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BY HAND AND EMAIL TO RICHARD.MANTELLINO@NYPD.ORG

Records Access Officer

NYPD FOIL Unit

1 Police Plaza, Room 110 C

New York, New York 10038

Re: *Freedom of Information Law Request –
NYPD Long Range Acoustic Devices (LRADs)*

Dear Records Access Officer:

I make this request pursuant to the New York State Freedom of Information Law (“FOIL”), Sections 84-90 of the Public Officers Law, and its implementing regulations, 21 NYCRR Part 1401, as well as the Uniform Rules and Regulations for All City Agencies Pertaining to the Administration of the Freedom of Information Law, Title 43, Rules of the City of New York Chapter 11.

I hereby request disclosure of all records in the NYPD’s possession regarding the deployment, use, management and operation of Long Range Acoustical Devices (LRADs). For purposes of this request, an LRAD is any device that uses sound waves, sound pressure, generated noise, or focused sound as a means of crowd control or as a means of communicating official instructions during demonstrations, rallies, protests or similar events.

Specifically, I request disclosure of the following records:

- a. Copies of recorded police communications from December 4 and December 5, 2014 reflecting NYPD responses to protest activities (including, but not limited to, copies of NYPD Citywide One or other radio channels used in connection with policing protests or other incidents on those dates).
- b. All records that indicate the dates and times at which the NYPD has stationed, positioned, and/or operated one or more LRADs between September 1, 2011 and December 21, 2011, including records that explain how and why such devices were utilized.

- c. Records, including memoranda, emails and other correspondence, both internal to the NYPD and external (e.g., with other police departments, state police and/or security agencies, federal police and/or security agencies) pertaining to the use of LRADs.
- d. All records describing any LRADs in the NYPD's possession, including manufacturer's instructions or manuals; records identifying the manufacturer, trade name, make and/or model number, identifying characteristics, and physical dimensions; and acoustic specifications, including decibel levels (dBA) across the full range of frequencies (Hz) and over a range of distances.
- e. All records, including training materials, directives, policies, manuals, and/or memoranda, created or adopted by the NYPD pertaining to the operation of LRADs, including any descriptions of who is qualified to operate LRADs, 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.
- f. All records reflecting instances in which LRADs have been deployed (whether or not they were used).
- g. All records reflecting instances in which LRADs were used, including, but not limited to, any unusual occurrence reports or after-action reports reflecting the date, time, location, and any other facts or circumstances surrounding an LRAD use.
- h. All records regarding LRAD testing.
- i. All records, including training materials, directives, policies, manuals, and/or memoranda, created or adopted by the NYPD pertaining to the use of force, force escalation, and use of force reporting requirements and practices, including any such records regarding LRAD uses as uses of force.
- j. All records, including training materials, directives, policies, manuals, and/or memoranda, created or adopted by the NYPD pertaining to crowd control in connection with First Amendment assemblies, special events, or other, similar incidents, including, but not limited to, any such documents reflecting the circumstances under which a perceived group may be treated as a group for crowd control or mass arrest purposes.
- k. Any and all documents or memoranda, including requests for detail, requesting the deployment of an LRAD.

Please respond to this request by e-mail in the first instance.

Please provide electronic versions of responsive documents/records where possible.

Please notify me in advance if the fees for providing these records are expected to exceed \$100.

Should you deny any portion of this request based on a determination that you are legally exempt from the disclosure requirement with respect to a particular document, please provide me with a written explanation specifically citing the Public Officers Law §87(2) category into which you allege that each document allegedly exempt from disclosure falls. As I am sure you are aware, these exemptions are to be narrowly construed, and the burden to demonstrate that the requested material indeed qualifies for exemption is yours. *Gould v. NYPD*, 87 NY2d 267 (1996). Moreover, you may only withhold disclosure where the material requested falls squarely within the ambit of one of those statutory exemptions. *Id.* Accordingly, please articulate particularized and specific justifications for your withholding in each case.

Please treat this request as severable. If you deny any portion(s) of it based on an alleged exemption from disclosure, please continue the process of providing me with copies of those records you agree you are required to disclose without delaying that process based on your partial denial of the overall request. In other words, please turn over what you agree I am entitled to as soon as possible, even if you claim exemption from disclosing some of the records requested herein.

Please also provide me with the name, email address, mailing address, and facsimile number of the person or body to whom I should direct an administrative appeal of any such potential denial.

I look forward to your first response within five business days.

Thank you kindly for your time and prompt attention to this matter.

Very truly yours,

/S/

Gideon Orion Oliver

cc: Robert J. Freeman
Executive Director
Committee on Open Government
New York State Department of State
41 State Street
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