CIVIL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

KATIE SCHWARTZMANN
Plaintiff

vs. **Civil Action No. _____**

WARREN RILEY
in his official capacity as Chief of
Police of New Orleans
Defendant

PETITION FOR WRIT OF MANDAMUS AND INJUNCTIVE AND DECLARATORY RELIEF

The petition of Katie Schwartzmann, an individual of the full age of majority who is domiciled in Orleans Parish, Louisiana, respectfully represents:

1.

Made defendant herein is Warren Riley, in his official capacity as Chief of Police of the City of New Orleans.

2.

On April 6, 2006, the Plaintiff, who is the staff attorney for the ACLU of Louisiana requested the following documents from the New Orleans Police Department through Chief Warren Riley:

> 1. All documents pertaining to any lesson plan on biased-based profiling and the associated legal aspects formulated by the Education and Training Division of the New Orleans Police Department or any other Division of the Department;
>
> 2. All documents pertaining to whether the class is taught to each recruit class and to each commissioned employee during his/her yearly in-service training by the Education and Training Division of the New Orleans Police Department or any other Division of the Department;
>
> 3. All documents pertaining to statistical summaries of all profiling complaints submitted by the Public Integrity Division to the Assistant Superintendent and Superintendent of Police, which are due annually on February 21st;
>
> 4. All documents pertaining to recommended changes to agency procedures, agency practices, in-service instruction, and disciplinary procedures made by the Assistant Superintendent of Police, Operations

Bureau, using the summary of citizen concerns and the information received from the summary of profiling complaints received, which are to be forwarded to the Superintendent of Police on May 1st of each year.

5. All documents pertaining to incidents involving use of force from April 15, 2005 to April 15, 2006, specifically including but not limited to all "incident reports" of "use of force records" from that time period.

6. All documents pertaining to disciplinary records of NOPD officers for excessive use of force or similar problems, including specifically all documents pertaining to the number of NOPD officers arrested or prosecuted criminally for such incidents, and relevant internal affairs documents and reports;

7. All documents pertaining to any amount paid by the City of New Orleans in settlement of lawsuits alleging excessive force by NOPD officers.

3.

The request described in the preceding paragraph was made by certified mail and by facsimile transmission. A copy of the letter making this request is attached hereto as Exhibit "A".

4.

No response was received. On May 4, 2006, a follow up letter was sent to Chief Riley regarding this public records request. A copy of that letter is attached as Exhibit "B".

5.

On May 4, 2006, a letter reiterating the request was sent to Ms. Garrett and Ms. Pugh, who, Plaintiff was informed, handle the public records requests for the New Orleans Police Department. A copy of that letter is attached as Exhibit "C".

6.

Despite these repeated requests, no response has been received to the public records request.

7.

The right of access to public records is a fundamental right guaranteed by Article XII, Section 3 of the Louisiana Constitution of 1974.

8.

By enacting the Public Records Law, La. R. S. 44:1, et seq. the Legislature sought to guarantee, in the most expansive and unrestricted manner possible, the right of the public to inspect and reproduce public records.

9.

La. R. S. 44:35A provides that a person aggrieved by a denial of the right to inspect or copy a public record may institute proceedings for the issuance of a writ of mandamus, injunctive or declaratory relief, together with attorney's fees, costs and damages.

9.

La. R. S. 44:35C mandates that any action brought to enforce the provisions of the Public Records Law "shall be tried by preference and in a summary manner". Code of Civil Procedure art. 3782 provides that a petition for a writ of mandamus "shall be assigned for hearing not less than two nor more than ten days after the service of the writ". Plaintiff requests that a hearing be held in this proceeding at the earliest possible date.

WHEREFORE, Plaintiff, Katie Schwartzmann, prays:

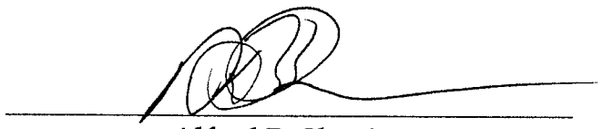
I. That an alternative writ of mandamus issue herein directing the Defendant to disclose the records requested or show cause why they should not be ordered to do so;

II. That the Defendant, Warren Riley, be ordered to show cause why he should not be preliminarily enjoined from withholding the requested documents;

III. That the Defendant be ordered to show cause why the records requested should not be declared to be public records that are not subject to any exemption from disclosure under the Public Records Law; and

IV. For an award of attorney's fees, damages and costs as provided by law.

ACLU FOUNDATION OF LOUISIANA by:



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La. Bar Roll No. 9963
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Telephone: (225)928-4193
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Sheriff please serve:

[redacted] **Warren Riley**
Chief of Police

715 S. Broad Street
New Orleans, LA 70119

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CIVIL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

KATIE SCHWARTZMANN
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VERIFICATION

STATE OF LOUISIANA

PARISH OF ORLEANS

Before me, the undersigned Notary Public, personally came and appeared:

Katie Schwartzmann,

who, after being duly sworn, did depose and say that she is the plaintiff in the above captioned civil action, that she has read the foregoing Petition for Writ of Mandamus and Injunctive and Declaratory Relief, and that all of the allegations contained therein are true and correct to the best of her knowledge and belief.

Katie Schwartzmann

Sworn to and subscribed before me, the undersigned Notary Public on the 18th day of September, 2006.

C. A. Kelly

Notary Public
La. Bar Roll No. [redacted] 22495

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CIVIL DISTRICT COURT

PARISH OF ORLEANS

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STATE OF LOUISIANA

KATIE SCHWARTZMANN
Plaintiff

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WARREN RILEY
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Defendant

ORDER

Considering the foregoing Petition for Writ of Mandamus and Injunctive and Declaratory Relief:

IT IS ORDERED that an alternative writ of mandamus issue herein, directing the Defendant, Warren Riley, Chief of Police of the City of New Orleans, produce the following documents to the Plaintiff:

1. All documents pertaining to any lesson plan on biased-based profiling and the associated legal aspects formulated by the Education and Training Division of the New Orleans Police Department or any other Division of the Department;

2. All documents pertaining to whether the class is taught to each recruit class and to each commissioned employee during his/her yearly in-service training by the Education and Training Division of the New Orleans Police Department or any other Division of the Department;

3. All documents pertaining to statistical summaries of all profiling complaints submitted by the Public Integrity Division to the Assistant Superintendent and Superintendent of Police, which are due annually on February 21st;

4. All documents pertaining to recommended changes to agency procedures, agency practices, in-service instruction, and disciplinary procedures made by the Assistant Superintendent of Police, Operations Bureau, using the summary of citizen concerns and the information received from the summary of profiling complaints received, which are to be forwarded to the Superintendent of Police on May 1st of each year.

5. All documents pertaining to incidents involving use of force from April 15, 2005 to April 15, 2006, specifically including but not limited to all "incident reports" of "use of force records" from that time period.

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6. All documents pertaining to disciplinary records of NOPD officers for excessive use of force or similar problems, including specifically all documents pertaining to the number of NOPD officers arrested or prosecuted criminally for such incidents, and relevant internal affairs documents and reports;

7. All documents pertaining to any amount paid by the City of New Orleans in settlement of lawsuits alleging excessive force by NOPD officers.

and to permit copying thereof or show cause on the 11th day of October, 2006 at 9 o'clock A. M. why he should not be ordered to do so;

IT IS FURTHER ORDERED that the Defendant further show cause on the above stated date and time:

(1) Why a declaratory judgment should not be rendered herein declaring the documents to the public records, not subject to any exemption provided in the Public Records Law;

(2) Why he should not be preliminarily enjoined from withholding these records from disclosure and copying; and

(3) Why judgment should not be rendered against him for attorney's fees, damages and the costs of this civil action.

New Orleans, Louisiana, this 19 day of September, 2006.

District Judge