



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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August 2, 2012

Jonathan David
Records Access Appeals Officer
New York City Police Department
One Police Plaza, Room 1406
New York, NY 10038

Re: FOIL Request #11PL107361

Dear Mr. David:

On behalf of the New York Civil Liberties Union (“NYCLU”), I write to appeal the Department’s response, dated April 27, 2012 and received July 24, 2012, of our December 21, 2011 request for records regarding the NYPD’s use of Long Range Acoustical Devices (“LRADs”). The Department purports to furnish documents responsive to items 1 and 2 of the NYCLU’s FOIL request; however, these documents consist of overwhelmingly non-responsive website printouts, a listing of the specifications for multiple varieties of LRADs that do not appear to correspond with the Department’s inventory, and dated news articles, including those from cities outside New York. (I enclose copies of our request and the Department’s response.)

With respect to items 1 and 2, the Department fails to account for the fact that none of the disclosed documents are, in fact, responsive to item 2 of the FOIL request, which requests disclosure of the following:

All records, including directives, policies, manuals, and/or memoranda created or adopted by the NYPD pertaining to the operation of LRADs, including any descriptions of the circumstances under which LRADs are to be operated, and the chain of command through which authority to station, position and operate LRADs is granted.

The Department proffers no meaningful explanation for this omission, which is its burden, nor does it expressly deny that records responsive to this item exist. It is difficult to contemplate that the Department does not possess any documents regarding LRAD policies and procedures. As such, we urge the Department to perform a more diligent search to uncover such records.

In addition, the Department withheld eight responsive pages on the basis that they are preliminary internal materials that are exempt as non-routine law enforcement techniques and procedures pages. However, to the extent that responsive records with exempt material exist, it is the Department’s duty to redact such materials rather than flatly withholding documents.

For these reasons, we appeal this response as it appears incomplete. If you have any questions about this appeal, please feel free to contact me at kbromberg@nyclu.org or 212-607-3337.

Sincerely,

Katherine Bromberg