports to be connected to resulting stops, frisks, searches, and arrests.
- 14) All records concerning the MPD Neighborhood Task Forces and their conduct of stops, frisks, searches, and arrests of civilians.
- 15) All records setting forth the number of civilian complaints made to MPD Internal Affairs since January 1, 2008, broken down by results of adjudication (*e.g.*, sustained, administratively closed, exonerated, not sustained, unfounded), whether a hearing was held, and the number of officers disciplined.
- 16) All records describing or defining the MPD's Summer Policing Initiatives, Crime Reduction Initiatives, and all other MPD initiatives commenced since January 1, 2008.
- 17) All policies, procedures, guidelines, protocols, directives, regulations, and/or rules pertaining to the MPD's Summer Policing Initiatives, Crime Reduction Initiatives, and all other MPD initiatives commenced since January 1, 2008.

We ask that you provide responses to these requests within the next 15 business days. If any material responsive to this request is deemed to be exempt from disclosure, identify the material withheld and specify the asserted basis for the exemption. Please release all segregable portions of otherwise exempt material.

Public Interest Fee Waiver

We request a waiver of document search, review, and duplication fees on the grounds that disclosure of the request records and a fee waiver is in the public interest. See Wis. Stat. §19.35(3)(e).

The requested records concern the documentation of MPD civilian encounters and the management of data collected through these reports. Numerous news accounts reflect considerable public interest and media attention on whether MPD stop, frisk, and search policies and practices lead to illegal racial profiling and/or unlawful stops and searches in violation of the Fourth and Fourteenth Amendments to the U.S. Constitutions.⁵ Disclosure of the requested information will contribute significantly to public understanding of these issues by informing the public about the scope of MPD stop, frisk, and search practices, and by permitting analysis of documented police-civilian encounters for compliance with constitutional standards.

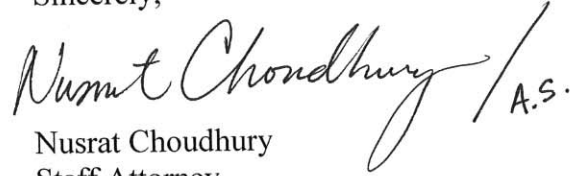
Moreover, a fee waiver would itself further the public interest because the ACLU and ACLU-WI do not seek the requested records for commercial use and plan to disseminate the information disclosed as a result of this Request to the public at no cost.

Should you decline to waive search, review, and duplication fees, and should these costs exceed \$ 300, please advise us before proceeding.

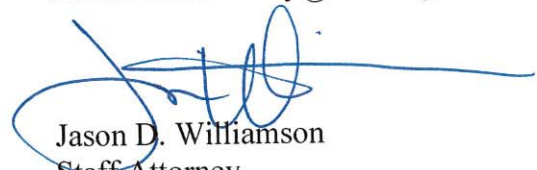
⁵ See Ashley Luthern, *New Policy Will Govern How Milwaukee Police Treat Citizens*, Milwaukee Journal Sentinel, May 30, 2013; Ben Poston, *A Journal Sentinel Watchdog Report: Racial Gaps Found in Traffic Stops in Milwaukee*, Milwaukee Journal Sentinel, Dec. 3, 2011, <http://www.jsonline.com/watchdog/watchdogreports/racial-gap-found-in-traffic-stops-in-milwaukee-ke1hsip-134977408.html>; Milwaukee Police Department: Crime, Traffic Stop and Subject Stop Data Analysis, May 9 2012, http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas2/120517_PD_C.pdf; American Civil Liberties Union, *The War on Marijuana in Black and White* 62 (2013), <https://www.aclu.org/files/assets/1114413-mj-report-rfs-re11.pdf>; Bruce Vielmetti, *Ex-Milwaukee Officer Gets 26 Months in Prison for Strip, Cavity Searches*, Milwaukee Journal Sentinel, June 21, 2013, <http://www.jsonline.com/news/crime/ex-milwaukee-officer-gets-26-months-in-prison-for-strip-cavity-searches-b9938948z1-212486141.html>; Ira Glass and Brian Reed, "Cops See It Differently – Part One," *This American Life*, February 6, 2015, <http://www.thisamericanlife.org/radio-archives/episode/547/cops-see-it-differently-part-one>.

Thank you for your assistance. Please let us know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nusrat Choudhury / A.S." with a long, sweeping flourish extending to the right.

Nusrat Choudhury
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Tel. (212) 519-7876
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A handwritten signature in blue ink that reads "Jason D. Williamson" with a large, stylized flourish.

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AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

enclosures

cc: Chris Ahmuty, Laurence Dupuis, and Molly Collins, ACLU-WI