



City of Seattle

Seattle Police Department

September 28, 2011

Law Offices of James Egan
Attn: James Egan
james@eganattorney.com

RE: Public Disclosure Request # P2011-3058

Dear Mr. Egan:

This letter is in response to your public disclosure request dated September 23, 2011 for information regarding OPA cases.

Pursuant to RCW 42.56.520, this is notification that we have received your public disclosure request, and we anticipate it may take up to two months from the date of this notification to respond. Therefore we anticipate a response to you on or about November 30, 2011

This additional time is used to research this request, collect responsive records, and/or prepare records for dissemination. **Please note: Seattle Police Department currently receives approximately 5,000 public disclosure requests annually. We are currently experiencing an even higher than usual workload.**

If you have any questions or need further assistance with this request, please contact the Public Disclosure Desk at 206-684-5481.

Sincerely,

John Diaz
Chief of Police

Tricia Colin
Administrative Specialist II
Public Request Unit

JD:tc



Seattle Police Department, 610 Fifth Avenue, PO Box 34986, Seattle, WA 98124-4986

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James C. Egan

From: Friend-Gray, Sheila [Sheila.Friend-Gray@seattle.gov] on behalf of SPD-PDR, SPD [SPD.SPD-PDR@seattle.gov]
Sent: Wednesday, November 30, 2011 8:52 PM
To: 'James C. Egan'
Subject: Public Disclosure Request
Attachments: P2011-3058.pdf

PDR # P2011-3058

Mr. Egan:

This email is in further response to your public disclosure request dated September 23, 2011 for copies of all complaints against the following officers:

Brett Schoenberg, Corey Williams, Daniel Auderer and Casey Steiger. In addition, you also asked for copies of 36 specific in-car videos. A copy of your request is attached to this email.

In response to your request for copies of the 36 specific videos the Department will not be able to release copies of any of these videos to you. Pursuant to RCW 9.73.090(1)(c), no sound or video recording may be duplicated and made available to the public until final disposition of any litigation which arises from the incidents that were recorded. The subject of the video or his or her attorney may receive a copy of the video prior to final disposition of related litigation. Explanation: Disclosure of information is statutorily prohibited and would violate the subject's right to privacy.

In response to your request for copies of all complaints filed against the four officers listed above, the Department has identified 22 internal investigation files. One of those files is IIS 10-0385, in which our records show that you received a copy of this file in September. If you need another copy, please let us know. Also, one of the 22 cases, is IIS 11-0320 and it is currently open. This case is under active investigation non-disclosure is essential to effective law enforcement. (RCW 42.56.240(1).) Explanation: The contents of an active investigation are categorically exempt in their entirety. See *Newman v. King County*, 133 Wn.2d 565, 947 P.2d 712 (1997) and *Cowles Publishing Co. v. Spokane Police Department*, 139 Wn.2d 472 987 P.2d 620 (1999).

Following is a list of the IIS cases that are responsive to your request:

IIS 10-0385 – already provided to you in response to another request, please advise if you need another copy.

IIS 11-0320 – open and active investigation – denied at this time pursuant to RCW 42.56.240(1).

PIR 09-0513 – records are ready for pick up

PIR 10-0137 – records are ready for pick up

SR 10-0506 – records are ready for pick up

PIR 11-0210 – records are ready for pick up

IIS 09-0111

SR 10-0093

IIS 11-0046

PIR 11-0372

SR 11-0332

IIS 10-0228

PIR 10-0547

IIS 11-0061

IIS 11-0087

PIR 09-0079

IIS 10-0200

PIR 10-0032

PIR 10-00547
SR 10-0564
IIS 11-0222

For your first installment we have four IIS cases that have been scanned to a CD and it is available at the Public Request Unit front counter, 1st floor of the Seattle Police Headquarters, 610 Fifth Avenue. Our hours are Monday through Friday 8:00 AM to 5:00 PM.

The four files that are ready to be picked up are PIR 09-0513, PIR 10-0137, SR 10-0506 and PIR 11-0210.

The copying fee for this installment of four IIS files is \$16.30 for 163 pages scanned to a CD @ \$0.10/page.

If you are unable to pick up your request, please send a check payable to the City of Seattle for \$17.90 (to cover copying fee and postage) with a copy of this email to:

Seattle Police Department
Attn: Public Request Unit
PO Box 34986
Seattle, WA 98124-4986

In regards to the four IIS files that are ready for pick up, redactions have been applied throughout the files pursuant to the following exemptions:

Unsubstantiated Employee Investigation: Disclosure of the identity of the subject of an unsubstantiated investigation of an employee would violate that individual's right to privacy. RCW 42.56.230(2). See, *Bellevue John Does 1-11 v. Seattle Times*, 164 Wn.2d 199, 183 P.3d 139 (2008). See also, *Bainbridge Island Police Guild v. City of Puyallup*, ___ Wn.2d ___, 259 P.3d 190 (2011) (holding that it would be a violation of privacy to release the identity of a police officer who was the subject of an unsubstantiated internal investigation). Explanation: Releasing the identity of the subject of an

unsubstantiated investigation could violate the subject's right to privacy.

DOL Records: Records contain information that was received from the State Department of Licensing (DOL), disclosure of which is restricted

or prohibited. Disclosure of an individual vehicle owner's name and address, driver's license number and VIN to third parties is limited under

RCW 46.12.635 (See also, 18 USC § 2721). Criminal justice agencies in Washington State, such as SPD, have access to DOL vehicle records

through the Washington State Patrol "A Central Computerized Enforcement Service System" (ACCESS). ACCESS procedures provide that

criminal justice agencies have access to DOL vehicle records for criminal justice purposes and prohibit communication or dissemination to

private individuals or companies for other than criminal justice purposes. While SPD is prohibited from providing this information to you, you

correctly observe that RCW 46.12.635 allows certain individuals, businesses and government agencies access to it. Your request for access,

however, must be directed to DOL. We direct you to the State Department of Licensing website

(<http://www.dol.wa.gov/>), forms section,

for a "Vehicle/Vessel Information Disclosure Request."

RCW 46.52.130 prohibits release to third parties of abstract and certified copies of driving records. Driver's license photographs and medical or disability information is "highly restricted personal information" and may not be released to third parties under 18 USC § 2721. Explanation: Disclosure of information is statutorily restricted/prohibited and would violate the subject's right to privacy. The information could be used identity theft, fraud or other criminal activity.

WACIC Information: Washington Crime Information Center (WACIC) is a centralized state computerized index of criminal justice information (i.e., criminal record history information, fugitives, stolen properties, missing persons) associated with the National Crime Information Center (NCIC) available to Federal, state, and local law enforcement and

other criminal justice agencies for law enforcement purposes. Information obtained from WACIC/NCIC is exempt from disclosure under RCW 42.56.070 and RCW 43.43.710. Explanation: Dissemination is statutorily prohibited.

Privacy: Record includes information the non-disclosure of which is essential for the protection of any person's right to privacy. (RCW 42.56.240(1) as defined by RCW 42.56.050). Explanation: Disclosure of the information would be highly offensive to a

reasonable person and is of no legitimate interest to the public.

Social Security Numbers: Record contains Social Security Numbers. Social Security Numbers of agency employees, volunteers, and their dependents are specifically exempt.(RCW 42.56.250(3)). Social Security Numbers of all individuals are also exempt under Federal law. (26 U.S.C. § 6103, another statute under RCW 42.56.070) Statutorily prohibit: Disclosure of SSN's is prohibited by Federal

statute and SSN's could be used for identity theft, fraud or other criminal activity.

Toxicology/Field Sobriety Tests: Results of toxicology and field sobriety tests submitted to at the request of a police officer are protected. RCW

46.61.506(5) and (7) and/or RCW 70.02.020. Explanation: Disclosure of information is statutorily prohibited and would violate the subject's right to privacy.

The Department is withholding one CD with in-car video from PIR 11-0210 and one CD with in-car video from SR 10-0506 pursuant to the following exemption:

In-Car Video: Pursuant to RCW 9.73.090(1)(c), no sound or video recording may be duplicated and made available to the public until final disposition of any litigation which arises from the incidents that were recorded. The subject of the video or his or her attorney may receive a copy of the video prior to final disposition of related litigation. Explanation: Disclosure of information is statutorily prohibited and would violate the subject's right to privacy.

You may file a written appeal of this response with the Chief of Police within ten (10) business days from the date of this letter. Please include your name and address and a copy of this letter together with a brief statement identifying the basis of the appeal. Please mail or deliver your appeal to:

Chief of Police
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

At this time the Department anticipates having your next installment ready on or about January 4, 2012.

If you have any questions, you can contact the Public Disclosure Desk at 206-684-5481.

Thank you,
Sheila

Sheila Friend Gray
Public Request Unit Manager
Seattle Police Department
206-733-9313
Sheila.FriendGray@Seattle.gov