



January 25, 2017

SENT VIA EMAIL AND FIRST CLASS MAIL

Michael Marshman
Chief of Police, Portland Police Bureau
1111 SW Second Ave.
Portland, OR 97204
(503) 823-0000
Michael.Marshman@portlandoregon.gov

Ted Wheeler
Mayor, City of Portland
1221 SW Fourth Ave.
Portland, OR 97204
(503) 823-4120
MayorWheeler@portlandoregon.gov

RE: Surveillance and Law Enforcement Presence at Inauguration Day Protest

Dear Chief Marshman and Mayor Wheeler,

Consistent with the spirit of transparency and public trust enshrined in the Oregon Public Records Act,¹ the American Civil Liberties Union of Oregon (ACLU) writes to request records on behalf of the public related to Inauguration Day (January 20, 2017) events and any related planning events.

We understand that the Portland Police Bureau (PPB) and other unidentified law enforcement agencies acting in concert with and at the direction of PPB deployed numerous personnel from multiple agencies and used many different law enforcement techniques and technologies to monitor, control, and suppress the gathering at Pioneer Square and march that followed.

Throughout the night, we read repeated reports that PPB was deploying unnecessary and excessive force. We are deeply disappointed that you did not heed our pleas to act with restraint, but instead chose to escalate the use of force against peaceful protesters.

On behalf of these people, we request all records about or related to:

¹ ORS 192.420 to 192.505.

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Personnel and Coordinated Efforts

- The number of officers deployed, specifying their unit, their home agency, whether they were in uniform or in plain clothes (undercover), and if in uniform whether the uniform was street gear or riot (for example, 12 bicycle police, Gresham Police Department, uniformed, bicycle police uniform).
- List of all law enforcement agencies deployed and name of primary contact (for example, Department of Homeland Security, Officer Smith).
- Chain of command or interagency coordinating rules or policies.
- All communications from or to PPB with other law enforcement agencies preparing for the event.
- All communications from or to PPB with other law enforcement agencies during the event.
- All commands given from command center to units engaged with the public.
- All determinations to re-direct or block protesters from accessing certain streets, bridges and parks; deploy less-than-lethal munitions; or use any other crowd control techniques.
- Communications between the Mayor, including all of the mayor's staff, and PPB regarding the protests.
- Communications regarding the length of time the City of Portland would allow the protest to continue.
- Contracts or agreements entered into with any law enforcement agency in preparation for this event.
- Estimate of the amount of money spent preparing for, and executing police activities during, the event.
- Estimate of the amount of overtime paid to officers during the event.

Technology and Equipment

- The use of any airplanes, drones or other manned or unmanned aircraft.
- Any social media monitoring.
- Use of facial recognition or matching technology.
- Use of any FLIR cameras or other thermal imaging cameras.
- Use of Stingray or other cell simulating technology.
- A complete list of all technology provided to individual officers, for example, body cameras.
- Policies and procedures governing the retention of any recording by any officer.
- A complete list of all equipment provided to officers.
- A complete list of all weapons, both lethal and less-than-lethal, provided to officers.
- Number of munitions deployed, location where they were deployed, and type (for example 12 concussion grenades at 6th and Alder).

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- A complete list of all vehicles deployed.

To the extent your office finds any conditional exemption applies to the requested records, the ACLU urges that the public interest in these records heavily weighs in favor of disclosure. “A matter or action is commonly understood to be ‘in the public interest’ when it affects the community or society as a whole, in contrast to a concern or interest of a private individual or entity.”²

Peaceful protest is at the heart of our democracy and builds the solidarity of our community. There is a grave public interest in transparency in the manner in which law enforcement responds to our protests. Regardless of the message or viewpoint of those who speak out, the rights of all members of the public are at stake when a law enforcement agency responds to a protest. This is especially true in Portland where there is a robust tradition of protest.

The Oregon Supreme Court has recently recognized that with respect to law enforcement bodies, specifically police departments, “the public interest in transparency of government operations is particularly significant.”³ With respect for these vital interests and with the hope that we can work together to build public trust in the operations of the Portland police, the ACLU will make these records available to the public.

Should you find any records exempt from disclosure, the ACLU recognizes that a public body bears the burden of demonstrating an exemption applies and respectfully requests a written communication explaining the legal authority relied upon to deny the requested records. We also respectfully request that the explanation include the interests relied upon to find the public interest is outweighed in the context of the proffered exemption.

As a non-profit public interest organization, we request a waiver of the associated fees. A public body “may furnish copies without charge or at a substantially reduced fee if the custodian determines that the waiver or reduction of fees is in the public interest because making the record available primarily benefits the public.”⁴ The offer of these records certainly would provide such public benefit.

In accordance with the Oregon public records laws, please respond as soon as practicable.⁵ In your response, we ask that you include an estimate of the time it will take fulfill the request and the estimated amount of fees that cannot be waived in accordance with the public interest.

I very much appreciate your attention to this matter. If you have any questions or concerns about the information requested, please feel free to contact me by telephone at 503-227-6928 or by e-mail to ksimon@aclu-or.org. If it is more convenient, you may reply by postal mail to the following address:

² *In Defense of Animals v. OHSU*, 199 Or.App. 160 188 (2005).

³ *American Civil Liberties Union of Oregon, Inc. v. City of Eugene*, 360 Or 269, 293 (2016).

⁴ ORS 192.440(5).

⁵ ORS 192.440(2).

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American Civil Liberties Union of Oregon
Attention: Legal Department
P.O. Box 40585
Portland, Oregon 97240-0585

Thank you in advance for your cooperation in this effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Santos'.

Mat dos Santos
Legal Director