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January 7, 2022

Via Electronic Mail Only

Deborah Levi
Director of Special Litigation
Maryland Office of the Public Defender

Dear Ms. Levi:

I am the City Attorney for the City of Takoma Park (the "City"). This correspondence is in response to the request you made to the City on December 3, 2021, pursuant to the Maryland Public Information Act ("PIA"), Maryland Code, § 4-101 *et seq.*, of the General Provisions Article ("GP"). In your request, you sought the following records:

Copies of any and all internal affairs complaints, including internal, citizen, or other agency complaints for Officer Jerome Erwin (8304).

Complete investigative files for each complaint, including but not limited to reports of recorded statements, video surveillance or body camera footage, investigative files, witness interviews, and photographs.

The investigative findings of each complaint.

Any correspondence from the Civilian Review Board, Police Advisory Commission or other civilian police oversight board.

The final disposition of each case, if any.

The City contacted you on December 14, 2021 and informed you that the Takoma Park Police Department (the "Department") was in the process of generating a cost estimate in response to your request.

In reference to your request, an explanation of the manner in which the Department houses and manages internal affairs records is necessary. In 2014, the Department implemented software known as IAPro, which the Department uses as a repository for internal affairs files and associated documents. For any internal affairs investigations occurring prior to 2014, the Department only maintains paper copies of those records. Officer Erwin worked for the Department for twenty-five years. As such, the internal affairs records you requested may be maintained in IAPro and/or, paper copies. This complicates the analysis in reference to any fee potentially associated with your request.

Under the PIA, the first two hours of search and preparation time are free. *See* GP § 4-206(c). First, in reference to the internal affairs investigations contained in the Department's IAPro database, the Department estimates that retrieving and transmitting those records will take approximately five hours. The hourly rate of the Department employee responsible for retrieving and transmitting those records is \$59.49. Therefore, the total cost associated with retrieving and transmitting those records is approximately \$297.45. Subtracting the two free hours of search time from this amount results in a cost of \$118.98.

With respect to the Department's internal investigations involving Officer Erwin that occurred prior to the Department's implementation of IAPro, the Department estimates that it will take approximately fifteen hours to search, retrieve, and transmit those records. At an hourly rate of \$59.49, the estimated cost of searching, retrieving, and transmitting those records is approximately \$892.35. The Department estimates that making copies of any responsive records and recordings resulting from its search may take approximately twenty hours. At an hourly rate of \$59.49, the Department estimates that the cost associated with making copies of those records could be \$1,189.80, depending on the number of responsive records. In total, the Department estimates that it will cost \$2,082.15 to retrieve, make copies of, and transmit the responsive records that predate the Department's implementation of IAPro.

The estimated costs above do not include the time and fees associated with legal review of the records. Legal review of the footage will consist of a two-stage process: (i) determining whether any exceptions to the PIA preclude disclosure; and (ii) if the footage may be disclosed, identifying and implementing any required redactions. Because you requested internal affairs records, legal review will include determinations as to whether any of the records constitute records of technical infractions, exempt from disclosure under GP § 4-311(c), as well as redacting information as required under GP § 4-351(d). Every document must be reviewed. It is estimated that legal review of the Department's IAPro records will take approximately eighteen hours and twenty-four minutes. The City Attorney's hourly rate is \$175.00 per hour. Thus, I estimate that legal review of the responsive records housed in the Department's IAPro system will cost approximately \$3,220.

Therefore, the total cost associated with retrieving and transmitting the Department's IAPro records, including legal review, will be approximately \$3,338.98. Whereas, the cost associated with the Department retrieving, making copies, and transmitting the responsive records predating the Department's implementation of IAPro is approximately \$2,082.15. In total, the approximate cost is \$5,421.13. This amount does not include the cost associated with legal review of the any responsive records generated prior to the Department's implementation of IAPro, because the number of responsive records is unclear at this point. Should you decide to proceed, the City will provide you with an approximate fee for legal view of the responsive records predating the Department's implementation of IAPro, once the number of responsive records is identified.

Additionally, if you decide to proceed with your request, the City is permitted to request the prepayment of fees associated with a PIA request. *See Glass v. Anne Arundel Cty.*, 453 Md. 201, 212–13, 160 A.3d 658, 664–65 (2017).

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You may also narrow your request. If you do so, another determination will be made as to whether any fee will need to be charged. Please do not hesitate to contact me if you have any questions or concerns regarding this correspondence.

You may refer any concerns about this correspondence to the Public Access Ombudsman pursuant to GP § 4-1B-01 *et seq.*, or if you believe the fee identified is unreasonable, you may contact the MPIA Compliance Board. *See GP, § 4-1a-01 et seq.*

Best regards,

Karpinski, Cornbrooks & Karp, P.A.

/s/

By: E. I. Cornbrooks, IV

Cc: Chief of Police
City Clerk