

to 27, 2020, and which continues to be scheduled for a portion of that time. The ACLU repeatedly contacted City officials in order to request updates, negotiate a rolling production, and accommodate any potential concerns the City might have. To date, however, the City has only produced five documents. It has not provided a timeline for producing the remaining documents, nor has it formally asserted that any records responsive to the ACLU's request are exempt from inspection under the law.

2. A major political party's national convention is a historic event that, even in its diminished form, will undoubtedly draw increased political speech and protest. To accommodate this event, the City has already expended significant public resources and prepared for a heightened law enforcement presence.

3. Even after the RNC, the City will continue to have access to the law enforcement, surveillance, and crowd control equipment obtained for the event, including "less than lethal" weapons.

4. Thus, public scrutiny of City operations is especially important at this time.

5. While the COVID-19 pandemic has presented a challenge for state and local governments, the ACLU submitted its request over four months before Governor Cooper declared a state of emergency in North Carolina, and has made multiple efforts to secure Defendants' compliance with its request before resorting to litigation.

6. Accordingly, with the RNC set to begin in just two months, the ACLU must ask the Court to compel compliance with the Public Records Act.

PARTIES

7. Plaintiff ACLU of North Carolina, an affiliate of the national American Civil Liberties Union, is a private, non-profit membership organization with its principal office in Raleigh, North Carolina. It has approximately 23,000 members and supporters across North Carolina, including many in Mecklenburg County. The ACLU of North Carolina brings together litigation, legislative, communications, and organizing strategies to empower communities and advocate in issue areas including criminal justice reform, racial justice, LGBTQ equality, reproductive freedom, and the rights of immigrants. Promoting government transparency and accountability and educating the public are critical aspects of the ACLU's mission.

8. Defendant City of Charlotte is a municipal entity subject to the requirements of the Public Records Act.

9. Defendant Marcus Jones is the Charlotte City Manager. His official duties include responding to public records requests. He is sued in his official capacity only.

10. Defendant Kerr Putney is the Chief of the Charlotte-Mecklenburg Police Department (CMPD). His official duties include responding to public records requests. He is sued in his official capacity only.

JURISDICTION AND VENUE

11. This Court has jurisdiction under N.C.G.S. § 132-9.

12. Venue is proper under N.C.G.S. § 1-77(2), as a portion of Plaintiff's cause of action arose in Wake County, where Plaintiff is located and submitted the public records request at issue.

FACTUAL ALLEGATIONS

13. The RNC is an event where the Republican Party will officially nominate its candidates for president and vice president for the 2020 election.

14. To accommodate this anticipated event, the City has contracted with various agencies and private organizations for security personnel and equipment.

15. On October 28, 2019, the ACLU sent a letter to Defendant Jones requesting various public records concerning the planning of the RNC. (Ex. A.) The request was also formally submitted through the City's online public records request form and assigned request number 2948. (Ex. B.)

16. The records requested included contracts entered into by the City, documents concerning federal grants, documents concerning crowd control and surveillance equipment, budgets, agreements with law enforcement agencies, policies concerning requests to private companies for location data and/or cell phone use information, and communications involving City officials. (Ex. A.)

17. The City Clerk's Office acknowledged receipt the following day. (Ex. C at 1.)

18. On December 19, 2019, the ACLU sent a follow-up email to the City Clerk's Office, which responded that it would ask for an update from the departments gathering responsive records. (*Id.* at 5.)

19. On February 29, 2020, the ACLU again asked the City Clerk’s Office for an update and requested that responsive records be produced as they became available. (*Id.* at 6.)

20. The City Clerk’s Office responded five days later, stating only that responsive records were being gathered and reviewed. (*Id.* at 7.)

21. On March 25, 2020, the ACLU sent a demand letter to Defendants again suggesting a rolling production and dialogue between the parties. (Ex. D.)

22. On May 1, 2020, Defendants produced the RNC framework agreement—an already public document that Plaintiff had not in fact requested. (Ex. A, Request #1.)

23. Over the following two weeks, Defendants produced four additional documents: the CMPD Interactive Directives Guide, which was already publicly available online; a checklist of U.S. Department of Justice guidelines for receiving an RNC security grant; the City’s guide for complying with RNC security grants requirements; and a Word version of that same document.

24. On May 19, 2020, ACLU attorneys spoke with City attorneys about the status of the request. The City attorneys said they would try—but could not promise—to produce three additional documents the following week: two redacted contracts and the cover letter of a grant from the U.S. Department of Justice. (*See* Ex. E; Ex. F.)

25. Those documents have still not been produced.

26. The City attorneys did not identify any specific documents that they believed to be exempt from inspection under the Public Records Act.

27. On May 27, 2020, ACLU attorneys again spoke with City attorneys, as well as Defendant Putney. Again, no timeline was provided and no one asserted that any specific documents responsive to the request were exempt from inspection. (See Ex. G.)

28. On June 2, 2020, President Trump tweeted that the RNC would seek a host city outside of North Carolina. At this time, however, Charlotte still expects to host at least one day of official RNC business, while the nomination ceremonies for president and vice president will likely occur elsewhere.

29. It has also been reported that part of the Democratic National Convention may take place in Charlotte this August.¹

30. On June 18, 2020, ACLU attorneys again spoke with City attorneys. The City attorneys did not provide any timeline for production or assert that any responsive records were exempt from inspection. The ACLU attorneys informed the City attorneys that, given these circumstances, litigation was likely.

31. At present, Defendants have only produced five documents in response to Plaintiff's request.

¹ Jeff Zeleny, Arlette Saenz, MJ Lee and Jessica Dean, *Joe Biden will accept Democratic presidential nomination in Milwaukee*, CNN (June 18, 2020), <https://www.cnn.com/2020/06/18/politics/biden-nomination-milwaukee/index.html>.

**CAUSE OF ACTION – Denial of Access to Public Records
N.C.G.S. § 132-9**

32. The North Carolina Public Records Act “strongly favors the release of public records to increase transparency in government.” *State Employees Ass’n of N. Carolina, Inc. v. N. Carolina Dep’t of State Treasurer*, 364 N.C. 205, 214, 695 S.E.2d 91, 97 (2010).

33. Once a public official receives a request under the Act, they must fulfill the request “as promptly as possible[.]” N.C.G.S. § 132-6(a).

34. The ACLU submitted a request to Defendants for the purpose of inspection and examination of public records nearly eight months ago.

35. Defendants have still not provided all or even most responsive records.

36. Defendants have not asserted that any responsive documents are exempted from inspection.

37. Therefore, Defendants have denied Plaintiff access to public records.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays the Court grant the following relief:

- a. Set this matter for “immediate hearing” and accord it priority as required by N.C.G.S. § 132-9(a).
- b. Declare that documents responsive to Plaintiff’s request are public records.
- c. Declare that Defendants have denied access to public records in violation of the Public Records Act.
- d. Order Defendants to immediately produce to Plaintiff all public records responsive to its request.

- e. Award Plaintiff costs and reasonable attorney's fees as required by N.C.G.S. § 132-9(c).
- f. Maintain jurisdiction over this matter until the Court is satisfied that the violation of the Public Records Act has been remedied.
- g. Order any other relief the Court finds just and proper.

Respectfully submitted, this the 24th day of June, 2020.

/s/ Daniel K. Siegel
Daniel K. Siegel
N.C. Bar # 46397
Irena Como
N.C. Bar # 51812
AMERICAN CIVIL LIBERTIES UNION
OF NORTH CAROLINA LEGAL FOUNDATION
PO Box 28004
Raleigh, NC 27611
919.307.9242
dsiegel@acluofnc.org
icom@acluofnc.org

October 28, 2019

City Manager Marcus D. Jones
Office of the City Manager
600 E. 4th Street
Charlotte, NC 28202

Dear Mr. Jones:

We are writing on behalf of the American Civil Liberties Union of North Carolina (ACLU-NC) to request public records related to the City of Charlotte's hosting of the 2020 Republican National Convention (2020 RNC). The ACLU-NC is a nonprofit organization dedicated to defending and preserving the constitutional rights of North Carolinians. This request is made pursuant to the North Carolina Public Records Act, N.C. Gen. Stat. 132-1 through 132-11.



P.O. Box 28004
Raleigh, NC 27611
(919) 834-3466
acluofnc.org

Leah Hamilton
President

Karen M. Anderson
Executive Director

The ACLU-NC requests that the City of Charlotte (the City) and any of its agencies, offices, or political subdivisions produce the following public records (including, but not limited to, any electronic or paper documents, forms, recordings, meeting minutes, computer records, correspondence, or other documentary material, regardless of physical form or characteristics) that are responsive to the following:

1. All contracts related to the 2020 RNC entered into by the City, Charlotte-Mecklenburg Police Department (CMPD), and/or any other City entity, with CLT Host 2020, Inc., and/or the Republican National Committee, *not* including the previously-released Framework Agreement and Arena License agreement released with Public Records Request #2606, and the three-page Executive Summary released in July 2018.
2. Documents, including requests, agreements, and contracts pertaining to any federal grants or funds related to security and/or law enforcement for the 2020 RNC sought by or awarded to the City, CMPD, or any other City entity after July 1, 2018.
3. Records related to any and all planned, proposed, initiated, or completed purchases, acquisitions, and/or leases by CMPD or any other City entity between July 1, 2018 and the date on which the City responds to this request that are related to security and law enforcement, including, but not limited to, for example the following:



- a. Crowd-Control equipment, including, but not limited to, Tasers, tear gas, pepper spray, devices for delivering chemicals, and Long-Range Acoustic Devices;
 - b. Surveillance equipment, including, but not limited to, electronic body scanners, tracking software including facial recognition software, Stingray tracking devices, cell phone signal disrupters, ShotSpotter, and cameras;
 - c. Military grade equipment, including, but not limited to, weapons of any kind, automatic assault rifles, body armor and personal protective gear, mine resistant armored vehicles, grenades, flash bang grenades, or similar explosives and grenade launchers.
4. Most recent City and CMPD draft or approved budgets for the 2020 RNC.
5. Memorandums of Understanding (MOUs), Mutual Aid Agreements (MAAs), or intergovernmental law enforcement agreements between the CMPD and any other local government entity (including Mecklenburg County or the Mecklenburg County Sheriffs Department), state government agency, or federal agencies (including Department of Homeland Security, Immigration and Customs Enforcement, and Customs and Border Patrol).
6. Documents related to any request, bid, proposal, agreement, proposal or contract for private security and/or law enforcement services and/or consulting or advising between the City, CMPD related to the 2020 RNC, between July 1, 2018 and the date on which the City responds to this request.
7. Any draft or final free speech, demonstration zones, parade routes, and security checkpoint zones or maps that have been proposed, drafted, or approved for the period before, during, and immediately after the 2020 RNC.
8. Any City or CMPD policies related to requests to private companies, including internet service providers and cellular phone providers or manufacturers for location data and/or cell phone use information in a particular geographic area.

9. Communications between any combination of the City Manager or staff, City Council members or staff, Mayor or staff, County Commissioners or staff, Sheriff or staff, and/or Police Chief or staff related to 2020 RNC security or law enforcement planning or budget, between July 1, 2018 and the date on which the City responds to this request.
10. Communications between any City official and any representative of the RNC Host Committee or Republican National Committee regarding planning for security and/or law enforcement presence before, during, or immediately after the RNC.



Because this request is a matter of public concern and because it is made on behalf of a nonprofit organization, we request a fee waiver. If, however, such a waiver is denied, we will reimburse you for the reasonable cost of any paper copies. Please inform us in advance if the cost will be greater than \$50.00. Please send us documents in an accessible electronic format if at all possible. Should you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions, list any withheld records, and release any portions of the records for which you do not claim an exemption.

Please provide all responsive records by November 27, 2019 to awebb@acluofnc.org or to the mailing address indicated on this letter.

If the requested documents cannot be produced simultaneously, we ask that the records be produced on a rolling basis as soon as reasonably possible until the request is fulfilled in full. Please contact us to discuss the timeline and priorities among the requests.

If the City or CMPD has not yet finalized policies or protocols related to law enforcement, security, and/or speech and demonstrations at the 2020 RNC, or if you are interested in amending current policies, we are available to serve as a resource for you, as we did prior to the 2012 Democratic National Convention.

Please feel free to contact Ann Webb with any questions at (919) 675-1931. Thank you for your prompt attention to this matter.

Sincerely,

Ann Webb
Policy Counsel
(919) 675-1931
awebb@acluofnc.org



Public records request form

City of Charlotte

Submitted On:

October 28th, 2019 @ 11:08am

User's Session Information	Referrer URL: https://charlottenc.gov/PublicRecords/Pages/default.aspx Browser Type: desktop Browser Name: Chrome Browser Version: 78.0.3904.70 Platform Type: Windows Platform OS Version: 10.0
Full Name	Ann Webb
Email	awebb@acluofnc.org
Phone Number	9196751931
Full Address	PO Box 28004 Raleigh NC 27611
Description	<p>We are writing on behalf of the American Civil Liberties Union of North Carolina (ACLU-NC) to request public records related to the City of Charlotte's hosting of the 2020 Republican National Convention (2020 RNC). The ACLU-NC is a nonprofit organization dedicated to defending and preserving the constitutional rights of North Carolinians. This request is made pursuant to the North Carolina Public Records Act, N.C. Gen. Stat. 132-1 through 132-11.</p> <p>The ACLU-NC requests that the City of Charlotte (the City) and any of its agencies, offices, or political subdivisions produce the following public records (including, but not limited to, any electronic or paper documents, forms, recordings, meeting minutes, computer records, correspondence, or other documentary material, regardless of physical form or characteristics) that are responsive to the following:</p> <ol style="list-style-type: none">1. All contracts related to the 2020 RNC entered into by the City, Charlotte-Mecklenburg Police Department (CMPD), and/or any other City entity, with CLT Host 2020, Inc., and/or the Republican National Committee, not including the previously-released Framework Agreement and Arena License agreement released with Public Records Request #2606, and the three-page Executive Summary released in July 2018.2. Documents, including requests, agreements, and contracts pertaining to any federal grants or funds related to security and/or law enforcement for the 2020 RNC sought by or awarded to the City, CMPD, or any other City entity after July 1, 2018.3. Records related to any and all planned, proposed, initiated, or completed purchases, acquisitions, and/or leases by CMPD or any other City entity between July 1, 2018 and the date on which the City responds to this request that are related to security and law enforcement, including, but not limited to, for example the following:<ol style="list-style-type: none">a. Crowd-Control equipment, including, but not limited to, Tasers, tear gas, pepper spray, devices for delivering chemicals, and Long-Range Acoustic Devices;b. Surveillance equipment, including, but not limited to, electronic body scanners, tracking software including facial recognition software, Stingray tracking devices, cell phone signal

PLAINTIFF'S EXHIBIT B

disrupters, ShotSpotter, and cameras;

c. Military grade equipment, including, but not limited to, weapons of any kind, automatic assault rifles, body armor and personal protective gear, mine resistant armored vehicles, grenades, flash bang grenades, or similar explosives and grenade launchers.

4. Most recent City and CMPD draft or approved budgets for the 2020 RNC.

5. Memorandums of Understanding (MOUs), Mutual Aid Agreements (MAAs), or intergovernmental law enforcement agreements between the CMPD and any other local government entity (including Mecklenburg County or the Mecklenburg County Sheriffs Department), state government agency, or federal agencies (including Department of Homeland Security, Immigration and Customs Enforcement, and Customs and Border Patrol).

6. Documents related to any request, bid, proposal, agreement, proposal or contract for private security and/or law enforcement services and/or consulting or advising between the City, CMPD related to the 2020 RNC, between July 1, 2018 and the date on which the City responds to this request.

7. Any draft or final free speech, demonstration zones, parade routes, and security checkpoint zones or maps that have been proposed, drafted, or approved for the period before, during, and immediately after the 2020 RNC.

8. Any City or CMPD policies related to requests to private companies, including internet service providers and cellular phone providers or manufacturers for location data and/or cell phone use information in a particular geographic area.

9. Communications between any combination of the City Manager or staff, City Council members or staff, Mayor or staff, County Commissioners or staff, Sheriff or staff, and/or Police Chief or staff related to 2020 RNC security or law enforcement planning or budget, between July 1, 2018 and the date on which the City responds to this request.

10. Communications between any City official and any representative of the RNC Host Committee or Republican National Committee regarding planning for security and/or law enforcement presence before, during, or immediately after the RNC.

Because this request is a matter of public concern and because it is made on behalf of a nonprofit organization, we request a fee waiver. If, however, such a waiver is denied, we will reimburse you for the reasonable cost of any paper copies. Please inform us in advance if the cost will be greater than \$50.00. Please send us documents in an accessible electronic format if at all possible. Should you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions, list any withheld records, and release any portions of the records for which you do not claim an exemption.

Please provide all responsive records by November 27, 2019 to awebb@acluofnc.org or to the mailing address indicated on this letter.

If the requested documents cannot be produced simultaneously, we ask that the records be produced on a rolling basis as soon as reasonably possible until the request is fulfilled in full. Please contact us to discuss the timeline and priorities among the requests.

Is this a media request?

No



Ann Webb <awebb@acluofnc.org>

Public Records Request #2948

7 messages

Knight, Amelia <Amelia.Knight@ci.charlotte.nc.us>
To: "awebb@acluofnc.org" <awebb@acluofnc.org>
Cc: "Flotree, Cheyenne" <Cheyenne.Flotree@ci.charlotte.nc.us>

Tue, Oct 29, 2019 at 9:52 AM

Hello,

This email serves as an acknowledgment of your public records request #2948. I will forward your request to the appropriate department(s) for fulfillment. We intend to fulfill the request as expeditiously as possible.

Thanks,

*Amelia B. Knight*

Public Records Specialist

OFFICE OF THE CITY CLERK

600 East 4th Street, Charlotte, NC 28202

P: 704.353.1773 | F: 704.336.7588

Amelia.Knight@charlottenc.gov | www.charlottenc.gov/cityclerk

From: City of Charlotte - public records request <noreply@seamlessdocs.com>
Sent: Monday, October 28, 2019 11:08 AM
To: Public Records Request <PublicRecordsRequest@ci.charlotte.nc.us>
Subject: [EXT] [City of Charlotte] Public records request

**PLAINTIFF'S EXHIBIT C**

This document has been sent on behalf of City of Charlotte by SeamlessDocs.

Form Submission

Public records request

Public records request form

User's Session Information

User's Session Information: Referrer URL: [https://charlottenc.gov/
PublicRecords/Pages/default.aspx](https://charlottenc.gov/PublicRecords/Pages/default.aspx)

User's Session Information: Browser Type: desktop

User's Session Information: Browser Name: Chrome

User's Session Information: Browser Version: 78.0.3904.70

User's Session Information: Platform Type: Windows

User's Session Information: Platform OS Version: 10.0

Full Name

First Name: Ann

Last Name: Webb

Email

awebb@acluofnc.org

Phone Number

9196751931

Full Address

Street Address: PO Box 28004

City: Raleigh

State: NC

Zip: 27611

Description

We are writing on behalf of the American Civil Liberties Union of North Carolina (ACLU-NC) to request public records related to the City of Charlotte's hosting of the 2020 Republican National Convention (2020 RNC). The ACLU-NC is a nonprofit organization dedicated to defending and preserving the constitutional rights of North Carolinians. This request is made pursuant to the North Carolina Public Records Act, N.C. Gen. Stat. 132-1 through 132-11. The ACLU-NC requests that the City of Charlotte (the City) and any of its agencies, offices, or political subdivisions produce the following public records (including, but not limited to, any electronic or paper documents, forms, recordings, meeting minutes, computer records, correspondence, or other documentary material, regardless of physical form or characteristics) that are responsive to the following: 1. All contracts related to the 2020 RNC entered into by the City, Charlotte-Mecklenburg Police Department (CMPD), and/or any other City entity, with CLT Host 2020, Inc., and/or the Republican National Committee, not including the previously-released Framework Agreement and Arena License agreement released with Public Records Request #2606, and the three-page Executive Summary released in July 2018. 2. Documents, including requests, agreements, and contracts pertaining to any federal grants or funds related to security and/or law enforcement for the 2020 RNC sought by or awarded to the City, CMPD, or any other City entity after July 1, 2018. 3. Records related to any and all planned, proposed, initiated, or completed purchases, acquisitions, and/or leases by CMPD or any other City entity between July 1, 2018 and the date on which the City responds to this request that are related to security and law enforcement, including, but not limited to, for example the following: a. Crowd-Control equipment, including, but not limited to, Tasers, tear gas, pepper spray, devices for delivering chemicals, and Long-Range Acoustic Devices; b. Surveillance equipment, including, but not limited to, electronic body scanners, tracking software including facial recognition software, Stingray tracking devices, cell phone signal disrupters, ShotSpotter, and cameras; c. Military grade equipment, including, but not limited to, weapons of any kind, automatic assault rifles, body armor and personal protective gear, mine resistant armored vehicles, grenades, flash bang grenades, or similar explosives and grenade launchers. 4. Most recent City and CMPD draft or approved budgets for the 2020 RNC. 5. Memorandums of Understanding (MOUs), Mutual Aid Agreements (MAAs), or intergovernmental law enforcement agreements between the CMPD and any other local government entity (including Mecklenburg County or the Mecklenburg County Sheriffs Department), state government agency, or federal agencies (including Department of Homeland Security, Immigration and Customs Enforcement, and Customs and Border Patrol). 6. Documents related to any request, bid, proposal, agreement, proposal or contract for private security and/or law enforcement services and/or consulting or advising between the City, CMPD


related to the 2020 RNC, between July 1, 2018 and the date on which the City responds to this request. 7. Any draft or final free speech, demonstration zones, parade routes, and security checkpoint zones or maps that have been proposed, drafted, or approved for the period before, during, and immediately after the 2020 RNC. 8. Any City or CMPD policies related to requests to private companies, including internet service providers and cellular phone providers or manufacturers for location data and/or cell phone use information in a particular geographic area. 9. Communications between any combination of the City Manager or staff, City Council members or staff, Mayor or staff, County Commissioners or staff, Sheriff or staff, and/or Police Chief or staff related to 2020 RNC security or law enforcement planning or budget, between July 1, 2018 and the date on which the City responds to this request. 10. Communications between any City official and any representative of the RNC Host Committee or Republican National Committee regarding planning for security and/or law enforcement presence before, during, or immediately after the RNC. Because this request is a matter of public concern and because it is made on behalf of a nonprofit organization, we request a fee waiver. If, however, such a waiver is denied, we will reimburse you for the reasonable cost of any paper copies. Please inform us in advance if the cost will be greater than \$50.00. Please send us documents in an accessible electronic format if at all possible. Should you withhold some portions of the requested documents on the grounds that they are exempt from disclosure, please specify which exemptions, list any withheld records, and release any portions of the records for which you do not claim an exemption. Please provide all responsive records by November 27, 2019 to awebb@acluofnc.org or to the mailing address indicated on this letter. If the requested documents cannot be produced simultaneously, we ask that the records be produced on a rolling basis as soon as reasonably possible until the request is fulfilled in full. Please contact us to discuss the timeline and priorities among the requests.

Is this a media request?

No

Link to submission: <https://charlottenc.seamlessdocs.com/ng/submissionPdf/AP19101000127139428>

Powered by SeamlessDocs

 **Public_records_request_form_YIYI3MfrMMrO2Phk.pdf**
37K

Ann Webb <awebb@acluofnc.org>
To: "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Tue, Oct 29, 2019 at 9:55 AM

Thank you!

Ann C. Webb

Policy Counsel

American Civil Liberties Union of North Carolina

P.O. Box 28004. Raleigh, NC 27611

919.675.1931 (c) | 919.532.3697 (o) | awebb@acluofnc.org

acluofnc.org | [@AnnWebbNC](https://twitter.com/AnnWebbNC)

Pronouns: *she/hers*

[Quoted text hidden]

Ann Webb <awebb@acluofnc.org>

Thu, Dec 19, 2019 at 8:30 AM

To: "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Cc: "Flotree, Cheyenne" <Cheyenne.Flotree@ci.charlotte.nc.us>

Bcc: Robert Stephens <rstephens@acluofnc.org>

Ms. Knight,

Could you please provide a status update and estimated response date for public records request #2948? This submission was received by the city more than 60 days ago, and we have not received any responses. As noted in the request, we understand that some responses will take longer than others to provide, and request that documents be provided as available.

Thank you for your assistance - I appreciate your prompt reply.

Best Wishes for the Holidays,

Ann C. Webb

Policy Counsel

American Civil Liberties Union of North Carolina

P.O. Box 28004. Raleigh, NC 27611

919.675.1931 (c) | 919.532.3697 (o) | awebb@acluofnc.org

acluofnc.org | [@AnnWebbNC](https://twitter.com/AnnWebbNC)

Pronouns: *she/hers*

On Tue, Oct 29, 2019 at 9:52 AM Knight, Amelia <Amelia.Knight@ci.charlotte.nc.us> wrote:

[Quoted text hidden]

Flotree, Cheyenne <Cheyenne.Flotree@ci.charlotte.nc.us>

Mon, Dec 23, 2019 at 12:51 PM

To: Ann Webb <awebb@acluofnc.org>, "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Hello,

I have reached out to the departments gathering your materials for an update.

Thanks,

Cheyenne Flotree

Citywide Records Program Manager

City of Charlotte/City Clerk's Office

600 East 4th Street, 7th Floor

Charlotte, NC 28202

P: 704.336.1266 C: 980.395.4466

cheyenne.flotree@charlottenc.gov

From: Ann Webb [mailto:awebb@acluofnc.org]
Sent: Thursday, December 19, 2019 8:30 AM
To: Knight, Amelia <Amelia.Knight@ci.charlotte.nc.us>
Cc: Flotree, Cheyenne <Cheyenne.Flotree@ci.charlotte.nc.us>
Subject: [EXT] Re: Public Records Request #2948

EXTERNAL EMAIL: This email originated from the Internet. Do not click any images, links or open any attachments unless you recognize and trust the sender and know the content is safe. Please click the Phish Alert button to forward the email to Bad.Mail.

[Quoted text hidden]

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.

Ann Webb <awebb@acluofnc.org>
To: "Flotree, Cheyenne" <Cheyenne.Flotree@ci.charlotte.nc.us>
Cc: "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Mon, Dec 23, 2019 at 1:56 PM

Thank you. I look forward to hearing from you.

[Quoted text hidden]

--

[Quoted text hidden]

Ann Webb <awebb@acluofnc.org>
To: "Flotree, Cheyenne" <Cheyenne.Flotree@ci.charlotte.nc.us>
Cc: "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Wed, Feb 19, 2020 at 4:12 PM

Ms. Flotree & Ms. Knight:

Could you please provide a response or a detailed status update for public records request #2948? The city received this request more than 120 days ago, and we have not received any responses. We request that documents be produced as they are available. I know that we would all like to make sure this request is fulfilled as required under the state public records law.

Thank you for your assistance.

Best wishes,

Ann C. Webb

Policy Counsel
American Civil Liberties Union of North Carolina
P.O. Box 28004. Raleigh, NC 27611
919.675.1931 (c) | 919.532.3697 (o) | awebb@acluofnc.org
acluofnc.org | [@AnnWebbNC](https://twitter.com/AnnWebbNC)

Pronouns: *she/hers*

[Quoted text hidden]

Flotree, Cheyenne <Cheyenne.Flotree@ci.charlotte.nc.us>
To: Ann Webb <awebb@acluofnc.org>
Cc: "Knight, Amelia" <Amelia.Knight@ci.charlotte.nc.us>

Mon, Feb 24, 2020 at 4:02 PM

Hello,

Those processing your public records request (#2948) are still working to gather and review any responsive records. We hope to fulfill your request and provide any responsive materials as expeditiously as possible.

Kind regards,

[Quoted text hidden]

March 25, 2020

City Manager Marcus D. Jones
Office of the City Manager
600 E. 4th Street
Charlotte, NC 28202
Marcus.Jones@charlottenc.gov

Re: Public Records Request #2948

Dear Mr. Jones:



P.O. Box 28004
Raleigh, NC 27611
(919) 834-3466
acluofnc.org

Leah Hamilton
President

Chantal Stevens
Interim Executive Director

We write on behalf of the American Civil Liberties Union of North Carolina (ACLU-NC). We hope that you and your family are safe and well.

Over four months ago, we submitted a request for public records concerning the City of Charlotte's hosting the 2020 Republican National Convention (RNC). In the time since, we have not received any responsive records, nor have we received any explanation for the delay. We hope to resolve this matter informally, but if the City of Charlotte is unwilling to comply with its obligation to produce public records in a timely manner, we are prepared to seek appropriate legal relief.

We recognize that response to the coronavirus pandemic has disrupted many usual city functions. However, as recently as Sunday, March 22, the Republican National Committee and NC GOP Chairman Michael Whatley have stated that they are committed to moving forward with the August 2020 RNC.¹ For that reason, while we understand that public agencies are under pressure at this time, we cannot further postpone this already significantly delayed public records request.

On October 28, 2019, we sent your office a letter requesting various public records concerning the planning of the RNC. The City Clerk's Office acknowledged receipt the following day. On December 19, 2019, we sent a follow-up email to the City Clerk's Office, which responded that it would ask for an update

¹ North Carolina GOP Chair: Convention Still on for Charlotte, AP, Mar. 22, 2020, https://apnews.com/ea845602d85bb2eb393d4209171ffb8b?ac_cid=D M158229&ac_bid=223262055



from the departments gathering responsive records. On February 29, 2020, we again asked the City Clerk’s Office for an update and requested that responsive records be produced as they became available. The City Clerk’s Office responded five days later, saying only that responsive records were being gathered and reviewed. We have not received any word since.

The North Carolina Public Records Act “strongly favors the release of public records to increase transparency in government.” *State Employees Ass’n of N. Carolina, Inc. v. N. Carolina Dep’t of State Treasurer*, 364 N.C. 205, 214, 695 S.E.2d 91, 97 (2010). Once a public official receives a request under the Act, they must fulfill the request “as promptly as possible[.]” N.C.G.S. § 132-6(a). A failure to fully respond to a request over a period of months—or to otherwise make reasonable accommodations to provide timely access to records—may violate the Act. *See State Employees Ass’n*, 364 N.C. at 213, 695 S.E.2d at 96; *Brooksby v. N. Carolina Admin. Office of Courts*, 248 N.C. App. 471, 475, 789 S.E.2d 540, 543 (2016).

The Act’s enforcement mechanism underscores the need for speedy resolution of records requests: “Actions brought pursuant to [the Act] shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.” N.C.G.S. § 132-9(a). If a party seeking to compel records production prevails in court, they may recover costs and attorneys’ fees. N.C.G.S. § 132-9(c).

Here, ACLU-NC has requested records concerning a convention for the nomination of a major political party’s presidential candidate—a historic event where government transparency becomes all the more important. In response, the City has not produced any responsive records, any explanation for the delay, or any response to our suggestion of a rolling production. These circumstances amount to a denial of access under the Act.

With the RNC currently only months away, we will have to consider all legal avenues for relief, including filing suit under the Public Records Act if the City has not provided a

reasonable response to our request within thirty days. As an alternative to litigation, we welcome the opportunity to discuss a timeline for production of records. Please write back or call at your earliest convenience.

Sincerely,

/s/ Ann C. Webb

Ann C. Webb
Policy Counsel
ACLU of North Carolina
(919) 675-1931
awebb@acluofnc.org



cc: Mr. Patrick Baker, Charlotte City Attorney,
Patrick.Baker@charlottenc.gov



Ann Webb <awebb@acluofnc.org>

Permitting and parades legal contact

2 messages

James, Lina <lejames@ci.charlotte.nc.us>

Wed, May 20, 2020 at 10:23 AM

To: "awebb@acluofnc.org" <awebb@acluofnc.org>

Cc: "Baker, Patrick" <Patrick.Baker@ci.charlotte.nc.us>, "Sullivan, Benjamin" <Benjamin.Sullivan@ci.charlotte.nc.us>

Ann – it was a pleasure to speak with you and Daniel yesterday. I understand Patrick and the Chief Putney, through our Police Attorney's office, are working on scheduling a meeting with you regarding your records request.

Meanwhile and as promised yesterday, I'm copying Bobby Sullivan, the attorney in our office who's working with CMPD on issues involved with crafting viable options for permitting, parades and speakers' platforms during the Convention in August. Please feel free to contact Bobby directly.

Thanks and stay well.

Lina E. James

DEPUTY CITY ATTORNEY

OFFICE OF THE CITY ATTORNEY

PH: 704.336.4111

M: 704.560.8535

FAX: 704.632.8345

lejames@charlottenc.govwww.charlottenc.gov

PLAINTIFF'S EXHIBIT E

Ann Webb <awebb@acluofnc.org>

Thu, May 21, 2020 at 4:11 PM

To: "James, Lina" <lejames@ci.charlotte.nc.us>, "Baker, Patrick" <Patrick.Baker@ci.charlotte.nc.us>

Cc: "Sullivan, Benjamin" <Benjamin.Sullivan@ci.charlotte.nc.us>, Daniel Siegel <dsiegel@acluofnc.org>

Dear Lina and Patrick,

Many thanks to you and your colleagues for taking the time to meet with us on Tuesday. We're hopeful about exploring ways to resolve our public records request, and we look forward to building a positive relationship with your office and clients going forward. Thank you for connecting us with Mr. Sullivan -- we will be in touch with him soon.

We look forward to scheduling a meeting with your office and Police Chief Putney concerning security and civil liberties issues related to the RNC. We would certainly welcome Deputy Chief Jennings' participation in that conversation as well, if possible.

We also wanted to confirm our understanding of the items discussed on Tuesday's call. Your staff indicated that by May 29, we should receive two CMPD purchase contracts and the letter to the mayor regarding the award of the DOJ security grant. Your staff also indicated that MOUs with other law enforcement agencies, the DOJ grant itself, and responsive emails would be reviewed, but did not provide a timeline for production. After reviewing the purchase contracts, we will confer with Adam about the possibility of a streamlined process to produce the remaining purchase contracts.

We understand that city officials have a lot on their plates right now in light of the ongoing pandemic. It bears noting again, however, that we submitted our public records request more than four months before Governor Cooper declared a state of emergency, and thus far we've received only a few responsive records. Because the RNC is just three months away, we will have to consider seeking relief in court if we can't reach an agreement relatively soon regarding the remaining records.

Thank you again for the open line of communication; we look forward to hearing from you next week.

Best regards,

Ann and Dan

Ann C. Webb

Senior Policy Counsel
American Civil Liberties Union of North Carolina
P.O. Box 28004, Raleigh, NC 27611
919.675.1931 (c) | 919.532.3697 (o) | awebb@acluofnc.org
acluofnc.org | [@AnnWebbNC](https://twitter.com/AnnWebbNC)

Pronouns: *she/hers*

[Quoted text hidden]



Ann Webb <awebb@acluofnc.org>

Public Records Request

McCalman, Roger <Roger.McCalman@cmpd.org>

Fri, May 22, 2020 at 10:04 AM

To: "awebb@acluofnc.org" <awebb@acluofnc.org>, "Baker, Patrick" <Patrick.Baker@ci.charlotte.nc.us>

Cc: "James, Lina" <lejames@ci.charlotte.nc.us>, "Newbold, Mark" <mnewbold@cmpd.org>

Morning Ann,

Thank you as well for speaking with us this past Tuesday about your request. I have informed my clients about our discussion. As a point of clarification, during our call, I indicated that I do not have the power to bind the City to that timeline. Ultimately, due to the sensitive public security information contained within the documents, any items released will be at the discretion of the Chief.

Instead of our conversation, Chief Putney would like to speak with you and Dan directly to discuss the specifics and CMPD's response to your public record request. As to scheduling, Lt. Furr, with the Chief's Office, will be in contact.

Roger A. McCalman

Assistant City Attorney- Police

Charlotte-Mecklenburg Police Department

704-336-2406

PLAINTIFF'S EXHIBIT F



Daniel Siegel <dsiegel@acluofnc.org>

Re: ACLU of NC Public Records Request

Ann Webb <awebb@acluofnc.org>

Tue, Jun 2, 2020 at 11:37 AM

To: "Putney, Kerr" <kputney@cmpd.org>, "Baker, Patrick" <Patrick.Baker@ci.charlotte.nc.us>, "McCalman, Roger" <Roger.McCalman@cmpd.org>

Cc: "icomo@acluofnc.org" <icomo@acluofnc.org>, "Furr, John (CMPD)" <jfurr2@cmpd.org>, Daniel Siegel <dsiegel@acluofnc.org>

Dear Chief Putney and Roger,

Thank you for meeting with me and my colleagues Dan Siegel and Irena Como last week. I'm writing to recap our conversation.

In light of the scope of our records request and the City's limited resources, we explained which responsive documents we would like the City to prioritize. These are: (1) final contracts between CMPD and private businesses for equipment, services, and materials, (2) MOUs between the City or CMPD and other government agencies related to the RNC, and (3) policies or procedures related to requests to private companies, including internet service providers and cellular phone providers or manufacturers, for location data and/or cell phone use information in a particular geographic area.

We understand that Chief Putney and the City Attorney's office would meet this week, and we'd hear by the end of this week about reconvening to discuss these requests and a timeline for production.

Please know that we take your security concerns seriously. However, we must also take seriously the ACLU's mission of promoting government transparency and accountability. Obtaining the records at issue before the RNC is critical to this mission. We therefore look forward to speaking with you soon in the hopes of settling this matter and avoiding costly litigation.

Sincerely,

Ann C. Webb

Senior Policy Counsel
American Civil Liberties Union of North Carolina
P.O. Box 28004, Raleigh, NC 27611
919.675.1931 (c) | 919.532.3697 (o) | awebb@acluofnc.org
acluofnc.org | [@AnnWebbNC](https://twitter.com/AnnWebbNC)

Pronouns: *she/hers*

On Tue, May 26, 2020 at 1:41 PM Furr, John (CMPD) <jfurr2@cmpd.org> wrote:

The bridge will open at 10:55am. There is no password and no need to register. Chief Putney will be dialing in.

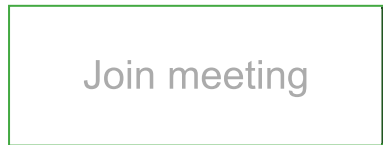
Thank you.

-- Do not delete or change any of the following text. --

PLAINTIFF'S EXHIBIT G

When it's time, join your Webex meeting here.

Meeting number (access code): 472 636 430



Join by phone

Tap to call in from a mobile device (attendees only)

[1-650-479-3207](tel:1-650-479-3207) Call-in toll number (US/Canada)

[1-855-244-8681](tel:1-855-244-8681) Call-in toll-free number (US/Canada)

[Global call-in numbers](#) | [Toll-free calling restrictions](#)

If you are a host, [go here](#) to view host information.

Need help? Go to <http://help.webex.com>

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.