REQUEST TO ACCESS A GOVERNMENT RECORD

DATE: March 6, 2013

TO: Chief Louis M. Kealoha, Honolulu Police Department

FROM: Laurie Temple
Name or Alias
ACLU of Hawaii, P.O. Box 3410, Honolulu, HI 96801
Phone: (808) 522-5900 e-mail: LTI@acluhawaii.org
Contact Information

Although you are not required to provide any personal information, you should provide enough information to allow the agency to contact you about this request. The processing of this request may be stopped if the agency is unable to contact you. Therefore, please provide any information that will allow the agency to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.).

I WOULD LIKE THE FOLLOWING GOVERNMENT RECORDS:

Describe the government record as specifically as possible so that it can be located. Try to provide a record name, subject matter, date, location, purpose, or names of persons to whom the record refers, or other information that could help the agency identify the record. A complete and accurate description of the government record you request will prevent delays in locating the record. Attach a second page if needed.

Special Weapons and Tactics (SWAT) Teams

Please provide copies of the following created, updated, or edited records from January 1, 2011, to the present:

1. All incident reports or other records documenting each time a SWAT team was deployed. All reports showing breakdowns of SWAT team deployments by crime, requesting agency, or purpose for the raid (i.e. to serve a warrant, arrest someone, diffuse a hostage crisis, etc.) and all post-deployment documentation, including:
   a. All documents relating to the number of no-knock warrants applied for, and the number of no-knock warrants granted, denied, or modified, in conjunction with a SWAT team deployment;
   b. All documents relating to uses of force by all SWAT teams and all incident reports documenting all injuries incurred by anyone at the scene of a SWAT team operation.

2. All procedures, regulations, or guidelines relating to SWAT teams, including the protocols and legal standards that must be met before SWAT team deployment.

3. All documents relating to the structure or mission of SWAT teams, including chain of command and the selection of team personnel, as well as the ranks, salaries, and lengths of service of team personnel.

4. All documents or training materials used to instruct SWAT teams in any aspect of their operation, including information about any training, including but not limited to, with military units and other outside agencies and private contractors, when and where training sessions took place, and who conducted them.

5. All records relating to the procurement, maintenance or deployment of SWAT team weapons and other equipment, including guns, vehicles, personal protective equipment and uniforms, surveillance and reconnaissance equipment, less than lethal devices, apparatuses and systems for augmented detainee restraint (also known as shock-cuffs), forced entry tools, facial recognition technology, Cellebrite or other mobile forensics units, biometric technology, cell phone sniffers, and deep packet sniffers, including how it is stored, and who has access to it.

6. All written mutual aid agreements or memoranda of understanding with federal, state and local agencies, including any branch of the military and private entities concerning SWAT teams.

7. All records relating to funding sources and grants your SWAT team applied for, and whether or not the application was successful; and

8. All internal or external audits of SWAT team performance or records of cost effectiveness.
Cutting Edge Weapons and Technology

Please provide copies of the following created, updated, or edited records from January 1, 2011, to the present:

1. The number of Mobile Forensic Data Extraction devices, GPS tracking devices, biometric technology, cell phone sniffers, deep packet sniffers, unmanned aerial vehicles (sometimes called “drones”), apparatuses and systems for augmented detainee restraint (also known as shock-cuffs), Cellebrite or other mobile forensics units, and devices capable of facial or behavioral recognition currently owned, leased, or borrowed or proposed for purchase or acquisition by your agency and the unit or division of your agency given primary use of each device.

2. All practices, procedures, and trainings governing use of all such devices.

3. All policies relating to the maintenance and retention of information obtained through such devices, including but not limited to, policies detailing how records of such information are kept, databases in which they are placed, limitations on who may access the records and for what purposes, circumstances under which they are deleted, and circumstances under which they may be shared with other government agencies or nongovernmental entities.

4. The legal standard or level of suspicion (e.g. probable cause, reasonable suspicion, relevance) the agency requires or proffers prior to using such devices.

5. All applications submitted by your Department for equipment through the Department of Defense’s “1033” program (either directly to the Department of Defense or to your state’s administering agency), including whether the application was granted, denied, or granted in part (and if so, how).

6. All “1033” program inventories created and maintained pursuant to the May 22, 2012, moratorium (see https://www.dispositionservices.dla.mil/rtd03/leso/index.shtml).

7. All applications submitted by your Department for funding through the Department of Homeland Security’s Homeland Security Grant Program or Urban Area Security Initiative program (including applications submitted to your state’s administering agency), including whether the application was granted, denied, or granted in part (and if so, how).

I WOULD LIKE: (please check one or more of the options below)

☐ To inspect the government record.

☒ A copy of the government record: (Please check one of the options below.) See the back of this page for information about fees that you may be required to pay for agency services to process your record request. Note: Copying and transmission charges may also apply to certain options.

☐ Pick up at agency (date and time): ________________________________

☒ Mail

☐ Fax (toll free and only if available)

☐ Other, if available (please specify): ________________________________

☐ If the agency maintains the records in a form other than paper, please advise in which format you would prefer to have the record.

☒ Electronic  ☒ Audio  ☒ Other (please specify): However the records are maintained

☒ Check this box if you are attaching a request for waiver of fees in the public interest (see waiver information on back).

SEE BACK FOR IMPORTANT INFORMATION

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1 Section 1033 of the National Defense Authorization Act for Fiscal Year 1997, codified at 10 U.S.C. § 2576a, permits the Secretary of Defense to transfer excess Department of Defense supplies and equipment to state and local law enforcement agencies. Hawaii has entered into an agreement with the Defense Logistics Agency, which governs the transfer of military property to Hawaii for use in civilian policing.
FEES FOR PROCESSING RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your record request, including fees for making photocopies and other lawful fees. The first $30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over $30 will be charged to you. Fees are as follows:

- Search for a Record
- Review and Segregation of a Record

$2.50 for 15 minutes
$5.00 for 15 minutes

WAIVER OF FEES IN THE PUBLIC INTEREST

Up to $60 of fees for searching for, segregating and reviewing records may be waived when the waiver would serve the public interest as described in section 2-71-32, Hawaii Administrative Rules. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are:

1. The requested record pertains to the operations or activities of an agency;
2. The record is not readily available in the public domain; and
3. The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in extenuating circumstances the agency must respond within 20 business days from the date of your request. If you have questions about the response time, you may contact the agency's UIPA contact person. If you are not satisfied with the agency's response, you may call the Office of Information Practices at 808-586-1400.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under §2-71-16, Hawaii Administrative Rules. You may obtain a copy of these rules from the Lieutenant Governor's Office or from the Office of Information Practices. These responsibilities include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees, if assessed.
ACLU of Hawaii Foundation Request to Access Government Records

Request for Waiver of Fees in the Public Interest

March 6, 2013

Pursuant to section 2-71-32 of the Hawaii Administrative Rules, the American Civil Liberties Union of Hawaii Foundation ("ACLU") hereby requests a waiver of $60 of the fees that may be assessed under section 2-71-31. The ACLU is a nonprofit, public-interest law firm; our mission is to protect individual freedoms guaranteed under the federal and state constitutions. The ACLU has been engaged in legal action and public education in Hawaii since 1965 on issues affecting constitutional rights.

Public dissemination of the information contained in these documents will contribute significantly to public knowledge and understanding of Honolulu Police Department ("HPD")'s use of Special Weapons and Tactics ("SWAT") Teams and cutting-edge technology (including equipment and weapons acquired through the Department of Defense's 1033 Program and Department of Homeland Security Grants. These documents are not readily available in the public domain. The ACLU has frequently been at the forefront of monitoring and litigating concerns regarding police militarization. The ACLU has no commercial interest in the documents requested, and intends to publicize this information (as it has done with previous open records requests; see, e.g., Michael Levine, Honolulu Police Load Up on Taser Ammo, Pepper Spray, Bean Bags for APEC, Civil Beat, Sept. 26, 2011, available at http://www.civilbeat.com/posts/2011/09/26/12961-honolulu-police-load-up-on-taser-ammo-pepper-spray-bean-bags-for-apec/).

The ACLU of Hawaii has the primary intention to publicize this information by posting the ACLU's request, and HPD's response, on its website. The ACLU of Hawaii has a page on its website devoted to informing the public about government responses to open records requests, http://acluhi.org/open-records-requests/, and the ACLU of Hawaii has the primary intention of posting HPD's response on this web page. Additionally, the ACLU has approximately 2,000 members state-wide, and is able to disseminate this information to our members via our newsletter, our Facebook page (which has nearly 3,000 "friends"), our website (which received over 3,000 hits in October 2011 alone), and our Twitter feed (which has over 900 followers). In addition to publicizing these records on our website, the ACLU of Hawaii intends to publicize this information by using some combination of Facebook, Twitter, and/or our newsletter to help spread this information to our members and the general public.

Depending on the nature of the records provided by HPD, we may also publicize this information by distributing the records to media outlets such as Civil Beat, the Honolulu Star-Advertiser, Hawaii Public Radio, and/or various other media outlets. We have the ability to distribute this information to the media, insofar as we have a comprehensive e-mail database of media contacts, we have developed strong professional ties to many journalists over our 45-year history, and we interact with journalists on a regular basis.

Requester respectfully asks that, if the total fees for this request (including copying charges) are anticipated to exceed $50.00, Respondent notify Requester and obtain express written permission to proceed with the request.