

**IN THE SUPERIOR COURT
FOR THE DISTRICT OF COLUMBIA**

CIVIL DIVISION

BRENNAN CENTER FOR JUSTICE,
1140 Connecticut Avenue, N.W.
Suite 1150
Washington, D.C. 20036

and

DATA FOR BLACK LIVES
228 Park Avenue South
New York, New York, 10003

Plaintiffs,

v.

THE DISTRICT OF COLUMBIA,
John Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Serve:
Mayor Muriel Bowser
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

and

Office of the Attorney General
for the District of Columbia
441 4th Street NW
Washington, D.C. 20001

Defendant.

Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Brennan Center for Justice at New York University School of Law¹ (the “Brennan Center”) and Data for Black Lives (“D4BL”), by their undersigned counsel, allege for their Complaint:

1. This is an action under the District of Columbia Freedom of Information Act, D.C. Code § 2-531 *et seq.* (“FOIA”), to compel the complete production of public records concerning the District of Columbia Metropolitan Police Department’s (“MPD”) use of social media monitoring data, techniques, and policies. The records are responsive to a FOIA request made by the Brennan Center and D4BL on December 15, 2020. *See* Exhibit A (attached hereto) at BC13-19. Over the past fourteen months, the Brennan Center and D4BL have been attempting to secure the records, but, to date, MPD has not produced a full set of responsive records, and the Mayor’s Office (which is responsible for FOIA appeals) has failed to respond.

2. The Brennan Center tracks and reports on the law enforcement use of social media, including the purchase and use of third-party social media monitoring tools. This includes the collection of information from social media platforms like Facebook, Twitter, Snapchat, and Instagram for purposes such as identifying potential threats, monitoring individuals and groups, and facilitating criminal investigations. D4BL engages in advocacy to limit police access to technology and data analytics, including through its *#NoMoreDataWeapons* campaign. Although Plaintiffs are not required to explain the basis for their FOIA request, they note that the requested records will shed light on the scope of MPD’s

¹ This Complaint does not purport to represent the position, if any, of New York University School of Law.

social media monitoring policies and practices, how they function, how they are justified under the law, and whether MPD has communicated or contracted with third-party providers of social media monitoring services. Access to these records will permit the public to evaluate the extent of MPD's surveillance and data collection under its current policies. The records clearly concern a matter of public importance and interest.

3. Despite the importance of the requested records, and despite its statutory obligations, MPD did not produce *any* responsive documents until September 30, 2021, more than *nine months* after the request was submitted. Ex. A at BC26-30. Even then, the production was woefully incomplete. Indeed, the small number of records produced expressly reference many other responsive records that MPD should have located and produced but did not. Simply put, MPD violated FOIA by failing to conduct an adequate search for records and by failing to produce a host of responsive records.

4. The Brennan Center and D4BL therefore submitted an administrative appeal to the Mayor's Office, and repeatedly followed up with the Mayor's Office by phone and email. Other than an acknowledgement of the appeal, which also directed MPD to produce the documents in question to the Mayor's Office for review, the Brennan Center and D4BL received no response and no additional records. Because the Mayor's Office failed to issue a final determination with respect to the appeal by the statutory deadline, it has constructively denied it. D.C. Code § 2-537(a). As such, the Brennan Center and D4BL have exhausted all administrative remedies that are required before filing suit in this Court. *Id.* at BC4-74.

5. This constructive denial is contrary to both the legal requirements of FOIA and the purpose of the statute. FOIA advances the District's commitment to a transparent, participatory, and democratic form of government. Access to information about the District's

surveillance and tracking of private citizens is at the very heart of the democratic accountability that FOIA is designed to serve.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to D.C. Code §§ 2-532(e) & 2-537(a)(1). As explained above, the Brennan Center and D4BL have exhausted all administrative remedies and thus are entitled to “institute proceedings for injunctive or declaratory relief in the Superior Court for the District of Columbia.” D.C. Code § 2-537(a)(1).

7. Venue properly lies with this Court as the defendant is the District of Columbia, the actions forming the basis of the claim occurred principally within the District of Columbia, and the agency records at issue are located in the District of Columbia.

PARTIES

8. Plaintiff Brennan Center is a nonprofit law and public policy institute headquartered in New York, New York and Washington, D.C. It advocates to hold political institutions and law enforcement accountable to the American ideals of democracy and equal justice for all. The Brennan Center seeks to strengthen democracy by, among other things, pursuing government transparency surrounding national security and law enforcement use of technology, advocating for automatic voter registration laws, and publishing groundbreaking research on mass incarceration.

9. Plaintiff D4BL is a nonprofit organization headquartered in New York, New York, committed to the mission of using data science to create concrete and measurable change in the lives of Black people. It uses tools like statistical modeling, data visualization, and crowd-sourcing to fight bias, build progressive movements, and promote civic engagement.

10. Because MPD is an agency within the District of Columbia government, the District of Columbia is the proper defendant in this FOIA action.² Throughout this Complaint, references to “MPD” shall mean the District of Columbia acting through its Metropolitan Police Department.

STATEMENT OF FACTS

Brennan Center’s and D4BL’s FOIA Request

11. On December 15, 2020, the Brennan Center and D4BL submitted a FOIA request to the MPD (the “Request”). *See* Ex. A at BC13-19. The Request sought records from MPD from January 1, 2013, through the date of the production of records, concerning MPD’s use of social media monitoring. Specifically, the Request sought the production of records in the following categories:

- a. **Policies Governing Use:** Any and all department-wide or unit-specific policies, procedures, regulations, protocols, manuals, or guidelines related to:
 - (a) the use of social media monitoring by police department employees including, but not limited to, for the purposes of conducting a criminal investigation, undertaking situational awareness activities, monitoring current or anticipated gatherings, or otherwise viewing or gathering information about individuals; (b) the authorization, creation, use, and maintenance of fictitious/undercover online personas; (c) the collection and maintenance of location data from social media platforms and/or applications; or (d) the retention, analysis, or sharing of data collected via social media.

² *D.C. Gov’t Org. Chart*, Exec. Off. of the Mayor (Jan. 15, 2019), <https://mayor.dc.gov/publication/government-district-columbia-organizational-chart> (providing link to pdf).

- b. **Recordkeeping:** Any and all recordkeeping, logs, or digests reflecting the use of social media monitoring, or searches of social media for purposes including criminal investigations, situational awareness, event planning, or public safety.
- c. **Purchase Agreements and Orders:** Any and all records reflecting a contract or agreement to purchase, acquire, use, test, license, or evaluate any product or service developed by any company providing third-party social media monitoring services, including, but not limited to, Dataminr, Geofeedia, Snaptrands, Firestorm, Media Sonar, Social Sentinel, or Dunami.
- d. **Social Media Account Information from Civilians:** Any and all records reflecting: (a) interactions with civilians in which police department employees requested information about the civilian's social media account information, including, but not limited to, a username, identifier, handle, linked email, or password; or (b) communications conducted on social media platforms between uniformed or undercover police department employees and civilians, including, but not limited to, direct messages, group messages, chat histories, comments, or 'likes.' But excluding communications conducted as part of ongoing investigations and communications appearing on a page or account operated by the MPD and bearing the MPD's name, insignia, or other indicia of ownership or control.
- e. **Use for Criminal Investigations:** Any and all records reflecting the number of criminal investigations in which social media research has been used, the number of criminal investigations in which fictitious/undercover online

personas have been used, the nature of the offenses charged in those investigations, and the number of those investigations that resulted in arrests and/or prosecutions.

- f. **Use for Purposes Other Than Criminal Investigations:** Any and all records reflecting the number of circumstances in which social media was used to collect information about individuals for purposes other than criminal investigations or background checks for police department employment, including regarding protest activity, as well as the number of such matters in which an individual or group was charged with a crime.
- g. **Audits:** Any and all records of, or communications regarding, audits or internal reviews of the Department's use of social media monitoring for the purpose of investigations, situational awareness, event planning, intelligence, or public safety, including, but not limited to, records reflecting any disciplinary actions, warnings, or proceedings in response to an employee's use of social media.
- h. **Training Materials:** Any and all training documents, including drafts, discussing social media monitoring, including, but not limited to, PowerPoint presentations, handouts, manuals, or lectures.
- i. **Legal Justifications:** Any and all records reflecting the legal justification(s) for social media monitoring, including, but not limited to, memos, emails, and policies and procedures.
- j. **Formal Complaints, Freedom of Information Requests, and Legal Challenges:** Any and all records reflecting formal complaints, FOIA

requests, or legal challenges regarding the Department's use of social media monitoring, including, but not limited to, those complaints or legal challenges made by civilians, non-profit groups, or companies.

- k. **Federal Communications:** Any and all records reflecting any communications, contracts, licenses, waivers, grants, or agreements with any federal agency concerning the use, testing, information sharing, or evaluation of social media monitoring products or services. This includes, but is not limited to, records reflecting communications regarding information sharing between MPD and federal law enforcement agencies, such as the FBI, Secret Service, Park Police, ATF, DEA, Bureau of Prisons, U.S. Marshals Service, Capitol Police, Department of Homeland Security's CBP and Border Patrol units, in response to protests in June 2020.³
- l. **Nondisclosure Agreements:** Any and all records regarding the MPD's nondisclosure or confidentiality obligations in relation to contracts or use agreements with third-party vendors of social media monitoring products or services.
- m. **Vendor Communication:** Any and all records reflecting interactions with any third-party vendors concerning social media monitoring products or services, including, but not limited to, sales materials, licensing agreements, communications, memorandums, and emails relating to those products.

³ See Off. of Pub. Affairs, *Attorney Gen. William P. Barr's Statement on Protests in Wash., D.C.*, Dep't of Justice (June 2, 2020), <https://www.justice.gov/opa/pr/attorney-general-william-p-barrs-statement-protests-washington-dc> (regarding the sharing of information between MPD and federal law enforcement agencies).

See Ex. A at BC15-17.

12. This Request was assigned handling number 2021-FOIA-01634. *Id.* at BC4, BC21-24

13. As further explained in the Request itself, Plaintiffs sought these records because social media monitoring by police is a matter of significant public concern. Approximately 70% of Americans regularly use social media, and thus social media companies possess an incredible amount of detailed data about individual users' personal, political, and religious beliefs.⁴ The availability of such data allows police and intelligence agencies to carry out "surveillance of internet mediated activities on a massive scale."⁵ Experts believe "law enforcement's use of this data is widespread," including by officers using undercover accounts to interact with individuals personally, searching for and utilizing publicly available information for a variety of purposes, and leveraging software that analyzes and monitors posts from individuals and groups of people.⁶ When police use social media to collect information about or keep tabs on people they perceive

⁴ See Brooke Auxier & Monica Anderson, *Social Media in Use in 2021*, Pew Research Ctr. (Apr. 7, 2021), <https://www.pewresearch.org/internet/2021/04/07/social-media-use-in-2021/>; Overview, *Police: Social Media Surveillance*, Brennan Ctr. for Justice ("Overview"), <https://www.brennancenter.org/issues/protect-liberty-security/social-media/police-social-media-surveillance>.

⁵ See Ian Brown, *Social Media Surveillance*, Wiley Online Library (Nov. 4, 2014), <https://onlinelibrary.wiley.com/doi/10.1002/9781118767771.wbiedcs122>.

⁶ See Overview, *supra* at 9, 10; see also Rachel Levinson-Waldman & Mary Pat Dwyer, *LAPD Documents Show What One Social Media Surveillance Firm Promises Police*, Brennan Ctr. For Justice (Nov. 17, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/lapd-documents-show-what-one-social-media-surveillance-firm-promises>; *LAPD Social Media Monitoring Documents*, Brennan Ctr. for Justice (Sept. 15, 2021), <https://www.brennancenter.org/our-work/research-reports/lapd-social-media-monitoring-documents>; Mary Pat Dwyer, *LAPD Documents Reveal Use of Social Media Monitoring Tools*, Brennan Ctr. for Justice (Sept. 8, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/lapd-documents-reveal-use-social-media-monitoring-tools>.

as suspicious, it has a disparate impact on historically overpoliced communities, especially communities of color.⁷ It also leads to and supercharges surveillance and police presence at protests and other First Amendment-protected activities, with a particular impact on activists of color. These tactics have a chilling effect on free speech and communications, both online and off.⁸

14. Police departments nationwide, including MPD, have not been transparent about their use of social media or how it may violate the public's First Amendment, Fourteenth Amendment, or privacy rights under the U.S. Constitution.⁹ The public has a right to understand how MPD may be collecting and using this data. It is for that reason that the Brennan Center and D4BL submitted their request in December 2020 and now bring this action to secure MPD's compliance with its statutory obligations.

MPD's Response

15. The MPD's response to the Brennan Center's and D4BL's Request was due March 24, 2021, or more than 90 days after the submission of the Request, a period that afforded MPD significant additional time under the extended FOIA response deadline for requests

⁷ See generally Rachel Levinson-Waltman, *Gov't Access to and Manipulation of Social Media: Legal and Police Challenges*, Howard Law J., Vol. 61 (2018), https://www.brennancenter.org/sites/default/files/publications/images/RLW_HowardLJ_Article.pdf at 525.

⁸ Rachel Levinson-Waldman & Angel Diaz, *TechStream: How to reform police monitoring of social media*, Brookings (July 9, 2020), <https://www.brookings.edu/techstream/how-to-reform-police-monitoring-of-social-media/>; *Statement of Civil Rights Concerns About Monitoring of Social Media by Law Enforcement*, Brennan Ctr. for Justice (Nov. 6, 2019), <https://www.brennancenter.org/our-work/research-reports/statement-civil-rights-concerns-about-monitoring-social-media-law>.

⁹ See Overview, *supra* at 9; Rachel Levinson-Waldman, *Directory of Police Dep't Social Media Policies*, Brennan Ctr. for Justice (Sept. 8, 2021), <https://www.brennancenter.org/our-work/research-reports/directory-police-department-social-media-policies>.

received during the initial COVID-19 closures. *See* D.C. Code § 2-532(c)(3)(A) (emergency amendment that expired Mar. 22, 2021); *FOIA Tolling Emergency Amendment Act of 2020*, D.C. Act 23-555, effective Dec. 22, 2020 (amending D.C. Code § 2-532(c)(3)(A) to extend response deadlines through Mar. 22, 2021).

16. More than six months after its response was due, and more than nine months after the submission of the Request, in the wake of persistent follow up by D4BL and the Brennan Center and under threat of litigation, MPD finally provided a limited response on September 30, 2021. In that response, MPD produced a partial set of responsive documents and pointed to some responsive documents available online. The documents MPD produced and pointed to online, however, included only a fraction of MPD’s records that were responsive to the Request. Indeed, the documents that were produced *expressly reference* other responsive documents that MPD failed to produce, as more fully described *infra* at ¶¶ 17-18. The fact that MPD missed so many obviously responsive documents confirms that MPD failed to conduct an adequate search for records, as required by FOIA.¹⁰

Brennan Center and D4BL’s Administrative Appeal

17. Given MPD’s inadequate search for records and the resulting deficiencies in its response to the Request, the Brennan Center and D4BL submitted an administrative appeal to the Mayor’s Office on December 22, 2021, pursuant to D.C. Code §§ 2-532(e) & 2-537. *See* Ex. A

¹⁰ MPD did not claim that any of the records sought by Plaintiff were wholly exempt from disclosure. It did partially redact some of them because, in MPD’s view, “their release would constitute a clearly unwarranted invasion of personal privacy” under DC Code § 2-534 (a)(2) and (a)(3). Ex A at BC29. Plaintiffs do not challenge these redactions.

at BC4-74. It was assigned tracking number 2022-047. *Id.* at BC76. The administrative appeal identified the following specific problems with MPD’s response to the Request:

a. In response to the Brennan Center and D4BL’s request for social media monitoring policies, *see* Ex. A at BC15 & *supra* ¶ 11(a), MPD produced a record entitled, “ISS Social Media Procedures.”¹¹ On the first page, it describes three other responsive but unproduced records: “CRS Social Media Passwords,”¹² “ISS Online Resources,” and “Social Media Search Techniques.” The Request also cited an additional relevant policy, “Social Media Monitoring Policy,” which was not produced or referenced in MPD’s email communication transmitting the records it produced.¹³

b. MPD’s response stated that it had no records relating to fictitious online personas or accounts. *See* Ex. A at BC27 & *supra* ¶¶ 11(a), (d). But the “ISS Social Media Training” it produced advises that the solution to an officer getting blocked is to “Change username.”¹⁴ If changing usernames is an effective solution to getting blocked,

¹¹ *See id.* at BC32-33. The document name reflects the title of the document provided by MPD’s disclosure; we believe “ISS” refers to Investigative Support Services. *See* https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/2019%20Annual%20Awards%20Program_Updated.pdf at 7.

¹² The document names reflects the title of the document provided by MPD’s disclosure; we believe “CRS” refers to Criminal Research Specialists. *See* https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/release_content/attachments/TESTIMONY_Budget%20Hearing_FY18_FINAL.pdf at 2.

¹³ *See id.* at BC15 n.5.

¹⁴ *See id.* at BC43.

then MPD officers must have alternative undercover or alias accounts, despite MPD's assertion that it has no relevant records.

c. The Request sought recordkeeping, logs, or digests reflecting the use of social media monitoring. *See* Ex. A at BC15 & *supra* ¶ 11(b). MPD's response was silent on the existence of recordkeeping or digests, indicating only that its search located no records of logs of social media searches. However, a publicly-available copy of MPD's 2013 "Social Media Monitoring Policy" indicates that MPD routinely keeps records of its social media monitoring.¹⁵ Specifically, this policy instructs officers to print or document information gathered from social media, prepare a weekly report, submit a written request for social media monitoring continuing longer than thirty days, and submit an oral or written request before using social media in exigent circumstances.¹⁶ In addition, the document entitled "ISS Social Media Procedures" provides templates to document social media searches within a crime report's "social media section."¹⁷ Despite having policies setting forth detailed recordkeeping policies and requiring its officers to document social media searches on an approved template, MPD produced no such documents.

d. The Request sought Social Media Monitoring Purchase Agreements and Orders. *See* Ex. A at BC15-16 & *supra* ¶ 11(c). In response, MPD produced a

¹⁵ Metro. Police Dep't, Mem. from Lieutenant Michael J. Pavlik to the Metro. Police Dep't Criminal Intelligence Branch re: Social Media Monitoring Policy (June 5, 2013), https://cdn.muckrock.com/foia_files/2017/01/26/Social_media_FOIA_.pdf, reproduced in Ex. A at BC35-36. *See also* Major Cities Chiefs Assocs., *Major Cnty. Sheriffs Assocs. & FBI, Social Media: A Valuable Tool with Risks* (July 2013), <https://tinyurl.com/3cpd9wpd>.

¹⁶ *See* Ex. A at BC35-36.

¹⁷ *See id.* at BC32-33.

Memorandum of Understanding between itself and Homeland Security Emergency Management Agency (“HSEMA”) to share data, resources, and research tools. MPD asserted that the only social media monitoring application it can access is Dataminr, which was purchased by HSEMA, together with other agencies.¹⁸ However, public records from the Office of Contracting and Procurement reveal that HSEMA also purchased Babel Street, another social media monitoring application that HSEMA likely shares with MPD.¹⁹ In addition, public records from the Office of Partnerships and Grant Services, cited in the Request, reveal that MPD received a donation from Dataminr for training services for ten officers, valued at \$10,000, in December 2016.²⁰ MPD failed to disclose purchase agreements, orders, contracts, or vendor communications related to its donation from Dataminr and its apparent access to Babel Street through HSEMA.

e. The Request sought purchase agreements/orders, account information for civilians, nondisclosure agreements, and vendor communications. *See* Ex. A at BC16 & *supra* ¶ 11(c), (d), (l), (m). MPD responded that it “does not have any contracts with any social media vendors.”²¹ But it produced “ISS Social Media Training Updated,” which references multiple social media monitoring services that MPD uses such as: storiesig.com, Spokeo, Pipl, Webstagram, Facebook Messenger, LexisNexis Accurant, TransUnion TLOxp, Buzzsumo, WebMii, Tagboard, Lullar, SnapBird, and Social

¹⁸ *See id.* at BC27.

¹⁹ *See id.* at BC8.

²⁰ *See id.* at BC15 & n.6.

²¹ *See id.* at BC29.

Searcher.²² MPD produced no contracts or other requested records concerning its use of any of these services.

f. The Request also sought “training materials.” *See* Ex. A at BC13 & *supra* ¶ 11(h). MPD did produce two undated training presentations, but one of these references “old procedures.” MPD does not appear to have produced any “old procedures” or records related to them.²³

18. Given that the small number of records MPD produced expressly referenced a host of other records that were not produced, identified, or objected to, the administrative appeal requested that the Mayor’s Office order MPD to conduct an adequate search for records, and to produce those records referenced but not produced, including all records related to:

- a. those specifically referenced in the produced “ISS Social Media Procedures”;
- b. the use of fictitious online personas, including undercover or alias usernames officers may “change” to when blocked;
- c. recordkeeping of social media monitoring searches, including written requests for monitoring extensions, weekly reports, requests, and all crime report social media sections;
- d. MPD’s access to and use of Babel Street;
- e. Dataminr’s 2016 donation to MPD;
- f. MPD’s use of storiesig.com, Spokeo, Pipl, Webstagram, Facebook Messenger, LexisNexis Accurint, TransUnion TLOxp, Buzzsumo,

²² *See id.* at BC43, 45, 65.

²³ *See id.* at BC9, BC39, BC44.

WebMii, Tagboard, Lullar, SnapBird, and Social Searcher, including purchase agreements, orders, vendor communications, social media account information from civilians, nondisclosure agreements, and memorandums of understanding;

- g. MPD's old social media monitoring procedures, including drafts of past or current policies or procedures, referenced in "ISS Social Media Training Updated"; and
- h. the dates the produced training presentations were presented.

See Ex. A at BC26-30. In its appeal, Brennan Center and D4BL also sought clarification regarding MPD's response to its request for information regarding the use of social media monitoring in connection with criminal investigations. *See id.* at BC10 n.4. Although MPD stated that it "has no records responsive to this portion of the request," *id.* at BC28, it produced a document reflecting general crime statistics for the time period. It did not make clear, however, whether this document (*id.* at BC74) reflected criminal investigations in which social media monitoring was used.

The Mayor's Constructive Denial of the Administrative Appeal

19. The deadline for the Mayor's final determination of the administrative appeal was January 7, 2022, pursuant to D.C. Code § 2-537(a) and 1 D.C. Mun. Regs. tit. 1 § 412.7.

20. On January 4, 2022, the Mayor's Office instructed MPD to provide a response to the administrative appeal. The Mayor's Office's email stated that if MPD failed to provide a

response by January 12, 2022, the Mayor's Office would decide the appeal without it. *See* Ex. A at BC76.

21. Below-listed counsel for the Brennan Center and D4BL attempted to follow up on the status of the administrative appeal, as well as the existence of any response by MPD, on January 13, 2022 (via email) and January 20, 2022 (by phone). They received no reply.

22. On February 11, 2022, the Brennan Center and D4BL sent a follow up letter to the Mayor's Office again inquiring about the status of their administrative appeal and stating their intention to file this lawsuit if, by February 25, 2022, the Mayor's Office failed to provide a final determination of their administrative appeal – specifically, if the Mayor's Office failed to order MPD to conduct an adequate search and to produce the requested responsive records. *See* Ex. A.

23. Despite these multiple attempts to press their appeal and to secure the statutorily mandated production of records, Brennan Center and D4BL have not received any additional records from MPD. They also have not received any substantive response, much less a final determination, from the Mayor's Office with respect to their administrative appeal.

24. On the afternoon of February 28, 2022, a representative of MPD's General Counsel's Office left voicemail messages for two of the below undersigned counsel for Plaintiffs (which one voicemail erroneously identified as the Brennan Center and "Black Lives Matter," rather than Data for Black Lives). In these messages, MPD did not indicate that it had conducted an additional search or would produce additional records; in particular, the MPD failed to address the records that had been expressly identified – but not produced – in previously disclosed MPD records, which Plaintiffs specifically enumerated in their administrative appeal in early January 2022. Instead, one voice mail message stated that MPD "had a very decentralized

social media practice prior to November of last year when we finally put out an executive order which centralized the process and put certain rules and regulations in place.” (The other message, confusingly, stated that “prior to November of 2011,” MPD “did not have a formal social media policy.”) The references to a previously decentralized social media practice further underscores the need to require MPD to engage in an adequate search.

25. The Brennan Center and D4BL understand that the ongoing pandemic has caused delays. For this reason, throughout this process, they have provided ample extra time, well beyond the statutory deadlines, for MPD and the Mayor’s Office to comply with statutorily-mandated obligations. But it has now been *seven weeks* since a response to D4BL’s and the Brennan Center’s administrative appeal was due and more than a *year* since the Request was first submitted. And, MPD’s voicemails do not warrant any further delay in bringing litigation: they were received after the deadline imposed by the pre-litigation notice; MPD did not promise to conduct a new search or produce additional documents; MPD confirmed that because the records were “decentralized,” the search it conducted was inadequate; MPD asked for more “specifics” and “narrowing,” despite the fact that Plaintiffs’ administrative appeal was already extremely specific and detailed about what documents still need to be produced; and MPD did not even correctly understand *who* was making the requests. While Plaintiffs are certainly willing to work with MPD to retrieve the public records as quickly and efficiently as possible, the delays

engaged in by MPD and the Mayor's Office call for immediate court intervention and oversight by this Court. Accordingly, Plaintiffs now bring this lawsuit.

COUNT 1
VIOLATION OF FOIA

26. The Brennan Center and D4BL repeat, re-allege, and incorporate the allegations in the Paragraphs 1-24 above and in the exhibits attached to this Complaint as though fully set forth herein.

27. MPD is subject to FOIA. D.C. Code § 2-532(a).

28. Pursuant to FOIA, MPD must conduct a reasonable and adequate search for public records in response to a proper request.

29. FOIA also requires MPD to produce any requested public records in its control or possession at the time of the request or to provide a lawful reason for withholding any materials as to which it is claiming an exemption.

30. The records requested by Brennan Center and D4BL in Exhibit A at BC15-17 are public records.

31. The requested records are within the constructive control or possession of the MPD.

32. The requested records do not fall within any lawful FOIA exemption.

33. The MPD's failure to conduct an adequate search for and to disclose all of the requested public records violates FOIA.

34. The Mayor's Office's failure to respond to Brennan Center's and D4BL's administrative appeal violates FOIA.

35. The Brennan Center and D4BL are entitled to an order compelling the MPD to conduct an adequate search and to disclose all of the records that are the subject of the Request.

REQUESTED RELIEF

WHEREFORE, the Brennan Center and D4BL respectfully requests that this Court:

- a. Declare that the documents sought by the Request are public records under D.C. Code § 2-531 *et seq.* and must be located and disclosed;
- b. Declare that the documents sought by the Request, including specifically those documents identified in Paragraph 18, *supra*, are within the control of the MPD under D.C. Code § 2-531 *et seq.* and must be disclosed;
- c. Order the MPD to conduct a search, based on search parameters approved by the Brennan Center and D4BL, and by the Court, and then to produce to the Brennan Center and D4BL all records responsive to the Request within 10 business days of the Court's order;
- d. Award the Brennan Center and D4BL the costs of this proceeding, including reasonable attorney's fees, as expressly permitted by FOIA; and
- e. Grant the Brennan Center and D4BL such other and further relief as this Court deems just and proper.

Dated: March 1, 2022

Respectfully submitted,

BALLARD SPAHR LLP

/s/ Seth D. Berlin

By: Seth D. Berlin (D.C. Bar No. 433611)

Alia L. Smith (D.C. Bar No. 992629)

Margaret N. Strouse (admitted; bar no. pending)

1909 K Street, N.W., 12th Floor

Washington, D.C. 20006

Tel: (202) 661-2200 | Fax: (202) 661-2299

berlins@ballardspahr.com

smithalia@ballardspahr.com

strousem@ballardspahr.com

*Counsel for Plaintiffs Brennan Center
for Justice and Data for Black Lives*

Exhibit A

1909 K Street, NW
12th Floor
Washington, DC 20006-1157
TEL 202.661.2200
FAX 202.661.2299
www.ballardspahr.com

Alia L. Smith
Tel: 202.508.1125
Fax: 202.661.2299
smithalia@ballardspahr.com

Margaret N. Strouse
Tel: 202.661.7670
Fax: 202.661.2299
strousem@ballardspahr.com

February 11, 2022

Via E-mail (foia.appeals@dc.gov)

Mayor's Office of Legal Counsel
FOIA Appeal
1350 Pennsylvania Avenue, N.W., Suite 407
Washington, DC 20004

Re: Brennan Center for Justice and Data for Black Lives Pre-Litigation Notice:
Improper Delay to Respond to DC-FOIA Administrative Appeal 2022-047

Dear FOIA Appeals Officer:

As you know, this firm represents Data for Black Lives ("D4BL") and the Brennan Center for Justice at NYU School of Law ("Brennan Center") in connection with a DC-FOIA request (2021-FOIA-01634) they made to the Metropolitan Police Department ("MPD") on December 15, 2020, as well as the administrative appeal of the partial constructive denial of that request they submitted on December 22, 2021 (2022-047). (For your reference, a copy of that administrative appeal is appended to this letter.) MPD's response to provide information to the Mayor's Office was due December 30, 2021 under DC-FOIA. 1 D.C. Mun. Regs. tit. 1 § 412.5. (providing five business days for an agency to respond to a DC-FOIA appeal). Pursuant to D.C. Code Section 2-537(a), the Mayor's final determination was then due January 7, 2022.

Nearly a week after MPD's response deadline passed and two days before the Mayor's final determination was due, on January 5, 2022 the Mayor's Office emailed MPD and unilaterally stated MPD had five business days *from receipt of the* email to respond to the appeal. (For your reference, a copy of this email is appended to this letter.) The Mayor's Office informed MPD it would decide the appeal on Brennan Center and D4BL's submission alone if MPD failed to respond. Although DC-FOIA does not provide the Mayor's Office with discretion to extend an agency's response deadline, MPD's deadline to respond based on the Mayor's email elapsed a month ago on January 12, 2022.

To date, Brennan Center and D4BL have received nothing from the Mayor's Office or MPD since the January 5, 2022 Mayor's Office email to MPD. Neither the statutory deadline for MPD to respond (December 30), the Mayor's Office deadline (January 7), nor counsel's several attempts to inquire about the status of their appeal have resulted in any

update. While D4BL and Brennan Center would prefer to resolve this matter amicably through the administrative appeal process, please take notice that if, **by February 25, 2022**, the Mayor's office still has not provided a final determination of the administrative appeal and set deadlines for MPD to conduct an adequate search for, and provide, the requested responsive documents, Brennan Center and D4BL intend to file suit in D.C. Superior Court. The suit will seek access to all of the requested records as well as attorneys' fees and costs pursuant to D.C. Code Section 2-537(c).

The DC-FOIA request at issue – seeking information about MPD's use of social media monitoring – was made more than a year ago. MPD did not produce any documents at all until September 20, 2021, more than six months after its statutory deadline had passed. When it did produce documents, the production was materially incomplete. Brennan Center and D4BL have tried address this deficiency through administrative appeal, but those efforts have been continually ignored. Brennan Center and D4BL can no longer tolerate these repeated delays, which have a significant negative impact on their mission of shedding light on the use of social media monitoring by MPD and which are totally contrary to the letter and spirit of the DC-FOIA. *See, e.g., Frankel v. D.C. Office for Planning & Econ. Dev.*, 110 A.3d 553, 558 (D.C. 2015) (DC-FOIA intended to promote “expansion of public access and the minimization of costs and time delays to persons requesting information”). We sincerely hope that you will respond promptly by providing a substantive response to the administrative appeal submitted six weeks ago. But, if not, as noted, Brennan Center and D4BL are fully prepared to seek judicial relief.

Thank you, and please do not hesitate to contact us if you would like to discuss this matter.

Sincerely,

BALLARD SPAHR LLP



By: Alia L. Smith
Margaret N. Strouse

Enclosure

cc: Brennan Center
D4BL
Alana Burnett, FOIA Officer for Executive Office of the Mayor (eom.foia@dc.gov)
Robert Eckert, FOIA Specialist for MPD FOIA Office (Robert.Eckert@dc.gov)
Teresa Quon, Office of the General Counsel for MPD (Terasa.Quon@dc.gov)
foia.admin@dc.gov
mpd.foia@dc.gov

Exhibit 1

1909 K Street, NW
12th Floor
Washington, DC 20006-1157
TEL 202.661.2200
FAX 202.661.2299
www.ballardspahr.com

Alia L. Smith
Tel: 202.508.1125
smithalia@ballardspahr.com

Margaret N. Strouse
Tel: 202.661.7670
strousem@ballardspahr.com

December 22, 2021

VIA EMAIL

The Mayor's Office of Legal Counsel
FOIA Appeal
1350 Pennsylvania Avenue, N.W., Suite 407
Washington, D.C. 20004
foia.appeals@dc.gov

Re: Freedom of Information Act Appeal
FOIA Request No. 2021-FOIA-01634

Dear FOIA Appeals Officer:

We write to appeal the partial constructive denial of the above-referenced District of Columbia Freedom of Information Act ("DC-FOIA") request submitted by Data for Black Lives ("D4BL") and the Brennan Center for Justice at NYU School of Law ("Brennan Center") to the Metropolitan Police Department ("MPD"). While MPD did, belatedly, produce some of the documents subject to the request, that production itself makes clear that MPD possesses or has control over many additional documents that it should have produced, but did not.

BACKGROUND

The Brennan Center tracks and reports on, among other things, police departments' social media monitoring – *i.e.*, the collection of information about groups and individuals from social media platforms like Facebook, Twitter, Snapchat, and Instagram. D4BL engages in advocacy to limit police access to technology and data analytics, including through its *#NoMoreDataWeapons* campaign. In furtherance of their mission to understand and explain the police's use of social media monitoring, D4BL and Brennan Center requested, on December 15, 2020, copies of public records related to MPD's training and use of social media monitoring. (A copy of the request is attached as Exhibit A). As more explicitly set forth in Exhibit A, they requested:

1. Policies governing MPD's use of social media monitoring;
2. Records reflecting the MPD's use of social media monitoring;

3. Purchase agreements with or orders from third-party social media monitoring services, including, but not limited to, Dataminr, Geofeedia, Snaptrends, Firestorm, Media Sonar, and others;
4. Records reflecting interactions between police and civilians on social media;
5. Records concerning the use of social media data in criminal investigations;
6. Records concerning the use of social media for other purposes;
7. Records concerning audits or internal reviews of MPD's use of social media monitoring;
8. Training materials regarding the use of social media monitoring;
9. Records reflecting the legal justification(s) for the use of social media monitoring;
10. Records reflecting formal complaints, FOIA requests, or legal challenges regarding MPD's use of social media monitoring;
11. Records reflecting communications with the federal government regarding social media monitoring;
12. Nondisclosure agreements with third-party vendors;
13. Vendor communications, including sales materials, licensing agreements, emails, etc.

Ex. A. The request was assigned handling number 2021-FOIA-01 634.

The DC-FOIA required a response by March 24, 2021 under the extended DC-FOIA deadline for requests received during the Initial Covid-19 closure. D.C. Code § 2-532(c)(3)(A) (emergency amendment expired Mar. 22, 2021); *FOIA Tolling Emergency Amendment Act of 2020*, D.C. Act 23-555, effective Dec. 22, 2020 (amending D.C. Code § 2-532(c) through Mar. 22, 2021). On September 30, 2021, more than six months after MPD's statutory response deadline passed, with persistent follow up by D4BL and Brennan Center,¹ and under threat of litigation, MPD finally responded by providing a limited set of documents to Brennan Center and D4BL. By email that same date, MPD also provided correspondence listing certain responsive documents available online, describing information responsive to the request, and indicating it was closing the request. (A copy of this email is attached as Exhibit C.) However, the

¹ See Ex. B.

documents MPD produced and pointed to online expressly reference *other*, unproduced, documents that are responsive to D4BL and Brennan Center's request. Therefore, MPD's search for records and production of documents was incomplete.

Accordingly, pursuant to D.C. Code § 2-532(e) and D.C. Code § 2-537(a), D4BL and Brennan Center hereby appeal the constructive partial denial of D4BL and Brennan Center's request to the extent that readily identifiable and responsive documents have been neither produced nor the subject of any specific assertion of an exemption by MPD. The Mayor should direct MPD to (1) conduct an adequate search for the requested records and (2) produce all responsive records, whether or not specifically discussed herein, without further delay.

ARGUMENT

DC-FOIA enacts a broad disclosure policy that requires construing the law "with the view toward expansion of public access and the minimization of costs and time delays to the persons requesting information." *Fraternal Order of Police v. District of Columbia*, 79 A.3d 347, 354 (D.C. 2013) (citing D.C. Code § 2-531). The right of access must be "generously construed." *Id.*; accord *Fraternal Order of Police v. District of Columbia*, 82 A.3d 803, 813 (D.C. 2014).

To comply with its DC-FOIA obligations, the MPD is required to expend all "reasonable efforts" to uncover all relevant documents. *Fraternal Order of Police v. District of Columbia*, 139 A.3d 853, 865 (D.C. 2016). The agency has the burden of establishing *beyond material doubt* that its effort was reasonable. *Id.* MPD must describe, in reasonable detail, where it searched for the requested documents and how its search method was reasonably calculated to uncover all relevant documents. *Doe v. D.C. Metro. Police Dep't*, 948 A.2d 1210, 1220-21 (D.C. 2008). To the extent MPD withholds documents in full or in part, MPD bears the burden of providing the specific exemption and its justification for withholding the documents, so that the Mayor's Office can determine whether MPD has properly invoked the exemption. 1 DCMR 41.2.5 (providing the agency should provide a "Vaughn index of documents withheld, an affidavit or declaration of a knowledgeable official or employee testifying to the decision to withhold documents, or such other similar proof" for all exempt materials); see *FOP*, 79 A.3d at 358.

Here, as an initial matter, with respect to all the enumerated requests, MPD has failed to describe what systems were searched, what search terms were used, and why it employed such search strategy to locate documents responsive to the request. MPD's email merely describes that "a search" was conducted, Ex. C, making it difficult for D4BL and Brennan Center to assess the reasonableness of MPD's search effort at all, much less determine if MPD has met its burden beyond material doubt. Still, in light of the information that D4BL and Brennan Center do know – from documents produced in response to this request, from documents produced in response to

other DC-FOIA requests, and from their expertise in this area – it is apparent that MPD’s search was inadequate and its production incomplete. For example:

- **Request 1 (Social Media Monitoring Policies):** Among other things, MPD produced “ISS Social Media Procedures,” attached as Exhibit D, in response to Brennan Center and D4BL’s request for social media monitoring policies. *See* Ex. A (Request 1). ISS Social Media Procedures (Ex. D) describes three separate responsive, but unproduced, documents on the first page: “CRS Social Media Passwords,” “ISS Online Resources,” and “Social Media Search Techniques.” Ex. D.

In addition, D4BL and Brennan Center are aware of an additional policy, available in redacted form at https://cdn.muckrock.com/foia_files/2017/01/26/Social_media_FOIA_.pdf (attached as Exhibit E), which was not produced or referenced in MPD’s responsive email. MPD is required to produce this form in full to D4BL and Brennan Center or, at a minimum, explain the legal basis for the redactions. *FOP*, 82 A.3d at 813 (an agency bears the burden of demonstrating it properly claimed exemptions for both redactions and withheld documents).

- **Requests 1 and 4 (Policies and Police Interactions with Civilians):** In its request, Brennan Center and D4BL sought, in part, policies related to the use of fictitious or undercover online personas and communications between uniformed or undercover police employees and civilians. Ex. A (Requests 1 and 4). MPD responded that no records relating to fictitious online personas or accounts were located and that Joint Strategic and Tactical Analysis Command Center (“JSTACC”) members “do not create fictitious online personas or interact in an undercover capacity on social media.” Ex. C. However, the produced ISS Social Media Training (attached as Ex. F) suggests that the solution to “Getting Blocked” is to “Change username.” *See* Ex. F at 6. It strains credulity to suggest that changing usernames would be an effective solution to getting blocked if the MPD officer’s second username was not an undercover or alias account. In light of these policies, it is clear that additional documents must exist.
- **Request 2 (Use of Social Media Monitoring):** Brennan Center and D4BL requested, in part, “[a]ny and all recordkeeping, logs, or digests reflecting the use of social media monitoring.” *See* Ex. A (Request 2). In its email, MPD is silent on the existence of recordkeeping or digests; instead it provided only the narrow response that “[a] search located no records of *logs* reflecting social media searches.” *See* Ex. C (emphasis added). However, the publicly-available 2013 Social Media Monitoring Policy (Ex. E) states that officers shall “print or

document information” gathered via social media, submit an oral or written request before interacting on social media in exigent circumstances, provide a written request for a social media monitoring extension to continue for longer than thirty days, and “prepare a weekly report.” Under this policy, Lieutenants also “shall maintain a file of all requests.” *Id.* Further, MPD’s ISS Social Media Procedures (Ex. D) includes *templates* to document social media searches within a crime report’s “social media section.” MPD therefore must have records of social media monitoring searches because its policies require record-keeping and even provide templates for such purposes.

- **Request 3 (Social Media Monitoring Purchase Agreements and Orders):** In response to D4BL and Brennan Center’s request for purchase agreements and orders of social media monitoring services, MPD asserts that the only social media monitoring application it can access is Dataminr, which was purchased by three other agencies: the Office of the Chief Technology Officer (“OCTO”), Homeland Security Emergency Management Agency (“HSEMA”), and National Technology Information Center (“NTIC”). *See* Ex. C. However, the Office of Contracting and Procurement (“OCP”) released public records revealing several purchases of Babel Street, another social media monitoring application, by HSEMA, in response to a separate DC-FOIA request by Brennan Center and D4BL.² OCP provided order forms, invoices, and statements of work for several Babel Street subscription purchases by HSEMA. If MPD has access to Dataminr through HSEMA’s subscription, it follows that MPD is likely to have access to all of HSEMA’s social media monitoring tools, like Babel Street. MPD must search for and produce all records that document its access and use of Babel Street.

In addition, MPD’s email states that MPD did not locate any records of contracts for social media monitoring applications, and that its *only* access to Dataminr is through a purchase by OCTO, HSEMA, and NTIC. *See* Ex. C. This directly contradicts a donation report published by the Office of Partnerships and Grant Services (“1st Quarter Report on Donations Approved by the DC Office of Partnerships and Grant Services”), an online public record that was *specifically referenced* in the DC-FOIA request. *See* Ex. A at n.6. This document indicates that Dataminr donated training services for 10 officers, valued at \$10,000, in

² Sent by Brennan Center and D4BL on February 17, 2021 and assigned FOIA Request No. 2021-FOIA-03164.

December of 2016.³ MPD failed to disclose any purchase agreements, orders, contracts, or vendor communications (including attachments to communications), related to Dataminr's 2016 donation.

- **Requests 3, 4, 12 & 13:** The document produced by MPD titled "ISS Social Media Training Updated" references multiple social media monitoring services MPD uses, such as storiesig.com, Spokeo, Pipl, Webstagram, Facebook Messenger, LexisNexis Accurint, TransUnion TLOxp, Buzzsumo, WebMii, Tagboard, Lullar, SnapBird, and Social Searcher. *See* Ex. F at 6, 8, 28. Despite seemingly providing these services to their officers, MPD indicated that it "does not have any contracts with any social media vendors" and failed to produce *any* purchase agreements and orders, vendor communications, social media account information from civilians, nondisclosure agreements, or other documents providing usage of these services as requested by D4BL and the Brennan Center by Requests 3, 4, 12, and 13. *See* Ex. A.
- **Request 8 (Training Materials):** In response to Brennan Center and D4BL's request for training materials that discuss social media monitoring, Ex. A (Request 8), MPD produced two undated training presentations: (1) 081920 Investigator Training - Emergency Disclosures and (2) ISS Social Media Training Updated. ISS Social Media Training Updated references "old procedures," none of which have been produced. *See* Ex. F at 4-5.

In sum, there are abundant indications that MPD did not conduct a thorough search and did not produce all documents responsive to D4BL's and Brennan Center's DC-FOIA request. Accordingly, D4BL and Brennan Center seek as relief in connection with this administrative appeal an instruction that MPD conduct a complete and thorough new search and provide a statement explaining its search methods (including search terms, databases searched, and search strategy). In addition, D4BL and Brennan Center seek immediate production of the following documents, which should have been included in MPD's initial response:

- Any and all records that document MPD's access to and use of Babel Street, including but not limited to communications with or about Babel Street (including all attachments to those communications), memorandums of use, contracts, training materials, purchase agreements, and orders.

³ *See*

https://opgs.dc.gov/sites/default/files/dc/sites/opgs/page_content/attachments/1st%20Quarter%20FY17%20Donations%20Report_0.pdf at 5.

- Any and all records related to Dataminr's 2016 donation to MPD, including but not limited to any purchase agreements, orders, contracts, training materials, memorandums of use, or communications with or about Dataminr (including all attachments to those communications).
- The following documents referenced in ISS Social Media Procedures (Ex. D) and all other documents contained in the referenced "Social Media folder": "CRS Social Media Passwords," "ISS Online Resources," and "Social Media Search Techniques."
- Records reflecting the dates that the following training presentations, produced in response to Request 8, were created and used: (1) 081920 Investigator Training - Emergency Disclosures and (2) ISS Social Media Training Updated (Ex. F).
- MPD's "old procedures", including any drafts of past or current policies or procedures, referenced in ISS Social Media Training Updated. Ex. F at 4-5.
- Purchase agreements and orders, vendor communications (including all emails, attachments, sales materials, licensing agreements, memorandums), social media account information from civilians, nondisclosure agreements, memorandums of understanding, or other documents related to MPD's use of storiesig.com, Spokeo, Pipl, Webstagram, Facebook Messenger, LexisNexis Accurint, TransUnion TLOxp, Buzzsumo, WebMii, Tagboard, Lullar, SnapBird, and Social Searcher. *See* Ex. F at 6, 8, 28.
- Any and all recordkeeping related to social media monitoring searches, including but not limited to all written requests for monitoring extensions, weekly reports, and files of requests pursuant to the 2013 social media monitoring policy, Ex. E, and all crime report social media sections, as referenced in ISS Social Media Procedures (Ex. D) template.⁴

⁴ In addition, D4BL and Brennan Center seek clarification regarding MPD's response to Request No. 5, regarding the use of social media in criminal investigations. MPD stated that it "has no records responsive to this portion of the request." Ex. C. However, it did produce a document entitled "Crime 01.01.13 Through 12.12.2020," attached as Exhibit G, reflecting general crime statistics for the time period. D4BL and Brennan Center request explanation of whether this document contains crimes in which social media monitoring was used and whether it is responsive to Request 5.

- Policies, protocols, and other documents related to usernames officers have available to “change” to when blocked, Ex. F at 6, and the use of fictitious or anonymous online personas used by MPD.

* * *

We look forward to your prompt response within 10 business days of this appeal. *See* D.C. Code § 2-537(a). Should you like to discuss the request or this appeal, please do not hesitate to contact us. Thank you.

Sincerely,

BALLARD SPAHR LLP



Alia L. Smith
Margaret N. Strouse

Encls.

cc: Brennan Center
D4BL
Robert Eckert, MPD FOIA Specialist (Robert.eckert@dc.gov)

Exhibit A

BRENNAN CENTER FOR JUSTICE

December 15, 2020

Metropolitan Police Department
General Counsel
300 Indiana Ave., NW
Room 4125
Washington, DC 20001

Inspector Vendette Parker
Metropolitan Police Department
300 Indiana Avenue, NW
Room 4153
Washington, D.C. 20001

Via: DC Government Public FOIA Portal

Re: Freedom of Information Act Request

Dear Sir or Madam:

This is a request under the District of Columbia's Freedom of Information Act ("FOIA"), D.C. Code §§ 2-531-539, on behalf of Data for Black Lives and the Brennan Center for Justice at NYU School of Law ("Brennan Center"). Data for Black Lives and the Brennan Center seek information relating to the Metropolitan Police Department's ("MPD's") use of social media to collect information about individuals, groups, and activities, described below as "social media monitoring."

Background

In general, "social media monitoring" is a term describing the use of social media platforms like Facebook, Twitter, Snapchat, and Instagram to gather information for purposes including, but not limited to, identifying potential threats, reviewing breaking news, collecting individuals' information, conducting criminal investigations and intelligence, and gauging public sentiment.

Social media monitoring includes four types of activities: (1) monitoring or tracking an individual, a group, or an affiliation (e.g., an online hashtag) via publicly available information; (2) using an informant, a friend of the target, or an undercover account to obtain information from a protected, private, or otherwise unavailable account or page; (3)

using software like Dataminr to monitor individuals, groups, associations, or locations; or (4) issuing a subpoena, warrant, or other form of legal process to a social media platform for data held by that platform.

Social media is a crucial forum for the exchange of ideas, particularly in this time of unprecedented public activism and political engagement. Social media platforms like Facebook, Twitter, and Instagram have proven to be an invaluable tool for connecting and organizing around a variety of issues and across diverse movements. In a time when social media is recognized as akin to the “modern public square,”¹ social media monitoring has significant civil rights implications. Like other forms of surveillance, social media monitoring impacts what people say and who they interact with online. The deleterious effects of surveillance on free speech have been well documented in empirical research.²

Publicly available records indicate the Metropolitan Police Department engages in social media monitoring, including in its criminal investigations and to monitor public events. For example, the Department’s Special Order 13-04, entitled “Investigative Support Unit,” contains an incident response checklist that lists as a potential action: “Establish ‘fence’ for Twitter or conduct other research or investigative actions via social media sites.”³ Similarly, General Order 803.06 states that, during a major event or critical incident, the Command Information Center Watch Commander shall ensure that “Media outlets and social media are monitored, in coordination with the Intelligence Infusion Division and Public Information Branch, in order to correct mistaken or inaccurate information that is reported and, if corroborated, use the information to assist MPD during the incident in accordance with Departmental policy.”⁴ A 2013 memorandum from the Criminal Intelligence Branch described the creation of Social Media Teams to monitor social media

¹ *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017) (quoting *Reno v. American Civil Liberties Union*, 521 U. S. 844, 868 (1997)).

² See, e.g., Faiza Patel et al., *Social Media Monitoring*, Brennan Center for Justice, May 22, 2019, <https://www.brennancenter.org/publication/social-media-monitoring>; Jonathon W. Penney, “Chilling Effects: Online Surveillance and Wikipedia Use,” *Berkeley Technology Law Journal* 31, no. 1: 117-182 (2016), https://btjl.org/data/articles2016/vol31/31_1/0117_0182_Penney_ChillingEffects_WEB.pdf; Elizabeth Stoycheff, “Under Surveillance: Examining Facebook’s Spiral of Silence Effects in the Wake of NSA Internet Monitoring,” *Journalism and Mass Communication Quarterly* 93, no. 2: 296-311 (2016), <https://journals.sagepub.com/doi/pdf/10.1177/1077699016630255#articleCitationDownloadContainer>; Matthew A. Wasserman, “First Amendment Limitations on Police Surveillance: The Case of the Muslim Surveillance Program,” *New York University Law Review* 90, no. 5: 1786-1826 (2015), <https://www.nyulawreview.org/wp-content/uploads/2018/08/NYULawReview-90-5-Wasserman.pdf>.

³ Investigative Support Unit, “Criminal Research Specialist Incident Response Checklist,” No. SO-13-04, Metropolitan Police Department, May 14, 2013, https://go.mpdonline.com/GO/SO_13_04.pdf.

⁴ Metropolitan Police Department, “Command Information Center,” No. GO-803.06, May 19, 2015, https://cdn.muckrock.com/foia_files/2017/01/26/GO803.06.pdf.

websites for information on criminal activity.⁵ The DC Office of Partnerships and Grant Services also revealed that, in December 2016, the Department had received a donation of training services for 10 officers on alerts by Dataminr, a social media monitoring provider.⁶

Despite widespread public interest in social media monitoring by law enforcement officers, the public lacks information about the current capabilities and limitations of the Metropolitan Police Department's social media monitoring operations. We therefore request the documents below.

Request

The Brennan Center specifically requests records under FOIA that were in the Metropolitan Police Department's possession or control from January 1, 2013 through the date of the production of records, in the following categories:

1. **Policies Governing Use:** Any and all department-wide or unit-specific policies, procedures, regulations, protocols, manuals, or guidelines related to:
 - a. the use of social media monitoring by police department employees including, but not limited to, for the purposes of conducting a criminal investigation, undertaking situational awareness activities, monitoring current or anticipated gatherings, or otherwise viewing or gathering information about individuals;
 - b. the authorization, creation, use, and maintenance of fictitious/undercover online personas;
 - c. the collection and maintenance of location data from social media platforms and/or applications; or
 - d. the retention, analysis, or sharing of data collected via social media.
2. **Recordkeeping:** Any and all recordkeeping, logs, or digests reflecting the use of social media monitoring, or searches of social media for purposes including criminal investigations, situational awareness, event planning, or public safety.
3. **Purchase Agreements and Orders:** Any and all records reflecting a contract or agreement to purchase, acquire, use, test, license, or evaluate any product or service

⁵ Metropolitan Police Department, "Memorandum from Lieutenant Michael J. Pavlik to the Metropolitan Police Department's Criminal Intelligence Branch re: Social Media Monitoring Policy," June 5, 2013, https://cdn.muckrock.com/foia_files/2017/01/26/Social_media_FOIA_.pdf.

⁶ Government of the District of Columbia Office of Partnerships and Grant Services, "1st Quarter Report on Donations Approved by OPGS FY 2017," https://opgs.dc.gov/sites/default/files/dc/sites/opgs/page_content/attachments/1st%20Quarter%20FY17%20Donations%20Report_0.pdf.

developed by any company providing third-party social media monitoring services, including, but not limited to, Dataminr, Geofeedia, Snaptrends, Firestorm, Media Sonar, Social Sentinel, or Dunami.

4. **Social Media Account Information from Civilians:** Any and all records reflecting:
 - a. interactions with civilians in which police department employees requested information about the civilian's social media account information, including, but not limited to, a username, identifier, handle, linked email, or password; or
 - b. communications conducted on social media platforms between uniformed or undercover police department employees and civilians, including, but not limited to, direct messages, group messages, chat histories, comments, or "likes."

But excluding communications conducted as part of ongoing investigations and communications appearing on a page or account operated by the MPD and bearing the MPD's name, insignia, or other indicia of ownership or control.

5. **Use for Criminal Investigations:** Any and all records reflecting the number of criminal investigations in which social media research has been used, the number of criminal investigations in which fictitious/undercover online personas have been used, the nature of the offenses charged in those investigations, and the number of those investigations that resulted in arrests and/or prosecutions.
6. **Use for Purposes Other Than Criminal Investigations:** Any and all records reflecting the number of circumstances in which social media was used to collect information about individuals for purposes other than criminal investigations or background checks for police department employment, including regarding protest activity, as well as the number of such matters in which an individual or group was charged with a crime.
7. **Audits:** Any and all records of, or communications regarding, audits or internal reviews of the Department's use of social media monitoring for the purpose of investigations, situational awareness, event planning, intelligence, or public safety, including, but not limited to, records reflecting any disciplinary actions, warnings, or proceedings in response to an employee's use of social media.
8. **Training Materials:** Any and all training documents, including drafts, discussing social media monitoring, including, but not limited to, PowerPoint presentations, handouts, manuals, or lectures.

9. **Legal Justifications:** Any and all records reflecting the legal justification(s) for social media monitoring, including, but not limited to, memos, emails, and policies and procedures.
10. **Formal Complaints, Freedom of Information Requests, and Legal Challenges:** Any and all records reflecting formal complaints, FOIA requests, or legal challenges regarding the Department's use of social media monitoring, including, but not limited to, those complaints or legal challenges made by civilians, non-profit groups, or companies.
11. **Federal Communications:** Any and all records reflecting any communications, contracts, licenses, waivers, grants, or agreements with any federal agency concerning the use, testing, information sharing, or evaluation of social media monitoring products or services. This includes, but is not limited to, records reflecting communications regarding information sharing between MPD and federal law enforcement agencies, such as the FBI, Secret Service, Park Police, ATF, DEA, Bureau of Prisons, U.S. Marshals Service, Capitol Police, Department of Homeland Security's CBP and Border Patrol units, in response to protests in June 2020.⁷
12. **Nondisclosure Agreements:** Any and all records regarding the MPD's nondisclosure or confidentiality obligations in relation to contracts or use agreements with third-party vendors of social media monitoring products or services.
13. **Vendor Communication:** Any and all records reflecting interactions with any third-party vendors concerning social media monitoring products or services, including, but not limited to, sales materials, licensing agreements, communications, memorandums, and emails relating to those products.

Fee Waiver and Expedited Processing

The above requests are a matter of public interest. The disclosure of the information sought is not for commercial purposes; instead, it will contribute to the public's understanding of government operations. Accordingly, Data for Black Lives and the Brennan Center for Justice request a fee waiver and expedited processing pursuant to DC Code § 2-532(b).

⁷ Office of Public Affairs, "Attorney General William P. Barr's Statement on Protests in Washington, D.C.," Department of Justice, June 2, 2020, <https://www.justice.gov/opa/pr/attorney-general-william-p-barrs-statement-protests-washington-dc>.

Data for Black Lives is a nonprofit organization dedicated to the mission of using data and technology to make concrete change in the lives of Black people. Through advocacy, movement-building, and leadership development, it is working to support a network of grassroots racial justice organizations to challenge discriminatory uses of data and algorithms across systems. With a national network of thousands of scientists and activists, it is working to build a future in which data and technology are forces for good, rather than instruments of oppression, in Black communities.

The Brennan Center for Justice is a nonpartisan, non-profit law and policy institute dedicated to upholding the American ideals of democracy and equal justice for all. The Center has a long history of compiling information and disseminating analysis and reports to the public about government functions and activities, including policing.

Accordingly, the primary purpose of the above requests is to obtain information to further the public's understanding of important policing policies and practices. Access to this information is crucial for the Brennan Center and Data for Black Lives to evaluate such policies and their effects.

Should the Metropolitan Police Department choose to charge a fee, please inform the Brennan Center of the total charges in advance of fulfilling this request via email at hecht-felellal@brennan.law.nyu.edu.

Response Required

The Brennan Center appreciates the Metropolitan Police Department's attention to this request and expects that the Department will send its legally mandated response within fifteen business days of receipt, subject to the possibility of a ten business day extension, as required under DC Code § 2-532. To the extent that the Department withholds any records, please list, in writing, each document that is withheld as well as the specific claimed exemption.⁸ We also request that you provide us with the documents in electronic format where possible. If documents must be produced in hard copy, please first contact Laura Hecht-Felella, contact information below.

⁸ See Washington, DC Municipal Code § 2-533.

Should you have any questions concerning this request, please contact Laura Hecht-Felella by telephone at (646) 292-8385 or via e-mail at hecht-felella@brennan.law.nyu.edu.

Thank you for your time.

Laura Hecht-Felella

Laura Hecht-Felella
George A. Katz Fellow, Liberty and National Security Program
Brennan Center for Justice at NYU School of Law
(646) 292-8385 | hecht-felella@brennan.law.nyu.edu

Exhibit B

From: [Eckert, Robert \(MPD\)](#)
To: [Laura Hecht-Felella](#)
Cc: [Sahil Singhvi](#); [Rachel Levinson-Waldman](#); [Archie-Mills, Lisa \(MPD\)](#)
Subject: FOIA Request No. 2021-FOIA-01634, from Ms. Hecht-Fella (Brennan Center)
Date: Wednesday, March 24, 2021 3:54:32 PM

Hello Ms. Hecht-Felella,

Thanks for your query.

As you know, the referenced FOIA request consists of a broad variety of thirteen (13) itemized/individual requests for records/information, including those that may not currently exist.

While the District of Columbia (DC) Freedom of Information Act (FOIA) does not require agencies to create records, we are working to address each of the thirteen (13) items/requests, in turn, posed within this FOIA request.

We will respond to the FOIA request upon the completion of the following: the search for records that may be responsive to the request; the review for material that may be exempt from release under the FOIA; and, the completion of any other needed consultation and coordination.

Thanks,
Bob Eckert
FOIA Specialist
MPD FOIA Office
robert.eckert@dc.gov
"We are here to help."

From: Laura Hecht-Felella <hecht-felella@brennan.law.nyu.edu>
Sent: Wednesday, March 24, 2021 1:54 PM
To: Eckert, Robert (MPD) <robert.eckert@dc.gov>; Crumlin, Latrina (MPD) <Latrina.Crumlin2@dc.gov>; Archie-Mills, Lisa (MPD) <lisa.archie-mills@dc.gov>
Cc: Sahil Singhvi <singhvis@brennan.law.nyu.edu>; Rachel Levinson-Waldman <levinsonr@brennan.law.nyu.edu>
Subject: RE: Acknowledgement Letter 2021-FOIA-01634

CAUTION: This email originated from outside of the DC Government. Do not click on links or open attachments unless you recognize the sender and know that the content is safe. If you believe that this email is suspicious, please forward to phishing@dc.gov for additional analysis by OCTO Security Operations Center (SOC).

Good morning –

It is our understanding that, pursuant to D.C. Act 23-328 § 808, the MPD was required to respond to our public records request 2021-FOIA-01634 (attached) by today. I am writing to follow up on the status of our request.

Thank you,

Laura

Laura Hecht-Felella
George A. Katz Fellow, Liberty & National Security Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750, New York, NY 10271
(646) 292-8385 | hecht-felella@brennan.law.nyu.edu

From: Laura Hecht-Felella
Sent: Thursday, February 11, 2021 3:22 PM
To: robert.eckert@dc.gov; latrina.crumlin2@dc.gov; lisa.archie-mills@dc.gov
Cc: Sahil Singhvi <singhvis@brennan.law.nyu.edu>; Rachel Levinson-Waldman <levinsonr@brennan.law.nyu.edu>
Subject: RE: Acknowledgement Letter 2021-FOIA-01634

Dear Mr./Ms. Crumlin,

I hope this email finds you well. The Brennan Center is in receipt of your December 16, 2020 response regarding our FOIA request number 2021-FOIA-01634. The Metropolitan Police Department (MPD) claimed a Covid-19 extension pursuant to D.C. Act 23-328 § 808 that allowed it to extend the response deadline for this request until the public health emergency ended.

However, [the FOIA Tolling Emergency Amendment Act of 2020](#) (effective December 22, 2020) requires the MPD to provide a response to our request within 45 days (except Saturdays, Sundays, and legal public holidays) of the end of the “Initial COVID-19 closure,” which was on January 15, 2021.

Therefore, we request that MPD respond to our request by **March 24, 2021** and “either make the requested public record accessible or notify the person making such request of its determination not to make the requested public record or any part thereof accessible and the reasons therefor.”

Please do not hesitate to contact me with further questions at (646) 292-8385. Thank you for your attention to this matter.

Thank you,

Laura

Laura Hecht-Felella
George A. Katz Fellow, Liberty & National Security Program
Brennan Center for Justice at NYU School of Law
120 Broadway, Suite 1750, New York, NY 10271
(646) 292-8385 | hecht-felella@brennan.law.nyu.edu

From: latrina.crumlin2@dc.gov <latrina.crumlin2@dc.gov>

Sent: Wednesday, December 16, 2020 12:28 PM

To: sahil.singhvi@nyu.edu

Cc: robert.eckert@dc.gov; latrina.crumlin2@dc.gov; lisa.archie-mills@dc.gov

Subject: Acknowledgement Letter 2021-FOIA-01634

Dear Mr./Mrs. Singhvi,

This office is in receipt of your Freedom of Information Act (FOIA) request. Your FOIA request number is 2021-FOIA-01634 and your assigned FOIA Specialist is **Robert Eckert**.

If you have any questions regarding your request, please contact your assigned FOIA Specialist at (202) 727-3721. For ease of reference, we ask that you have your FOIA Request Number available when you contact our office.

Please know, pursuant to D.C. Official Code § 2-532(c), we have 15 business-days, subject to the possibility of a ten (10) business day extension to respond to the request as of the date of receipt.

Be advised, if your request is for Body Worn Camera (BWC) footage, D.C. Code § 2-532(c) allows 25 business days subject to the possibility of 15 working-day extension, to respond to the request as of the date of receipt.

COVID-19 Notification

Pursuant to section 808 of the Coronavirus Support Congressional Review Emergency Amendment Act of 2020, **effective June 9, 2020**, D.C. Act 23-328, all FOIA deadlines may be extended during a period of time for which the Mayor has declared a public health emergency. Pursuant to this provision, we have claimed an extension of the time in which to provide a response to your request.

Regards,

Latrina Crumlin
Staff Assistant, FOIA
Metropolitan Police Department

300 Indiana Ave NW, RM 4153
Washington, DC 20001

Exhibit C

From: Eckert, Robert (MPD) <robert.eckert@dc.gov>

Sent: Thursday, September 30, 2021 3:52 PM

To: Laura Hecht-Felella <hecht-felella@brennan.law.nyu.edu>

Cc: Eckert, Robert (MPD) <robert.eckert@dc.gov>

Subject: Final Response in Process - FOIA Request No. 2021-FOIA-01634, from Laura Hecht-Felella (Brennan Center for Justice)

September 30, 2021

Laura Hecht-Felella
George A. Katz Fellow
(submitted via Sahil Singhvi)
Liberty and National Security Program
Brennan Center for Justice at NYU School of Law
hecht-felella@brennan.law.nyu.edu

FOIA Request No. 2021-FOIA-01634

Dear Ms. Hecht-Felella:

This is in response to the above-referenced Freedom of Information Act (FOIA) request for a variety of information as reflected below, along with response information received through the search for responsive records.

"1. Policies Governing Use: Any and all department-wide or unit-specific policies, procedures, regulations, protocols, manuals, or guidelines related to: a. the use of social media monitoring by police department employees including, but not limited to, for the purposes of conducting a criminal investigation, undertaking situational awareness activities, monitoring current or anticipated gatherings, or otherwise viewing or gathering information about individuals; b. the authorization, creation, use, and maintenance of fictitious/undercover online personas; c. the collection and maintenance of location data from social media platforms and/or applications; or d. the retention, analysis, or sharing of data collected via social media."

The following references are responsive to this FOIA request, which may be located on the MPD website (<https://mpdc.dc.gov/page/written-directives-general-orders>): SO-13-04 Investigative Support Unit; SO-14-05 CIC Traffic Desk; SO-16-06 Social Media Checks for Background; SOP 16-01 Handling First Amendment Assemblies; ISS CRS Social Media Policy; ISS Social Media Training; and, ISS Social Media Procedures.

Also located were the attached: ISS CRS Social Media Policy; ISS Social Media Training; ISS Social Media Procedures, Memorandum of Understanding (MOU) Between the District of Columbia (DC) Homeland Security and Emergency Management Agency (HSEMA) and the Metropolitan Police Department (MPD); Emergency Disclosure and Preservation Requests; and, DCR (Crime Statistics) 01/01/2013 - 12/21/2020.

No records reflecting fictitious online personas/accounts were located.

2. Recordkeeping: Any and all recordkeeping, logs, or digests reflecting the use of social media monitoring, or searches of social media for purposes including criminal investigations, situational awareness, event planning, or public safety.

A search located no records of logs reflecting social media searches for the purpose of criminal investigations, situational awareness, event planning, or public safety. Analysts and other MPD members often rely on open-source (publicly available) social media searches to find information about planned demonstrations or criminal activities.

"3. Purchase Agreements and Orders: Any and all records reflecting a contract or agreement to purchase, acquire, use, test, license, or evaluate any product or service developed by any company providing third-party social media monitoring services, including, but not limited to, Dataminr, Geofeedia, Snaptrends, Firestorm, Media Sonar, Social Sentinel, or Dunami."

No records of contracts for social media monitoring applications were located. The MPD does have access to Dataminr, an application purchased by the Office of the Chief Technology Officer (OCTO)/Homeland Security Emergency Management Agency (HSEMA)/National Technology Information Center (NTIC). The MPD has access through the attached memorandum of understanding (MOU) with NTIC. The NTIC provides alerts from Dataminr's First Alert to the Joint Strategic and Tactical Analysis Command Center (JSTACC) management. Dataminr's First Alert uses technology to detect breaking events and emerging risks from open-source social media in real time.

"4. Social Media Account Information from Civilians: Any and all records reflecting: a. interactions with civilians in which police department employees requested information about the civilian's social media account information, including, but not limited to, a username, identifier, handle, linked email, or password; or b.

communications conducted on social media platforms between uniformed or undercover police department employees and civilians, including, but not limited to, direct messages, group messages, chat histories, comments, or "likes." But excluding communications conducted as part of ongoing investigations and communications appearing on a page or account operated by the MPD and bearing the MPD's name, insignia, or other indicia of ownership or control."

This is not something maintained in a database, but would be part of a criminal investigation, and would require research, which is not required under the FOIA. Additionally, as mentioned above, JSTACC members do not create fictitious online personas or interact in an undercover capacity on social media platforms.

"5. Use for Criminal Investigations: Any and all records reflecting the number of criminal investigations in which social media research has been used, the number of criminal investigations in which fictitious/undercover online personas have been used, the nature of the offenses charged in those investigations, and the number of those investigations that resulted in arrests and/or prosecutions."

The MPD has no records responsive to this portion of the request.

"6. Use for Purposes Other Than Criminal Investigations: Any and all records reflecting the number of circumstances in which social media was used to collect information about individuals for purposes other than criminal investigations or background checks for police department employment, including regarding protest activity, as well as the number of such matters in which an individual or group was charged with a crime."

No records responsive to this item of the request were located.

Situational Awareness - The MPD utilizes TweetDeck, which is a free social media dashboard application for management of Twitter accounts. Originally an independent application, TweetDeck was subsequently acquired by Twitter Inc. and integrated into Twitter's interface. It is normally used to monitor trending topics in real-time to identify events that could affect the operational landscape, or MPD operations, and subsequently provide timely and accurate situational awareness and operational intelligence to MPD personnel. Real-time monitoring is not tracked as it is all open source (publicly available data). Additionally, MPD's Intelligence Branch completes a daily demonstration report which provides a daily list of known demonstrations. It's compiled based on known permit applications through MPD, USPP, etc. and open media searches for demonstrations occurring in DC.

As far as First Amendment demonstrations - MPD does not keep "files" on individuals involved in protest/demonstration activity, to include social media accounts, unless MPD has been authorized to conduct an investigation as outlined by First Amendment activities as required by the Police Investigations Concerning First Amendment Activities Act of 2004 (the Act), D.C. Code § 5-333 et seq.

"7. Audits: Any and all records of, or communications regarding, audits or internal reviews of the Department's use of social media monitoring for the purpose of investigations, situational awareness, event planning, intelligence, or public safety, including, but not limited to, records reflecting any disciplinary actions, warnings, or proceedings in response to an employee's use of social media."

No records responsive to this portion of the request were located. Social media inquiries by JSTACC are open source (publicly available).

"8. Training Materials: Any and all training documents, including drafts, discussing social media monitoring, including, but not limited to, PowerPoint presentations, handouts, manuals, or lectures."

Please see the attached the following training material regarding social media investigations. These are given internally to JSTACC members, as well as in investigator and district intelligence officer training: 081920 Investigator Training - Emergency Disclosures ISS Social Media Training Updated.

“9. Legal Justifications: Any and all records reflecting the legal justification(s) for social media monitoring, including, but not limited to, memos, emails, and policies and procedures.”

No responsive records were located.

“10. Formal Complaints, Freedom of Information Requests, and Legal Challenges: Any and all records reflecting formal complaints, FOIA requests, or legal challenges regarding the Department’s use of social media monitoring, including, but not limited to, those complaints or legal challenges made by civilians, nonprofit groups, or companies.”

A search located no records of formal complaints or legal challenges regarding social media monitoring.

“11. Federal Communications: Any and all records reflecting any communications, contracts, licenses, waivers, grants, or agreements with any federal agency concerning the use, testing, information sharing, or evaluation of social media monitoring products or services. This includes, but is not limited to, records reflecting communications regarding information sharing between MPD and federal law enforcement agencies, such as the FBI, Secret Service, Park Police, ATF, DEA, Bureau of Prisons, U.S. Marshals Service, Capitol Police, Department of Homeland Security’s CBP and Border Patrol units, in response to protests in June 2020.”

A search located no records responsive records; however, the attached MOU with the DC HSEMA, referenced in the response to No. 1, is attached.

“12. Nondisclosure Agreements: Any and all records regarding the MPD’s nondisclosure or confidentiality obligations in relation to contracts or use agreements with third-party vendors of social media monitoring products or services.”

As previously mentioned, MPD does not have any contracts with any social media vendors. Therefore, we would not have any nondisclosure agreements.

13. Vendor Communication: Any and all records reflecting interactions with any third-party vendors concerning social media monitoring products or services, including, but not limited to, sales materials, licensing agreements, communications, memorandums, and emails relating to those products.

No responsive records were located.

I have determined to withhold portions of the released records under DC Official Code § 2-534 (a)(2) and (a)(3) because their release would constitute a clearly unwarranted invasion of personal privacy. The withheld material includes names/personal identifiers and other personal privacy information, including that which would lead to the identity of individuals.

Please know that, under D.C. Official Code § 2-537 and 1 DCMR § 412, you have the right to appeal this letter to the Mayor or to the Superior Court of the District of Columbia. If you elect to appeal to the Mayor, your appeal must be in writing and contain “Freedom of Information Act Appeal” or “FOIA Appeal” in the subject line of the letter, as well as, on the outside of the envelope. The appeal must include (1) a copy of the original request; (2) a copy of any written denial; (3) a statement of the circumstances, reasons, and/or arguments advanced in support of disclosure; and (4) a daytime telephone number, an e-mail and/or U.S. mailing address at which you can be reached.

The appeal must be mailed to: The Mayor's Office of Legal Counsel, FOIA Appeal, 1350 Pennsylvania Avenue, N.W., Suite 407, Washington, D.C. 20004. Electronic versions of the same information can instead be e-mailed to the Mayor's Office of Legal Counsel at foia.appeals@dc.gov. Further, a copy of all appeal materials must be forwarded to the Freedom of Information Officer of the involved agency, or to the agency head of that agency, if there is no designated Freedom of Information Officer there. Failure to follow these administrative steps will result in delay in the processing and commencement of a response to your appeal to the Mayor.

**Sincerely,
Bob Eckert
FOIA Specialist
Freedom of Information Act Office
Metropolitan Police Department
Robert.eckert@dc.gov
"Excellence is transferable."**

Exhibit D

Section 1: Minimum social media requirements**Section 2: Taking social media results and searches a step further****Section 3: Negative social media results**

- All ISS usernames and passwords for social media searches are saved in the Social Media folder as “CRS Social Media Passwords.doc”
- Access links to various online resources and internet search tools in the document saved as “ISS Online Resources” in the Social Media folder.
- Additional social media search tips are located in the document “Social Media Search Techniques” in the Social Media folder.

Section 1:

At a minimum, the following procedures are required to uncover social media profiles:

1. Query various name combinations, phone numbers, and email addresses for the subject through the following sites:
 - a. **Facebook, Google, and at least two other search engines** from the ISS Online Resources document.
2. Access Accurant
 - a. Query the subject in Accurant’s Virtual Identity Report.
 - i. Click on all URLs provided in the Virtual Identity Report that are associated to the subject.
 - b. If the subject is a juvenile or no information is returned in public records, also search for relatives and/or current address(es) of that subject through Accurant and/or TLO to find a relative that resides at the subject’s address.
 - i. If a social media profile is obtained for a relative (mother, father, sibling), thoroughly search the profile (friends list, about section, posts, etc.) in an effort to locate a profile for the individual of interest.
 1. The document “**Social Media Search Techniques**” saved in the Social Media folder provides guidance on searching private social media profiles.
 - c. If no profile can be found for the individual of interest, include the relative’s social media profile and URL in the report.

Section 2:

If a profile is uncovered, the following procedures are required:

1. If a social media account is uncovered, the URL handle as well as the name/alias provided on the social media account should be searched in **Google, Facebook, Instagram, Twitter, YouTube, and at least one additional** site that has a username search in an effort to uncover additional profiles.

Use the following template to document positive search results. Plug in or take out what parameters were searched in the italicized portion of the template. This information should appear in the beginning of the social media section.

POSITIVE results

- I conducted searches based on the parameters available on each site using the [arrestee, person of interest, decedent, etc] name(s), DOB(s), SSN(s), email(s), phone(s) and other various identifiers. The following systems returned results that appear to be relevant: [list websites accessed here]

If profiles are found, the following template should be used in the body of the social media section of the report for every social media site that produced results, as seen below:

- I conducted [website] searches based on [search parameters] and received the following results:
Facebook URL: <https://www.facebook.com/CRS>
**Insert screenshots of any relevant timeline, about section, photos, etc.

- I conducted [website] searches based on [search parameters] and received the following results:
Instagram URL: <https://www.instagram.com/CRS>
**Insert screenshots of the about section, photos, etc.

2. If a photo or video is posted on a social media account where firearms or ammunition is viewable; the account URL, image URL, and screenshot of the image in which a firearm is shown **must be emailed** to the following GRU and Intel members: Cmdr. John Haines, Lt. [REDACTED], Sgt. [REDACTED], and Lt. [REDACTED].

If photos on social media reveal firearms or ammunition; the following template should be used under the website URL:

- The account URL, image URL, and screenshot of the image in which a firearm is shown was sent on [DATE] to GRU and Intel for situational awareness.

Section 3:

If no profile is uncovered, the following procedures are required:

1. Access TLO, as TLO tends to provide more phone numbers and email addresses tied to search results. Include or exclude this information in the report based on your judgment as not all information is accurate.
2. If searches have been exhausted, and no relevant social media information has been found; see below on how to document negative results.

In the Possible Social Media section, use the following template to document negative search results. Plug in or take out what parameters were searched in the italicized portion of the template. This information should appear after any positive results or in the beginning of the social media section if no results are returned.

NEGATIVE results

- I conducted searches based on the parameters available on each site using the [arrestee, person of interest, decedent, etc] name(s), DOB(s), SSN(s), email(s), phone(s) and other various identifiers. The following systems yielded negative or unrelated results: [list websites accessed here]

Exhibit E



**Homeland Security Bureau
Intelligence Fusion Division**

300 Indiana Ave, NW Room 3044, Washington DC, 20001 Office: 724-4252 Fax: 202-727-5783

MEMORANDUM

TO: Criminal Intelligence Branch Members

FROM: Lieutenant Michael J. Pavlik
Criminal Intelligence Branch

DATE: June 5, 2013

SUBJECT: Social Media Monitoring Policy

The Criminal Intelligence Branch (CIB) has been tasked with creating Social Media Teams. The mission of these teams is to monitor social media websites for possible information on criminal activity and that care is exercised so as to protect person's constitutional rights, and that matters investigated are confined to those supported by a legitimate law enforcement purpose. To that end, the following guidelines shall be followed.

[REDACTED]

[REDACTED]

Members shall only monitor such websites for discussions of possible criminal activity and criminal associations and shall not engage discussions or interactions unless prior approval has been given by the CIB lieutenant.

In exigent circumstances approval maybe requested by phone followed by a written request the next business day.

Members shall print or document information only as it pertains to having reasonable suspicion of criminal activity or associations.

Approval for the above monitoring will only be approved for thirty days. Prior to the expiration members shall request a written request for an extension to the CIB lieutenant as necessary.

The CIB lieutenant shall maintain a file of all requests and shall conduct a review to determine if reasonable criminal suspicion still exists prior to the 30 day expiration.



Members shall prepare a weekly report for each OSS area detailing any information gleaned. However, should a member gain information regarding any criminal acts, potential suspects, or acts of retaliation, this information shall be forwarded ASAP.

Exhibit F



SOCIAL MEDIA

INVESTIGATIVE SUPPORT SECTION

JOINT STRATEGIC & TACTICAL ANALYSIS COMMAND CENTER

METROPOLITAN POLICE DEPARTMENT

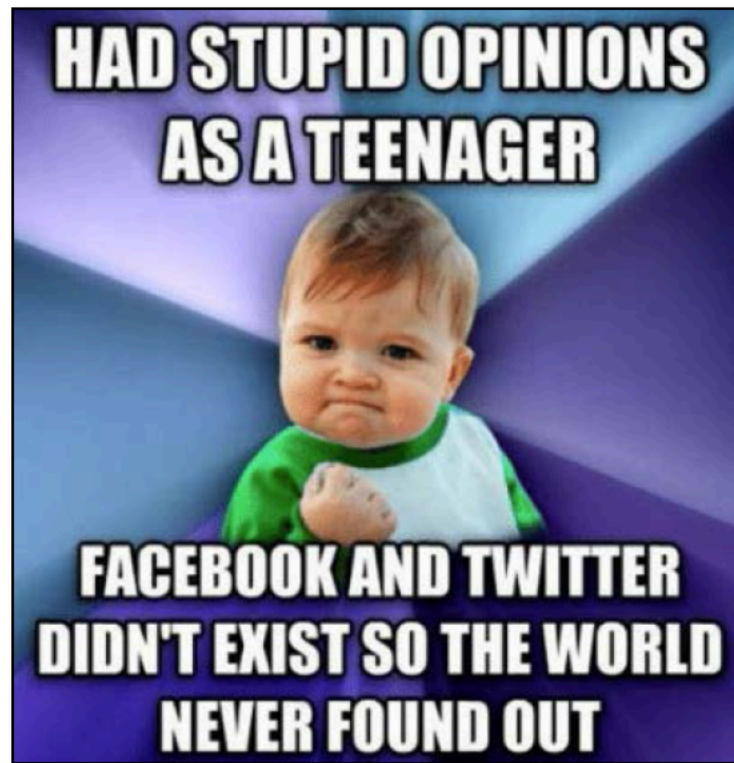
WASHINGTON, D.C.

PETER NEWSHAM

CHIEF OF POLICE BC38

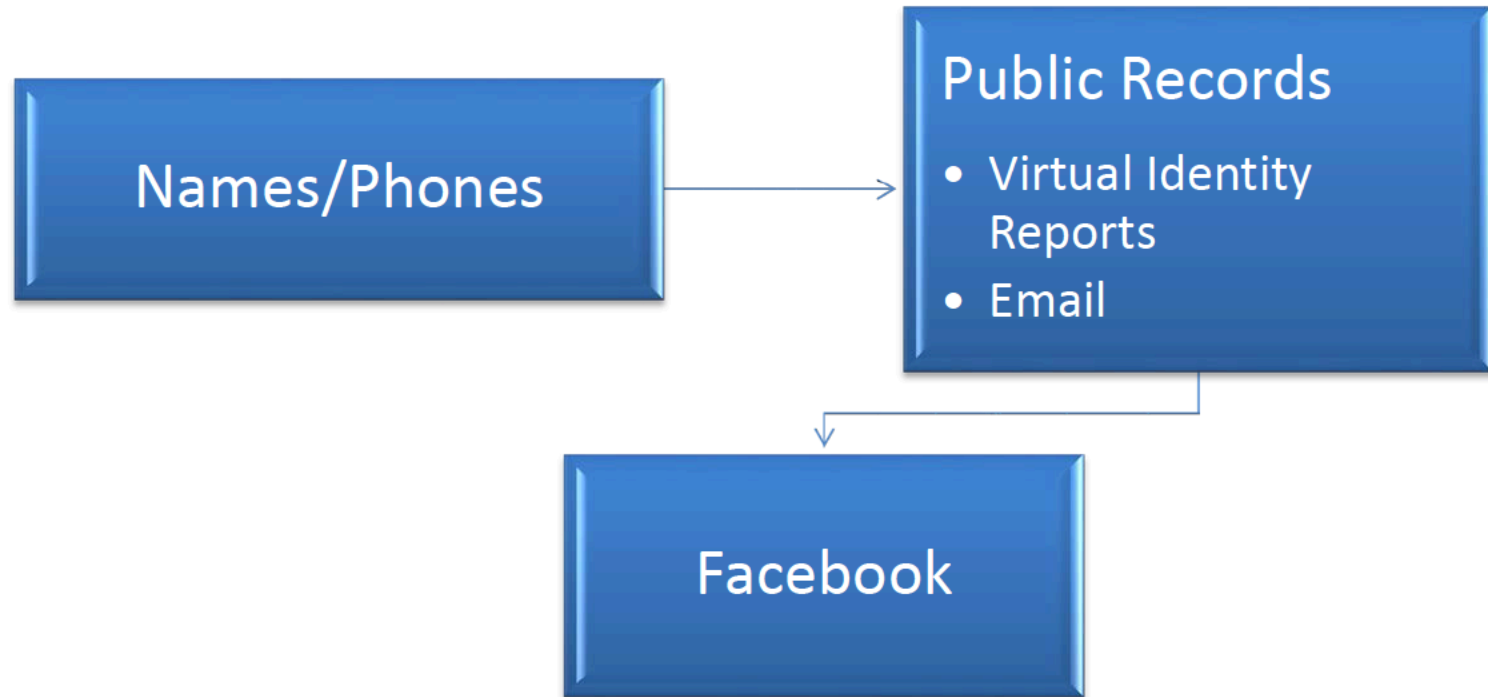


- Provide insight on how the Investigative Support Section (ISS) provides open source intelligence for investigative purposes
 - Old vs New procedures
- Techniques
- Challenges & Solutions
- Examples/Success stories



- Gaining actionable intelligence off social media about a subject
 - Weapons, narcotics, active areas, chatter, #hashtags, friends, activities, family members, etc.
- More targeted searches
- Ability to search a variety of social networking sites, but often use the most popular at the present time (Instagram, Twitter, Facebook, Youtube, Google)
- Search public profiles, pictures, blogs, comments, etc.





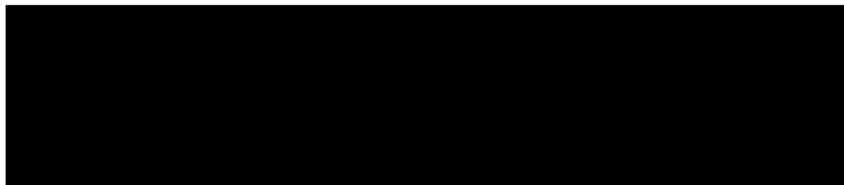
Barely scratching the surface

Robbery Arrestee:



Accurint:

Virtual Identity Report



Facebook:

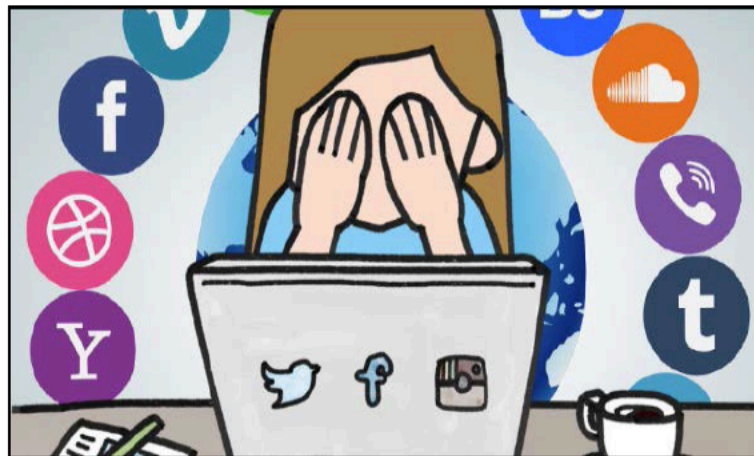


We couldn't find anything for [redacted]

Looking for people or posts? Try entering a name, location, or different words.

**SOME THINGS THAT
ARE TRUE ARE NOT
VERY USEFUL**

- Time
 - ✓ SOLUTION
 - New social media protocol
 - In-depth searches post major incident
- Changing Usernames
 - ✓ SOLUTION
 - Variations of their previous usernames, check associates profiles for tagged photos
- Private Accounts
 - ✓ SOLUTION
 - Known associates and family members sharing tagged photos
- Getting Blocked
 - ✓ SOLUTION
 - Change username, view profiles publicly
 - Storiesig.com
- Search Restrictions
 - ✓ SOLUTION
 - Specialized search sites (Spokeo, Pipl, Webstagram, Facebook Messenger)



Name(s), Phone(s),
Email(s), Various Identifiers



Accurant Virtual Identity Report, Facebook,
Google and at least 2 other search
engines/sites



If Profile is uncovered:

- URL handle, alias names queried through Google, Facebook, Instagram, Twitter, YouTube, and at least one additional site

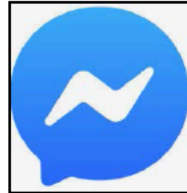
Additional steps if no
profiles found



Use other public records (TLO) to find any
possible emails, phones, relatives, etc.



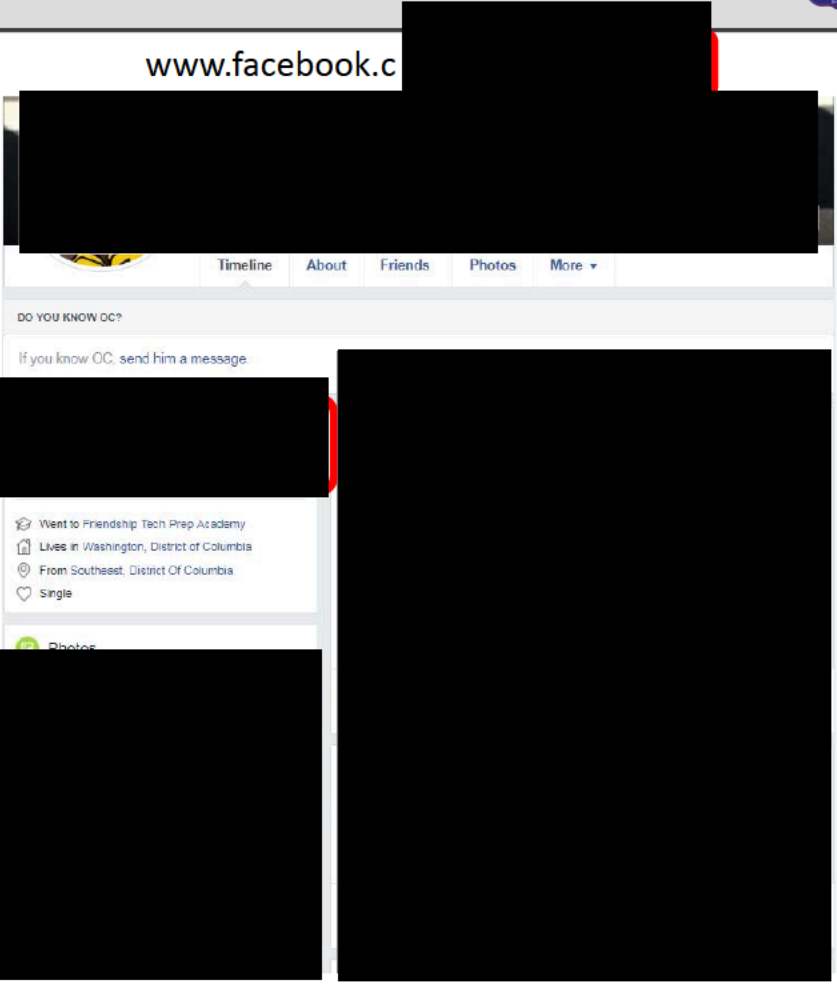
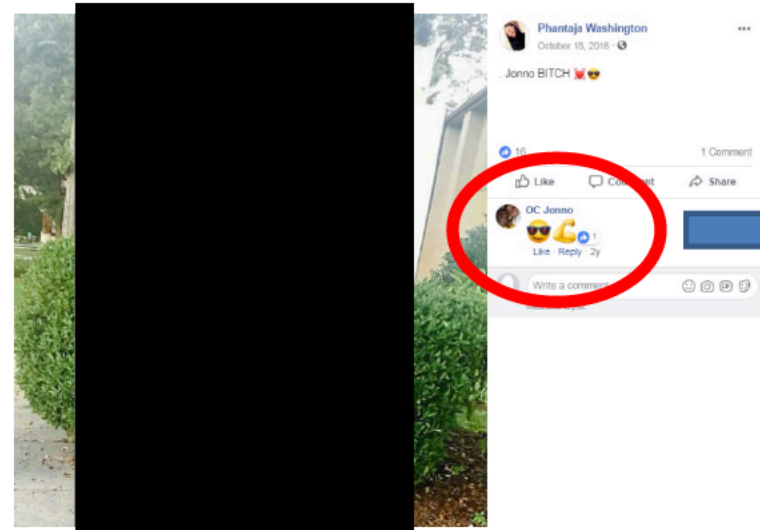
If searches are exhausted, document all sites
searched. Revisit if homicide/major case of
interest



FACEBOOK



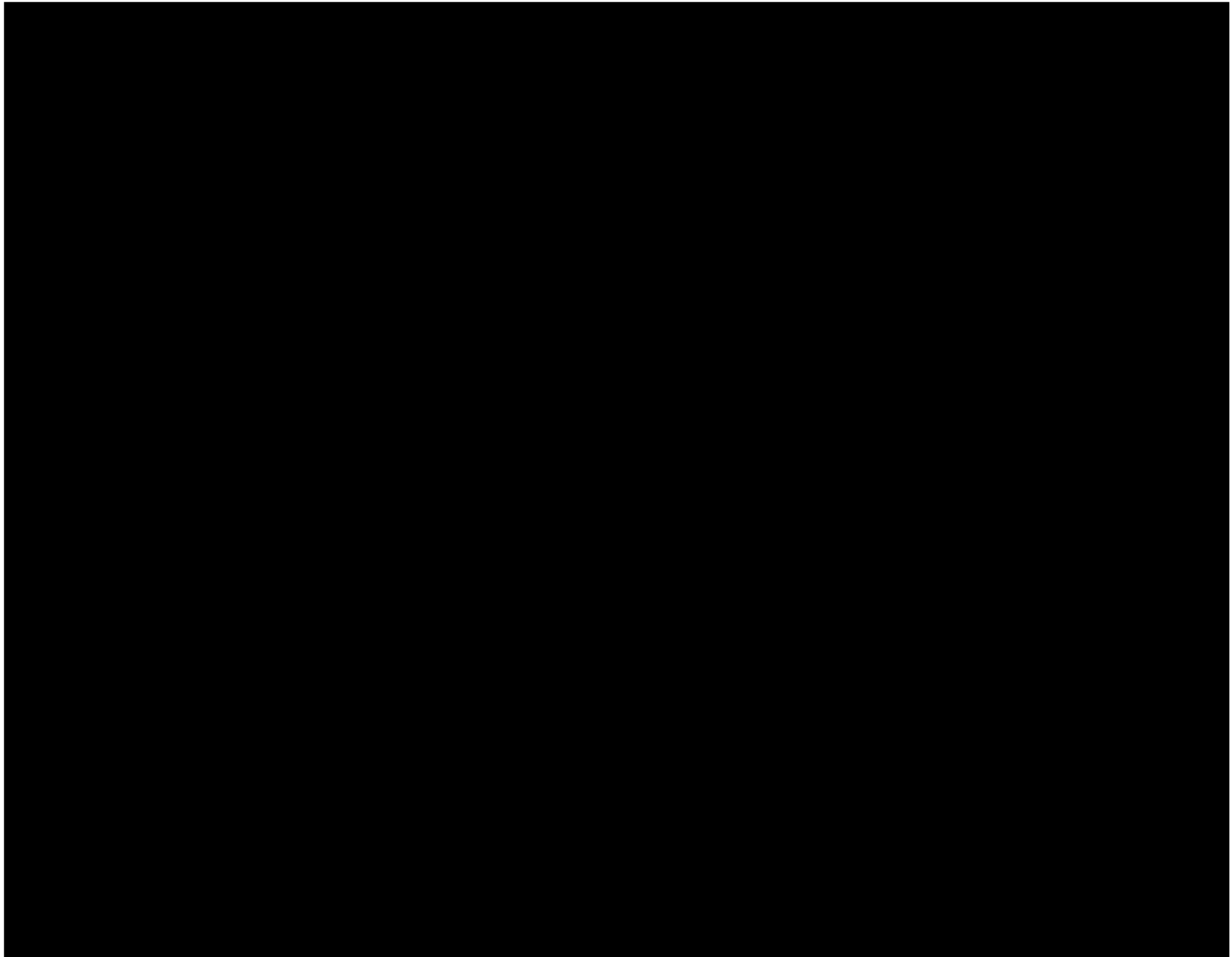
- Exhausted searches on armed robbery arrestee, Daejon Ross. Found mother's Facebook account; however, no links to her son.
- Next, Daejon Ross ex-girlfriend/child in common: Phantaja Washington






www.instagram.co [redacted]
[redacted]

www.instagram.com [redacted]
[redacted]



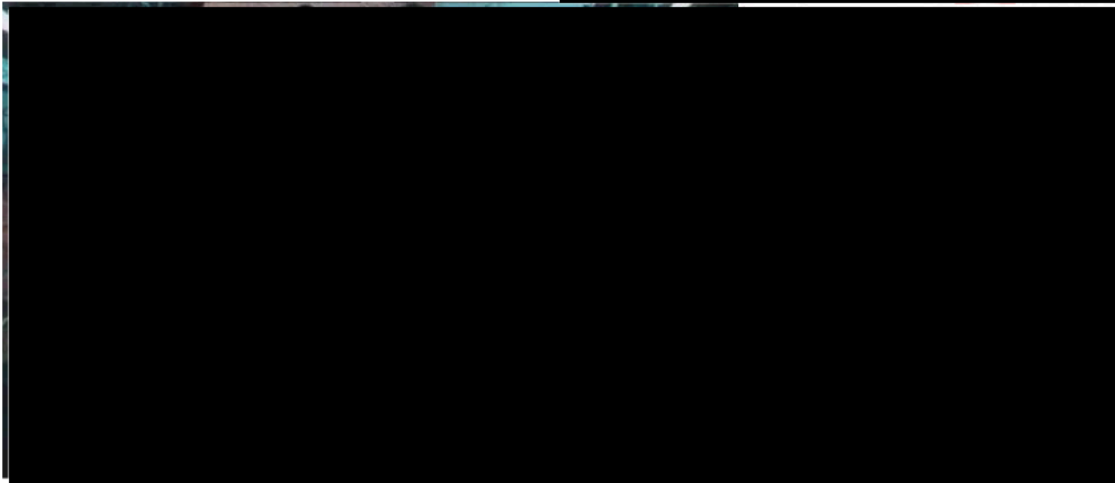
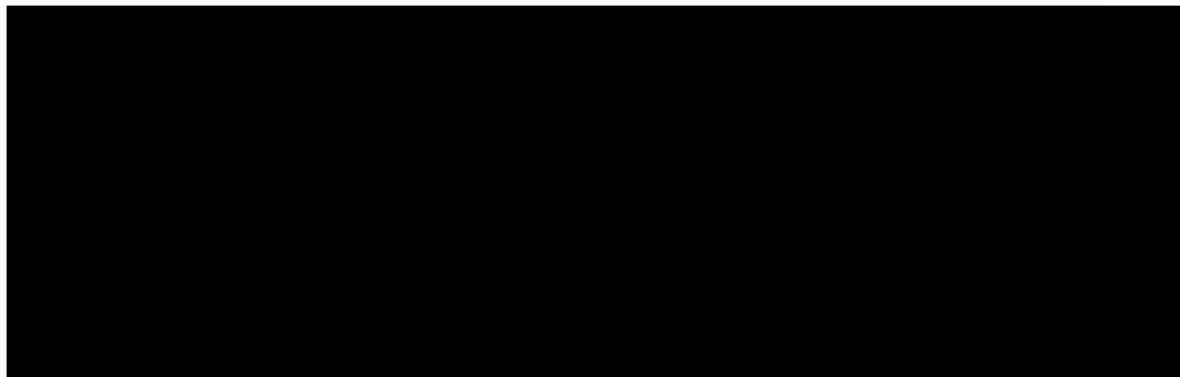
INSTAGRAM

Is there a location
or crew your
subject may be
affiliated with?



INSTAGRAM CONT'D.

While on this profile
look for clues that may
help you identify key
words and help identify
your subject



Based on the profile
bio and photos it
appears [redacted] and
[redacted] may be
keywords associated
with subjects from
Simple City

BC49

INSTAGRAM CONT'D

Based on that information, try searching [REDACTED] and see what populates

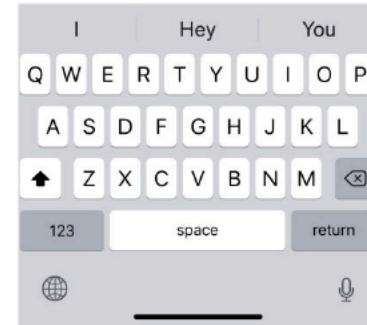
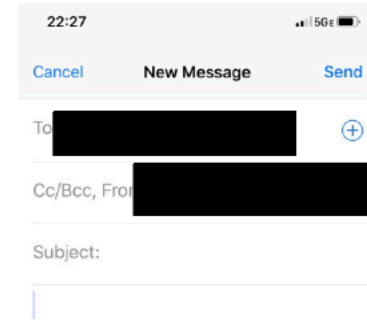
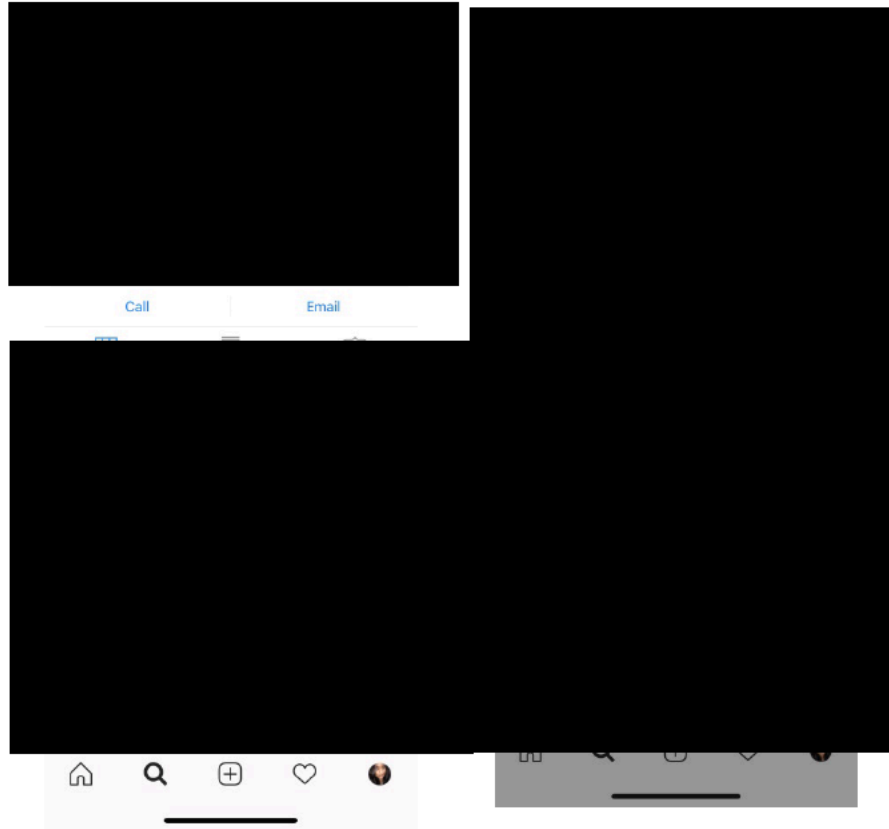
[REDACTED]
account is private, how can we combat it?

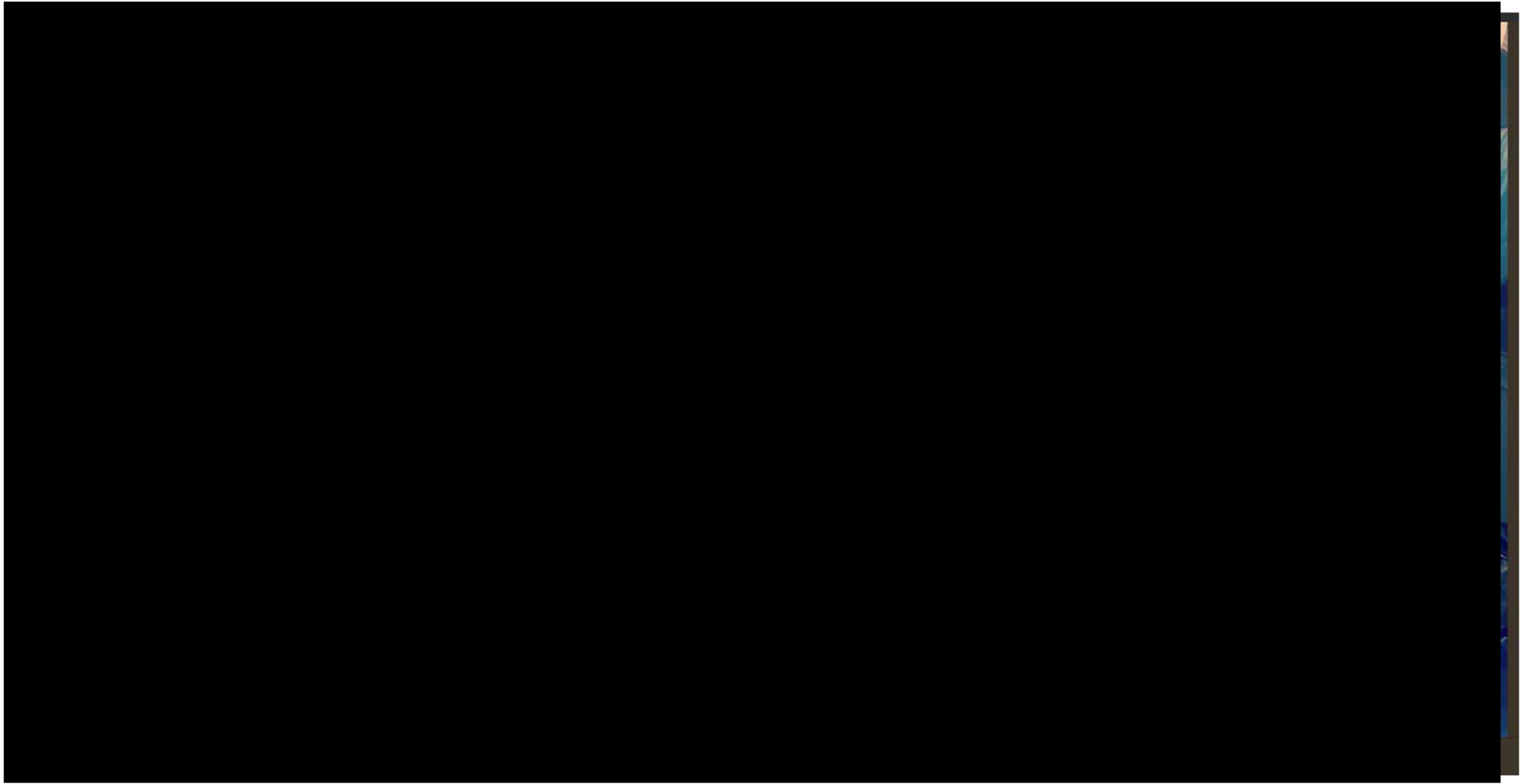


This Account is Private

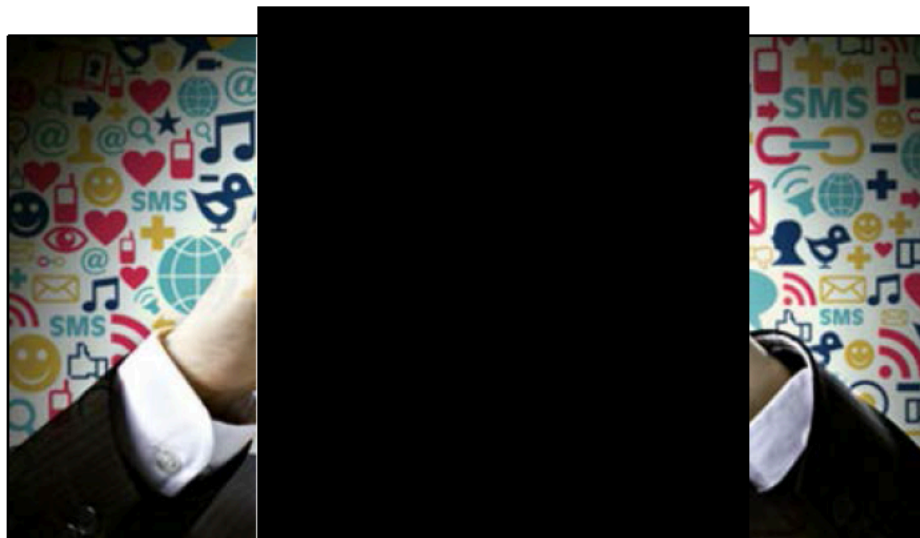
Check [REDACTED] page since its public and he appears to be affiliated with the same area

INSTAGRAM CONT'D



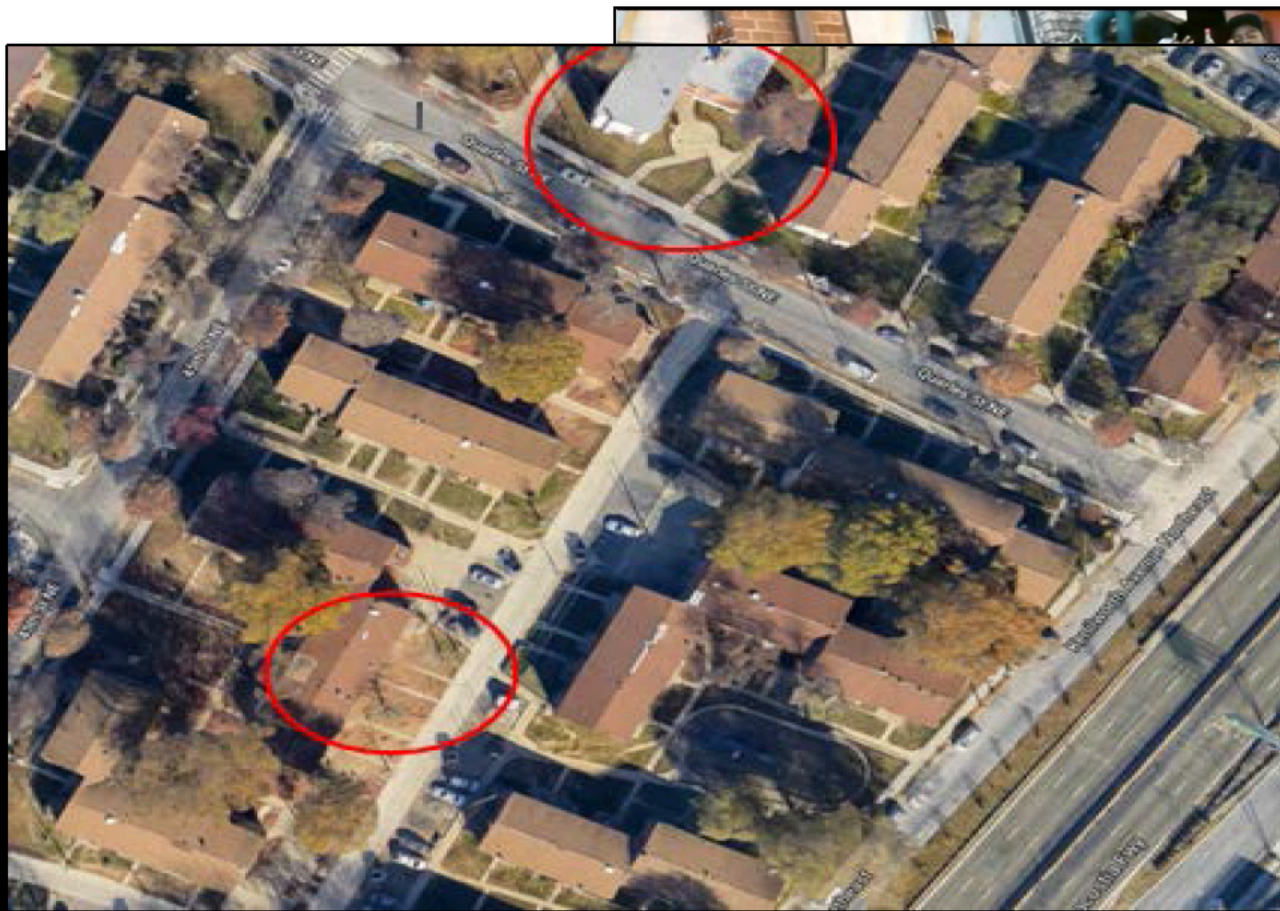


- Social Media drill downs on homicides and high profiles cases/individuals of interest
 - Quick turnaround time for requests
 - Around the clock requests/communication needed between shifts
 - Building out information on hashtags, possible retaliation/crew beefs, relatives/associates
 - Information sharing with Intel, NSID, Districts





SOCIAL MEDIA: TARGETED SEARCHES – YOUTUBE/INSTAGRAM



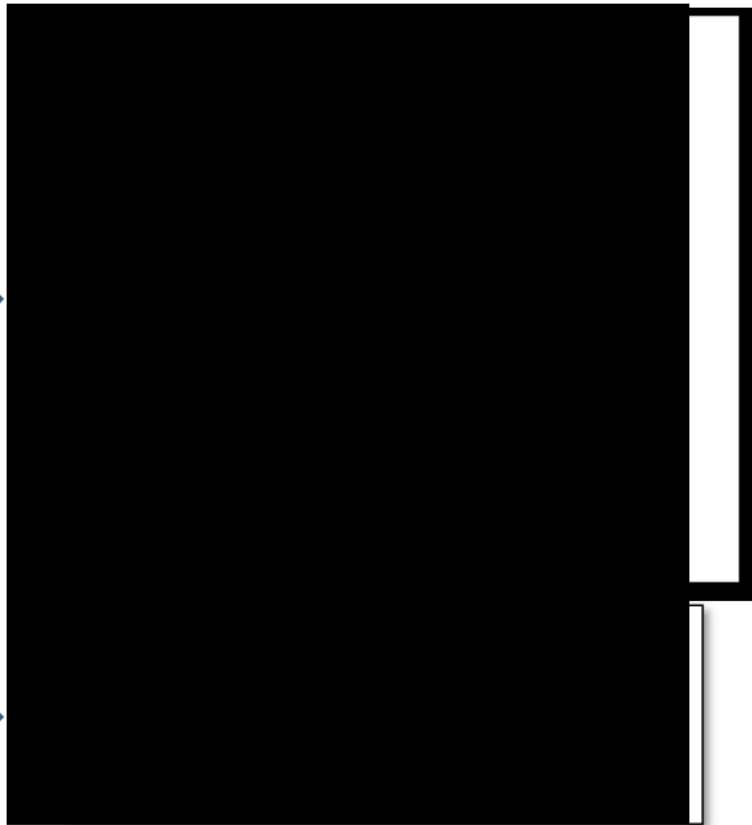
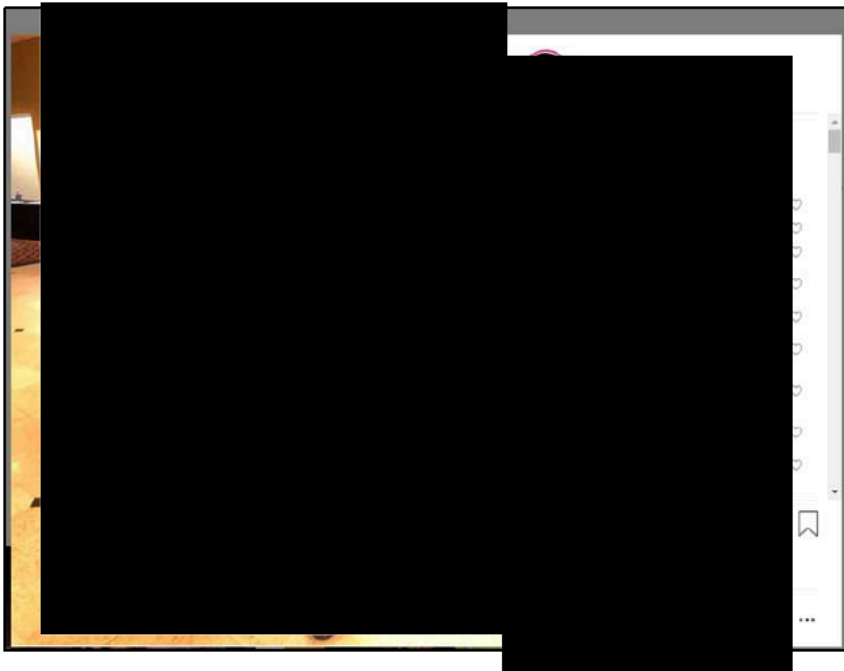


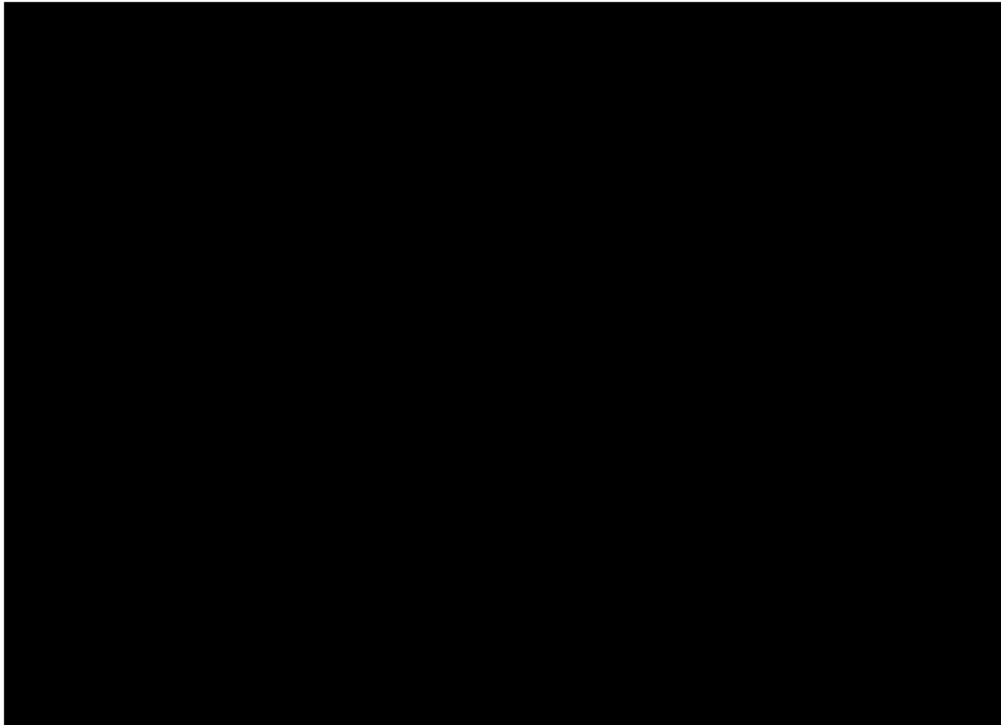
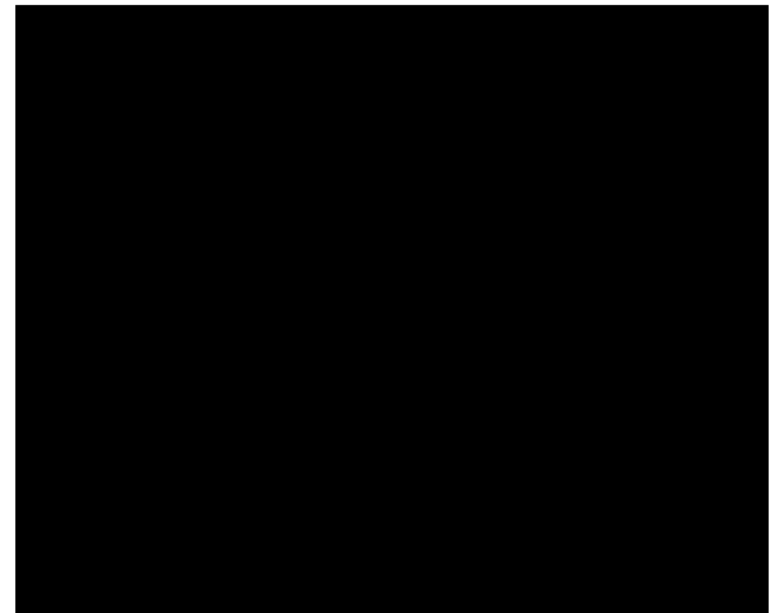
SOCIAL MEDIA: TARGETED SEARCHES - EXAMPLE



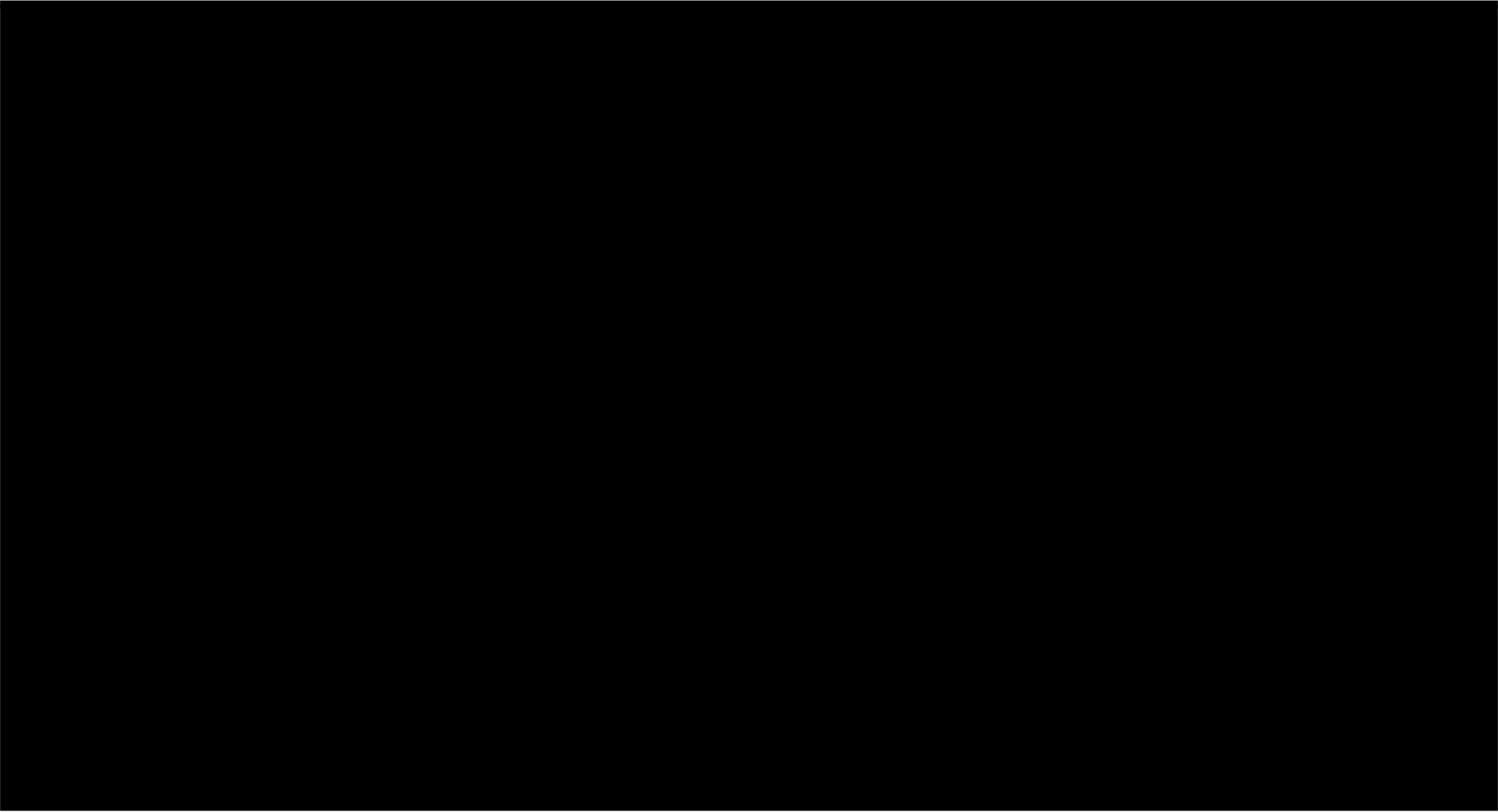
Post homicide follow-up of *validated* [REDACTED]

- Searched through Instagram accounts of known validated members
 - [REDACTED]
 - Posted 4 days after the homicide occurred





Who is this person?



CHALLENGES: SEARCH RESTRICTIONS

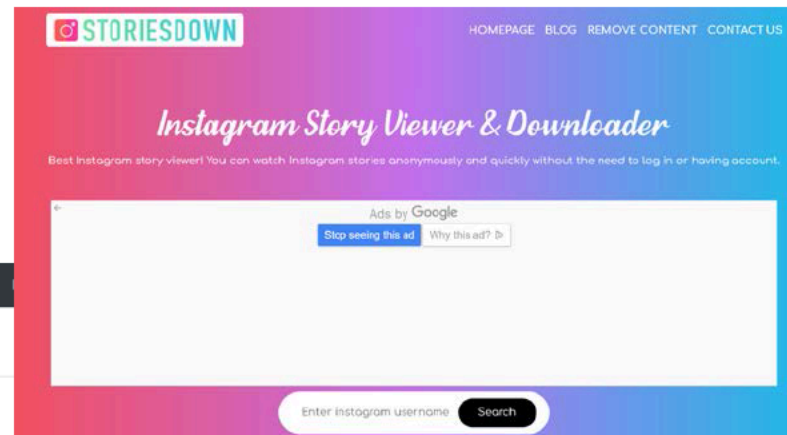


Start Download

View PDF & Download PDF Converter Guru

Instagram Downloader

Instagram URL



INSTADP

Instadp search profile pictures

Search and download Instagram profile pictures or stories

INSTADP	STORIES
<input type="text" value="Search username"/>	

CHALLENGES: SEARCH RESTRICTIONS INSTADP

INSTADP



Instadp search profile pictures

Search and download Instagram profile pictures or stories

INSTADP STORIES



Search username

INSTADP



Instadp search profile pictures

Search and download Instagram profile pictures or stories

INSTADP STORIES



yn.tay



yln.tay



yln.tayyy



INSTADP

INSTADP

ze and download it

92



BC61

CHALLENGES: SEARCH RESTRICTIONS W3TOYS



Start Download

View PDF & Download PDF Converter Guru

Inst.

Instagrar

Instagram Downloader

https://www.instagram.com/p/B_Av_YqH1ge/

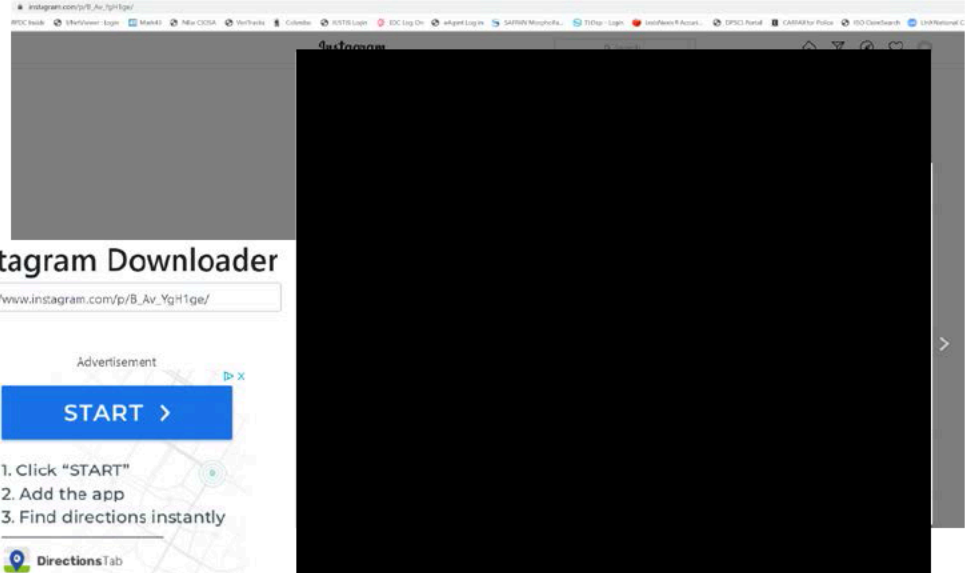
Advertisement

START >

1. Click "START"
2. Add the app
3. Find directions instantly

 DirectionsTab

 Download



BC63

Twitter Video Downloader

Download twitter videos & GIF from tweets

←

Ads by Google

Stop seeing this ad

Why this ad? ↗

Paste Tweet URL Here:

Download

SOCIAL MEDIA: ADDITIONAL SEARCHES



- Using specialized sites to search hashtags, telephone numbers, usernames, email addresses, keywords, URLs
- Specialized site searches for Twitter, Instagram, etc.



peekyou

SPOKEO

pipl

Buzzsumo

Social Searcher

WebMii

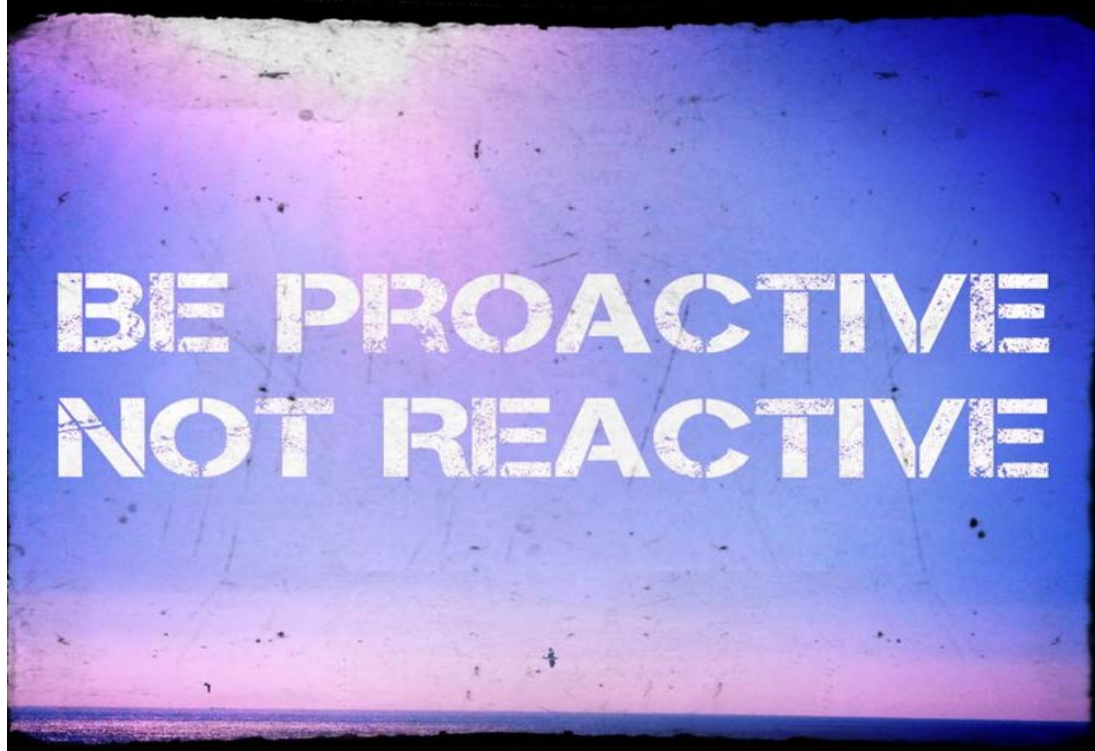
#tagboard

Lullar
com

SnapBird

WEBSTAGRAM

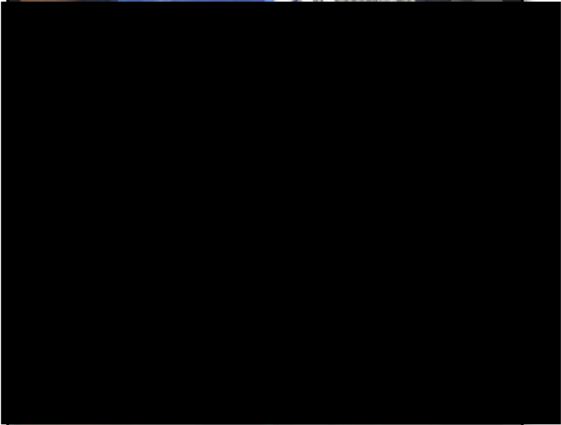
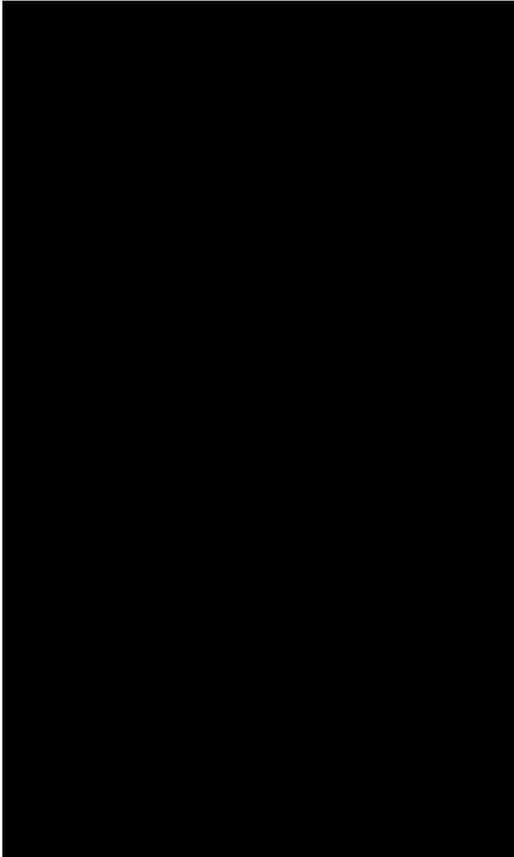
WHAT'S NEXT?



Check-in on known recidivists and gang/crew members with a social media footprint

BC66

SOCIAL MEDIA: TARGETED SEARCHES – SUCCESS STORY

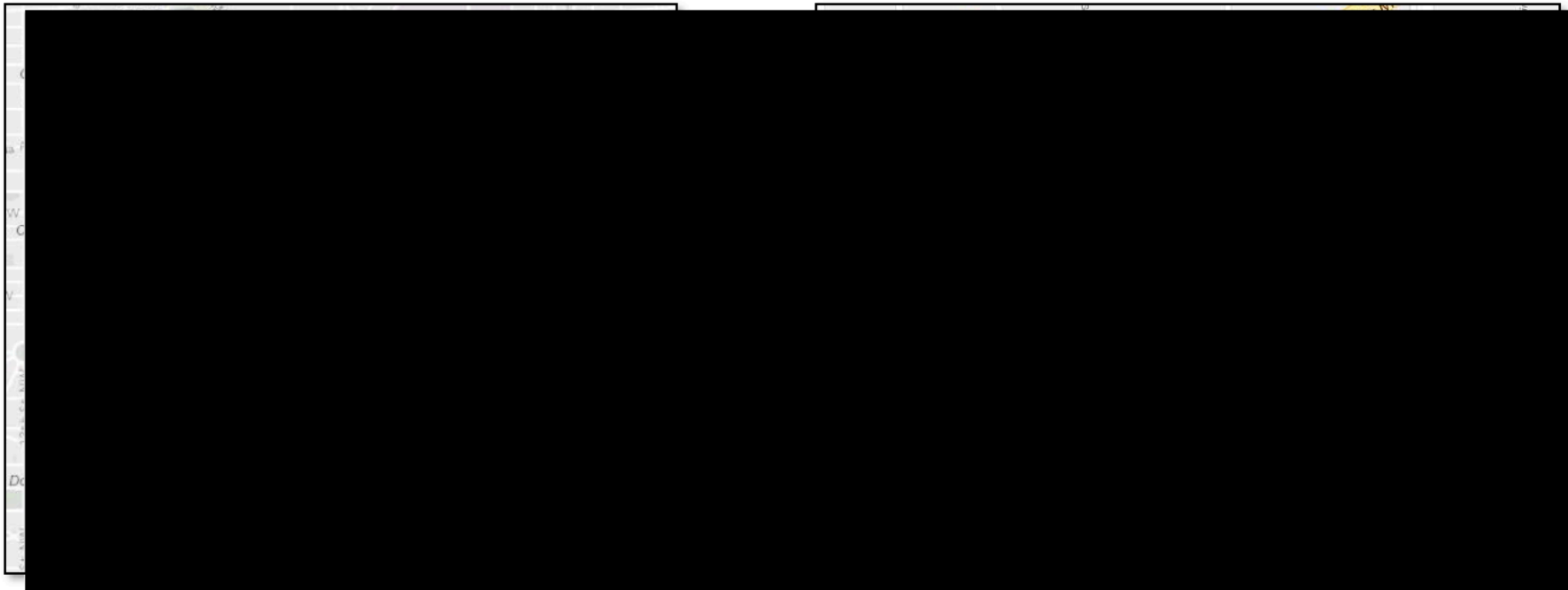


SOCIAL MEDIA: TARGETED SEARCHES - EXAMPLE



01/04/19 0037 - 0234 hours - Robbery (Gun) [REDACTED]

- On the above listed date and time, the complainant and two others were approached from behind and held at gunpoint by three suspects who instructed them to lie face down then took several items including an **iPhoneX** described in Cobalt as **Aluminum/Silver**. The look out in this incident was for **3 B/M, late teens to mid-twenties**.



SOCIAL MEDIA: TARGETED SEARCHES - EXAMPLE



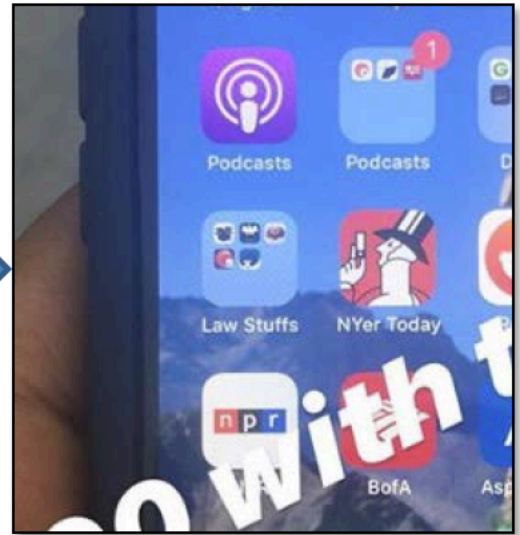
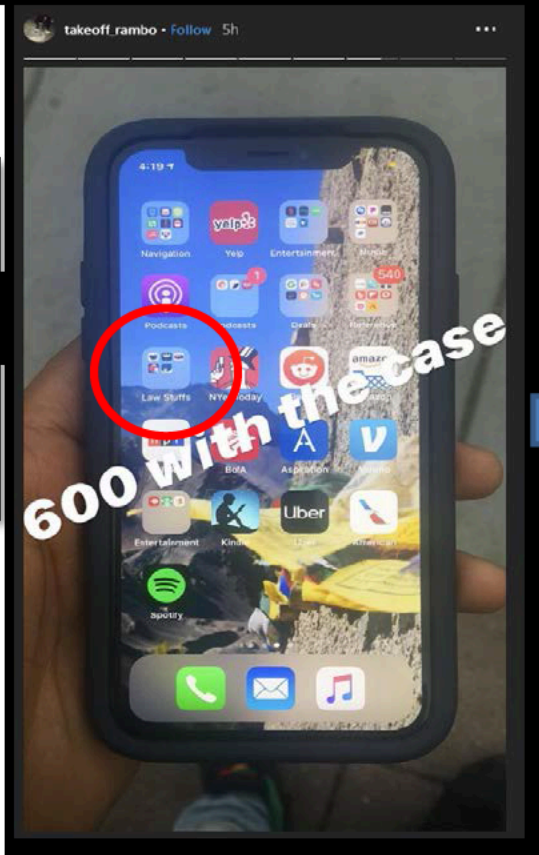
Complainant, owner of the iPhone X stolen in the 01/04/19 incident appears to be a lawyer. The phone has a folder of apps dedicate to “Law Stuffs”. [REDACTED]

Attorney Licensee [REDACTED]

License Status: Active [REDACTED]

County: Non-California County [REDACTED]

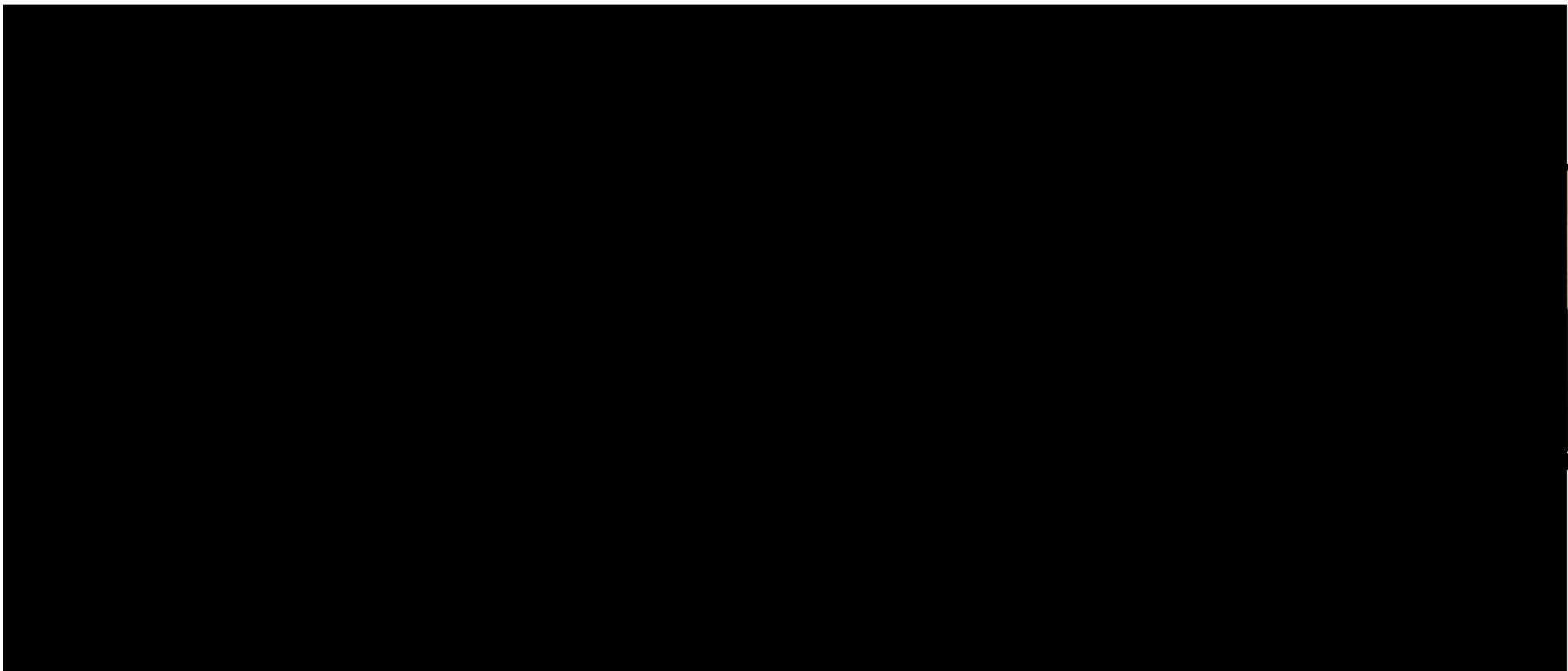
Law School: UC Berkeley SOL Boalt Hall; Berkeley CA

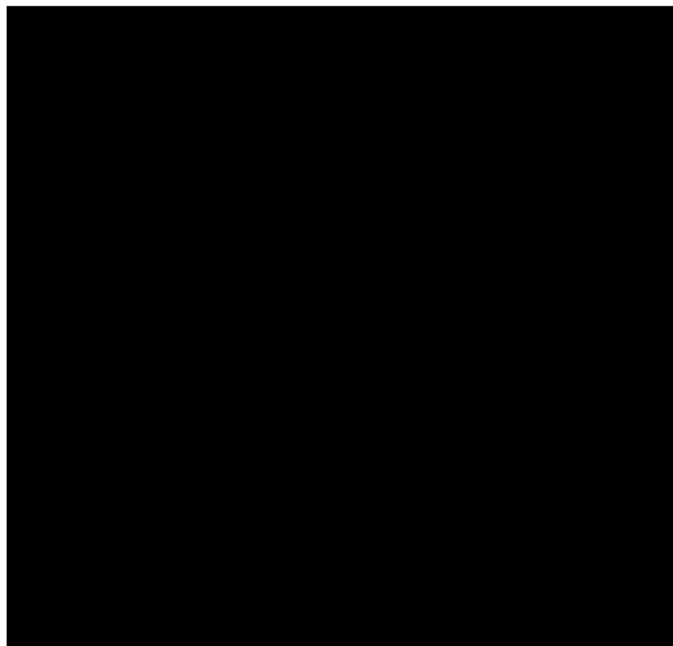


SOCIAL MEDIA: TARGETED SEARCHES - EXAMPLE



Social media was queried for complainant. The following Facebook account was located which matches the complainant based on age and location. Photos show the complainant may have recently visited Asia, possibly China. The background of the phone shown in Logan's Instagram story includes what appear to be Tibetan prayer flags.





- Stopped at the [REDACTED] probable cause for arrest for being in possession and attempting to sell complainant's phone
- **Placed under arrest for RSP, CPWL, PWID Marijuana**
- Recovered in this incident was a Smith & Wesson 9MM Handgun, 1.8 ounces of marijuana, 2 cell phones

QUESTIONS?



METROPOLITAN POLICE DEPARTMENT

300 INDIANA AVENUE NW – WASHINGTON, DC – 20001 – 202.727.9099

WWW.MPDC.DC.GOV

Exhibit G

Totals

Total Crime	276,891
All Violent Crime	41,527
 Homicide	1,140
 Sex Abuse	2,217
 Assault w/Dangerous Weapon	16,213
 Robbery	21,957
All Property Crime	235,364
 Burglary	16,842
 Theft f/Auto	85,642
 Theft/Other	111,197
 Motor Vehicle Theft	21,567
 Arson	116

Exhibit 2

From: Appeals, Foia (EOM) <Foia.Appeals@dc.gov>
Sent: Tuesday, January 4, 2022 12:43 AM
To: Admin, FOIA (MPD); FOIA, MPD (MPD)
Cc: Quon, Teresa J.A. (MPD); Strouse, Margaret N. (DC)
Subject: FOIA Appeal 2022-047
Attachments: FOIA Request Administrative Appeal for MPD records.PDF

⚠ EXTERNAL

Hello,

This Office adjudicates administrative FOIA appeals on behalf of the Mayor. We received the attached appeal based upon a FOIA decision (or lack of decision) issued by your agency. Please provide us with your response to the appeal within five (5) business days of this communication. Please include the following in your response:

- (a) The justification for your decision not to grant review of records as requested;
- (b) A *Vaughn* index of documents withheld, and an affidavit or declaration of a knowledgeable official or employee testifying to the decision to withhold documents; and
- (c) A copy of the public record or records in dispute on the appeal; provided, that if the public record contains personal, sensitive, or confidential information, you may redact such information.

If no response is received, a final decision will be made on the record before us.

Please be advised that your agency's response may be shared with the requester when the final decision is issued. Therefore, please clearly mark any confidential information contained in your response.

Thank you for your assistance.

Sincerely,

Mayor's Office of Legal Counsel (MOLC)
1350 Pennsylvania Avenue, N.W.
Suite 407
Washington, D.C. 20004
(202) 727-8812



Superior Court of the District of Columbia
CIVIL DIVISION
Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

Brennan Center For Justice and Data For Black Lives

Plaintiff

vs.

Case Number _____

District of Columbia

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Seth D. Berlin

Clerk of the Court

Name of Plaintiff's Attorney

Ballard Spahr LLP

By _____

Address

Deputy Clerk

1909 K St NW, 12th floor, Washington, DC 20006

(202) 508-1122

Date _____

Telephone

如需翻译,请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

Đề có một bài dịch, hãy gọi (202) 879-4828

번역을 원하 시려면, (202) 879-4828로 전화주세요. የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation

Vea al dorso la traducción al español



TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
Sección de Acciones Civiles
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Teléfono: (202) 879-1133 Sitio web: www.dccourts.gov

Brennan Center for Justice and Data for Black Lives

Demandante

contra

Número de Caso: _____

District of Columbia

Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le requiere entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veintiún (21) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días, contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

A usted también se le requiere presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que usted le entregue al demandante una copia de la Contestación o en el plazo de siete (7) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

Seth D. Berlin

SECRETARIO DEL TRIBUNAL

Nombre del abogado del Demandante

Ballard Spahr LLP

Por: _____

Dirección

Subsecretario

1909 K Street NW, 12th Floor, Washington, DC 20006

(202) 508-1122

Fecha _____

Teléfono

如需翻译,请打电话 (202) 879-4828

Veuillez appeler au (202) 879-4828 pour une traduction

Để có một bản dịch, hãy gọi (202) 879-4828

번역을 원하시면 (202) 879-4828 로 전화하십시오

የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍA RETENÉRSELE SUS INGRESOS, O PODRÍA TOMÁRSELE SUS BIENES PERSONALES O BIENES RAÍCES Y SER VENDIDOS PARA PAGAR EL FALLO. SI USTED PRETENDE Oponerse a esta acción, NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.

Si desea conversar con un abogado y le parece que no puede pagarle a uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse sobre otros lugares donde puede pedirayuda al respecto.

Vea al dorso el original en inglés
 See reverse side for English original

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH INFORMATION SHEET

Brennan Center for Justice and Data for Black Lives

Case Number: _____

vs

Date: March 1, 2022

District of Columbia

☐ One of the defendants is being sued
in their official capacity.

Name: <i>(Please Print)</i> Seth D. Berlin		Relationship to Lawsuit <input checked="" type="checkbox"/> Attorney for Plaintiff <input type="checkbox"/> Self (Pro Se) <input type="checkbox"/> Other: _____
Firm Name: Ballard Spahr LLP		
Telephone No.: 202-508-1122	Six digit Unified Bar No.: 433611	

TYPE OF CASE: ☒ Non-Jury ☐ 6 Person Jury ☐ 12 Person Jury
Demand: \$ _____ Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: *(Check One Box Only)*

A. CONTRACTS

COLLECTION CASES

- | | | |
|---|---|---|
| <input type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 18 OVER \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 27 Insurance/Subrogation | <input type="checkbox"/> 26 Insurance/Subrogation |
| <input type="checkbox"/> 07 Personal Property | Over \$25,000 Pltf. Grants Consent | Over \$25,000 Consent Denied |
| <input type="checkbox"/> 13 Employment Discrimination | <input type="checkbox"/> 07 Insurance/Subrogation | <input type="checkbox"/> 34 Insurance/Subrogation |
| <input type="checkbox"/> 15 Special Education Fees | Under \$25,000 Pltf. Grants Consent | Under \$25,000 Consent Denied |
| | <input type="checkbox"/> 28 Motion to Confirm Arbitration | |
| | Award (Collection Cases Only) | |

B. PROPERTY TORTS

- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | | |

C. PERSONAL TORTS

- | | | |
|---|--|--|
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile- Personal Injury | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 20 Friendly Suit |
| <input type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE IF USED

Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input checked="" type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |

s/ Seth D. Berlin

3/1/2022

Attorney's Signature

Date