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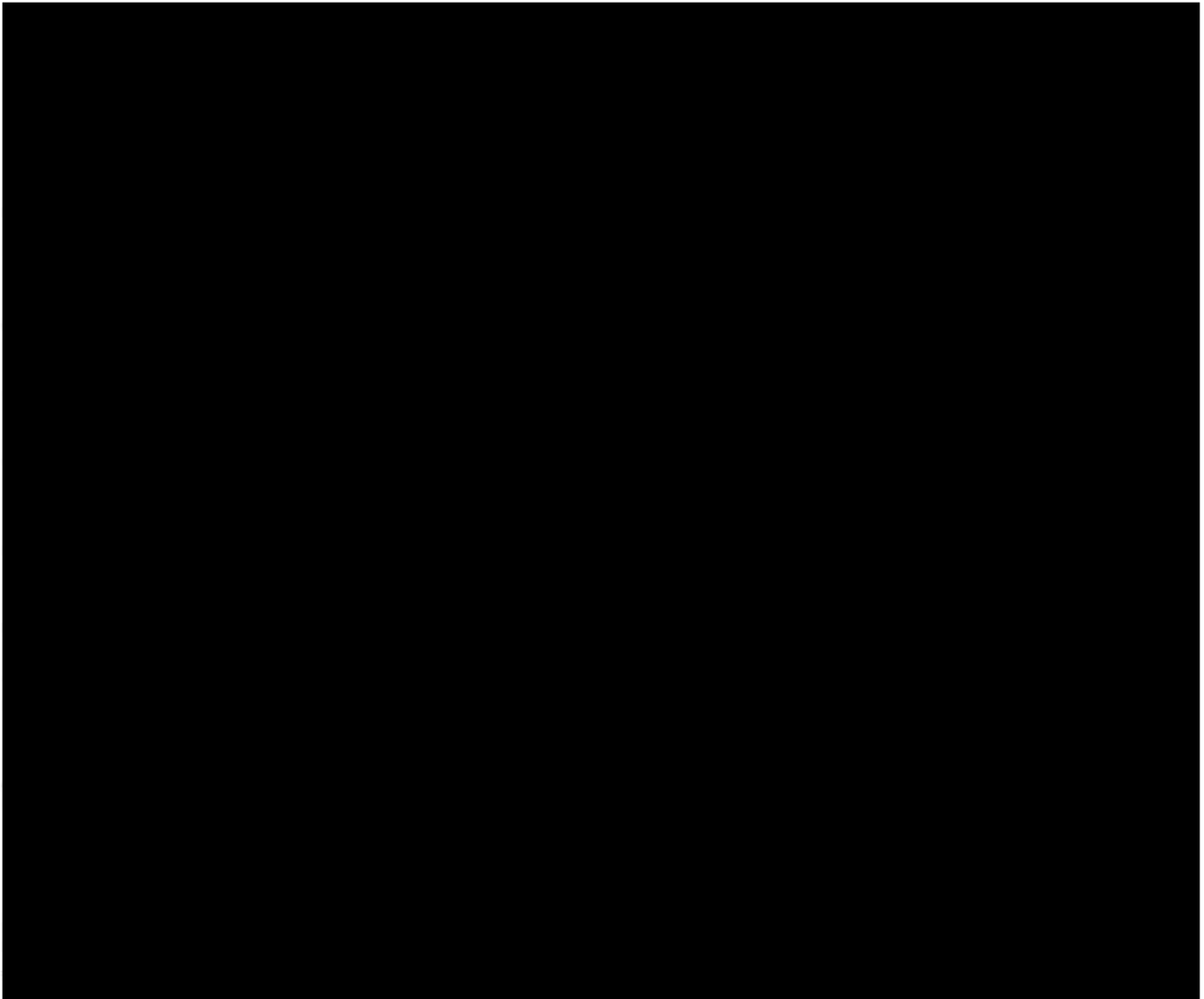
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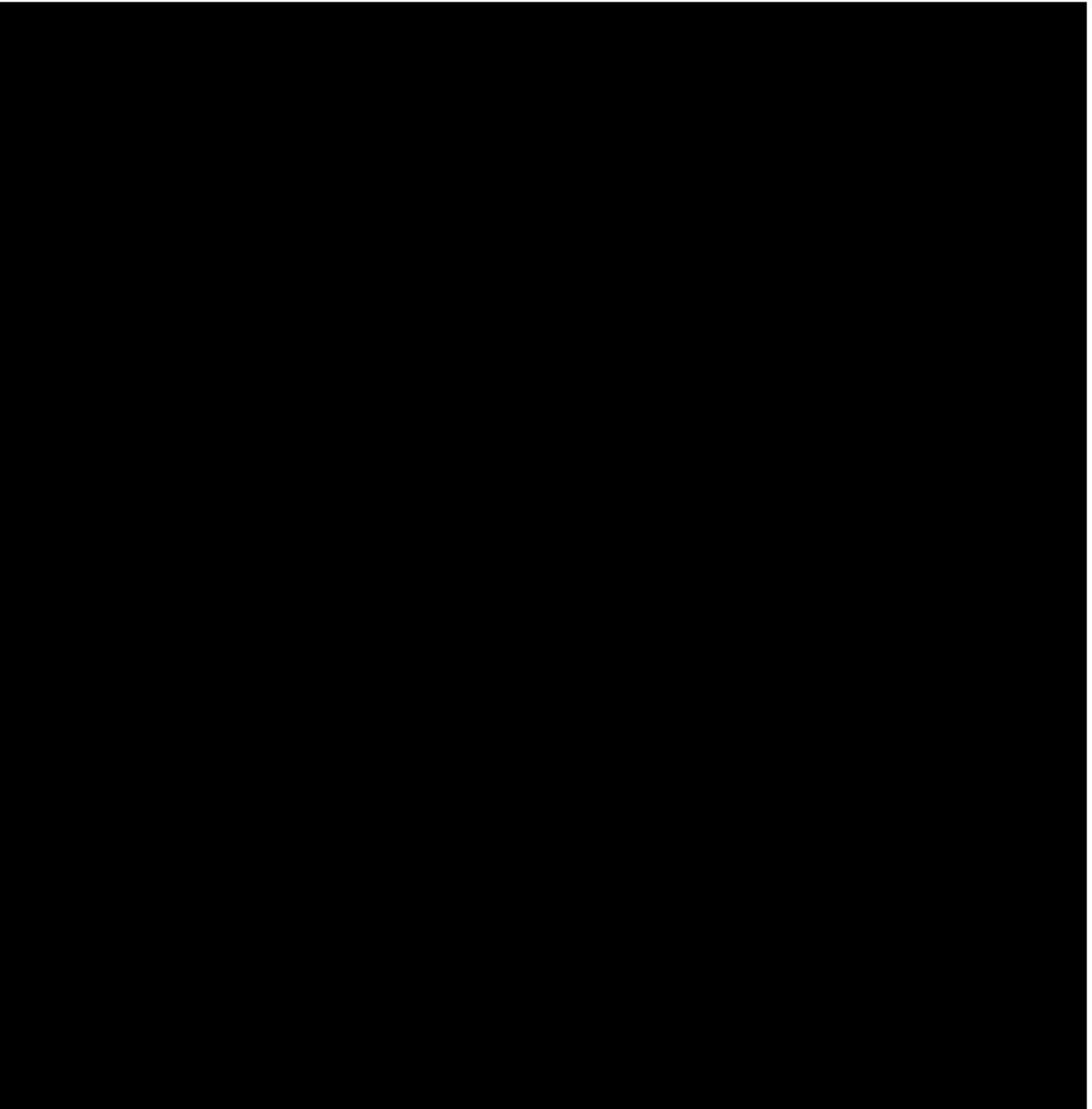
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May 25, 2016

The Honorable Channing D. Phillips
United States Attorney for the District of Columbia
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear United States Attorney Phillips,





FOIA Request for USAO DC Prosecutions Data

According to the Metropolitan Police Department (MPD), violent crime in Police Service Unit (PSA) 108 in Washington, D.C. rose from 108 reported incidents in 2014 to 129 reported incidents in 2015.⁷ Already in 2016, reports of robbery and assault with dangerous weapon in PSA 108 have exceeded the number of such incidents that were reported in the same time frame in

⁷ Metropolitan Police Department, *Crime Map Search*, available at <http://crimemap.dc.gov/Report.aspx>.

2015.⁸ On November 5, 2015, Denise Krepp, the Commissioner of Advisory Neighborhood Commission 6B10—which is located within PSA 108⁹—submitted a Freedom of Information Act (FOIA) request to the U.S. Department of Justice.¹⁰

The November 5, 2015, FOIA request sought information regarding the Justice Department's prosecution rates for crimes that occurred in Washington, D.C. from 2010 through 2015.¹¹ Specifically, the request sought the number of homicide, rape, assault, theft, burglary, larceny, motor vehicle theft, and arson arrests and prosecutions that occurred in each of those years, broken down by each of the eight wards of Washington, D.C.¹² In addition, the request sought the conviction rate for each type of crime prosecuted within each ward and how many arrests for each type of crime were resolved by plea deals, by ward.¹³

In that FOIA filing and subsequent correspondence, Ms. Krepp stated that she is seeking this information on behalf of ANC 6B10 residents, who are concerned about whether and to what extent crimes committed in the city are being prosecuted.¹⁴ In fact, according to Ms. Krepp, she requested this information three times before the November 5, 2015, FOIA filing—including at an October 27, 2015 community meeting at which an Assistant U.S. Attorney from your office was present.¹⁵ The Department reportedly declined each of these requests because it allegedly does not track the number of prosecutions by crime or by ward in Washington, D.C.¹⁶

On January 5, 2016, the Justice Department responded to the November 5, 2015, FOIA request by stating that it had no responsive records.¹⁷ Moreover, the Department stated that your office does not even track this information and *has no means of searching for or retrieving it*.¹⁸

⁸ *Id.*

⁹ Metropolitan Police Department, *Welcome to the First District*, available at <http://mpdc.dc.gov/node/158292>; see also Advisory Neighborhood Commission 6B, *Map and Commissioners*, available at http://www.anc6b.org/?page_id=20.

¹⁰ Letter from K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10, to Susan B. Gerson, Acting Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, U.S. Department of Justice (Nov. 5, 2015) [hereinafter "November 2015 FOIA Request"]; see also Peter Hermann, "Justice Department says it does not track data D.C. activist is seeking," *The Washington Post*, Jan. 23, 2016, available at https://www.washingtonpost.com/local/public-safety/justice-department-says-it-does-not-track-data-dc-activist-is-seeking/2016/01/23/3b74c9ea-bf8b-11e5-9443-7074c3645405_story.html.

¹¹ November 2015 FOIA Request.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*; see also Letter from K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10, to Susan B. Gerson, Acting Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, U.S. Department of Justice (Dec. 14, 2015); Letter from K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10, to Susan B. Gerson, Acting Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, U.S. Department of Justice (Jan. 8, 2016); Letter from K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10, to Susan B. Gerson, Acting Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, U.S. Department of Justice (Jan. 21, 2016).

¹⁵ November 2015 FOIA Request.

¹⁶ *Id.*

¹⁷ Letter from Susan B. Gerson, Acting Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, U.S. Department of Justice, to K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10 (Jan. 5, 2016).

¹⁸ *Id.*

On March 16, 2016, the Justice Department reiterated this response in ruling against Ms. Krepp's January 21, 2016, appeal of the Department's January 5, 2016, action.¹⁹ On May 16, 2016, Ms. Krepp filed suit in the United States District Court for the District of Columbia in accordance with 5 U.S.C. § 552(a)(4)(B).²⁰

The Senate Committee on the Judiciary has jurisdiction and oversight responsibilities over FOIA, the Justice Department, and matters relating to criminal legislation as well as criminal judicial proceedings.²¹ As such, the Committee needs a better understanding of your office's prosecution rates and its commitment to FOIA.

Accordingly, please provide responses to the following:

1. Government is the people's business, and that business should be conducted in the open light of day. Prioritizing FOIA requests and responding to them in a fulsome and timely manner are essential to vindicating this public interest. If you were confirmed as U.S. Attorney for the District of Columbia, would you handle FOIA requests like this any differently? If so, how? If not, why not?
2. Do you believe it is consistent with FOIA principles that the residents of ANC 6B10 and their elected ANC Commissioner have to resort to litigation to obtain basic information about whether and to what extent crimes in their neighborhoods are being prosecuted? If so, please explain. If not, please explain what you believe would have been an appropriate response to the November 5, 2015, filing.
3. Please provide the number of homicide, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson arrests that Department attorneys reviewed from January 1, 2010 through December 31, 2015. Please include a breakdown by year, category of crime, and ward (District of Columbia Wards 1 through 8).
4. How many of the cases referenced in Question 3 were prosecuted? Please include a breakdown by year, category of crime, and ward.
5. How many of the prosecutions referenced in Question 4 resulted in convictions? Please include a breakdown by year, category of crime, and ward.
6. How many of the convictions referenced in Question 5 involved conviction by means other than trial? Please include a breakdown by year, category of crime, and ward.

¹⁹ Letter from Matthew Herd, Associate Chief, for Sean O'Neill, Chief, Administrative Appeals Staff, Office of Information Policy, U.S. Department of Justice, to K. Denise Rucker Krepp, Advisory Neighborhood Commissioner 6B10 (Mar. 16, 2016).

²⁰ *K. Denise Rucker Krepp v. United States Department of Justice*, Case 1:16-cv-00926, Complaint for Declaratory and Injunctive Relief, available at <https://assets.documentcloud.org/documents/2838331/2016-05-16-Complaint-Stamped.pdf>.

²¹ U.S. Senate Committee on the Judiciary, *Jurisdiction*, available at <https://www.judiciary.senate.gov/about/jurisdiction>.

7. How many of the cases referenced in Question 3 resulted in diversions? Please include a breakdown by year, category of crime, and ward.
8. How many of the cases referenced in Question 3 resulted in dismissals? Please include a breakdown by year, category of crime, and ward.
9. On January 5, 2016, the Justice Department responded to the November 5, 2015, FOIA request by stating that your office does not even track this information and *has no means of searching for or retrieving it*. How do you reconcile the purported inability of your office to search for or retrieve that information with the data points that are reported every year in your office's annual reports?

Please respond by June 10. If I do not receive adequate answers to the above, I will be following up with further questions.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary