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ACLU-DE Sues City of Wilmington Over Access to Information

FOR IMMEDIATE RELEASE

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Wilmington, DE —The American Civil Liberties Union of Delaware (ACLU-DE) filed suit today against the City of Wilmington in order to compel the city to comply with two Freedom of Information Act (FOIA) requests. The city has refused to provide information about the Wilmington Police Department policies and procedures on the use of tasers and about the department's acquisition and retention of cell phone records.

The first request from the ACLU, which was originally submitted on December 17, 2010, asked the Wilmington Chief of Police for copies of the department's policies on continuum of force and procedures related to the use of tasers, as well as training materials and operations manuals on tasers. The request was part of an ACLU investigation of taser use statewide. Identical FOIA requests were sent to over a dozen law enforcement agencies across Delaware. The Delaware State Police, the New Castle County Police and a number of municipal police agencies all complied with the request.

The second request made to the city on July 25, 2011 asked for records relating to the Wilmington Police Department's acquisition, use and retention of cell phone location records and the procedures the department uses to interact with cell phone service providers to secure this information. This request was also made to more than a dozen law enforcement agencies throughout the state.

“The free exchange of information between government agencies and the people they serve is essential to ensure an open and accountable government. The state's Freedom of Information Act was established in law to facilitate this exchange of information. It is wrong for the Wilmington Police Department to withhold information that by law that have no right to keep secret by claiming a narrow exemption that does not apply to these requests,” said Kathleen MacRae, ACLU-DE executive director.

FOIA provides that all public records are open for inspection and copying by any citizen of Delaware. Public record is defined to include information of any kind owned, used or retained by any public body

relating to public business, the public interest or public purposes with a few exceptions such as individual library records; personnel, medical or student files; criminal files; records involving labor negotiations and others. There are also some narrow exceptions to protect government buildings from terrorist attacks and prevent the disclosure of “specific and unique” vulnerability assessments and response plans.

The ACLU of Delaware is being assisted in this suit by co-operating attorney Jeff Goddess of Rosenthal, Monhait & Goddess, P.A.

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