

## INTRADEPARTMENTAL CORRESPONDENCE

December 7, 2022  
14.2

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** CALIFORNIA PUBLIC RECORDS ACT INSPECTION (AD NO. 21-006)

### RECOMMENDED ACTION

It is recommended that the Board of Police Commissioners REVIEW and APPROVE the attached California Public Records Act Inspection.

### DISCUSSION

Audit Division conducted a California Public Records Act Inspection to evaluate the Los Angeles Police Department's adherence to a settlement agreement between the American Civil Liberties Union and the City of Los Angeles.

If additional information regarding this audit is required, please contact Senior Management Analyst II Sharon Sargent, Acting Commanding Officer, Audit Division, at (213) 486-8129.

Respectfully,

A handwritten signature in blue ink, appearing to be 'M. Moore', with a stylized flourish.

MICHEL R. MOORE  
Chief of Police

Attachment

# LOS ANGELES POLICE DEPARTMENT

## *CALIFORNIA PUBLIC RECORDS ACT INSPECTION*

*(AD No. 21-006)*



Conducted by  
AUDIT DIVISION

MICHEL R. MOORE  
Chief of Police

*December 2022*

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# CALIFORNIA PUBLIC RECORDS ACT INSPECTION

Conducted by  
Audit Division  
2021

## **OVERVIEW**

Audit Division (AD) evaluated the Los Angeles Police Department's (Department) adherence to a settlement agreement (Agreement) between the American Civil Liberties Union (ACLU) and the City of Los Angeles (City). The objectives in this inspection were identified to determine the Department's compliance with the Agreement and the California Public Records Act (CPRA).

In assessing a sample of 102 Department record requests received and closed for the nine-month period between January 1, 2021, through September 30, 2021, auditors found that:

- The Department provided a timely initial response to the requestor 91 percent of the time (*Objective No. 1*);
- Additional 14 calendar-day extensions obtained due to unusual circumstances were justified 88 percent of the time (*Objective No. 2*);
- Requests fulfilled and not fulfilled were justified, and requestors notified 100 percent of the time [*Objective Nos. 3(a-b)*];
- Regular entries were made indicating continued efforts to locate and produce responsive records, or a single significant entry was made that would indicate reasonableness for a delay in the production of records 99 percent of the time (*Objective No. 5*); and,
- Reasonable efforts to locate records were made 100 percent of the time (*Objective No. 6*).

Performance assessments were conducted to provide additional insight and understanding of the Department's performance as it relates to open requests and analyses involving the population of open and closed requests. These assessments do not involve criteria and the conclusions are based on reasonableness and best practice.

The prior inspection included six Other Related Matters, of which four required a one-time assessment and were subsequently closed as the conditions of the Agreement were met. The remaining two Other Related Matters remain open due to the need for continued assessment and are addressed within the Other Related Matters section at the end of this report.

## **BACKGROUND**

The CPRA was enacted in 1968 to:<sup>1</sup>

- (1) Safeguard the accountability of government to the public;
- (2) Promote maximum disclosure of the conduct of governmental operations; and,
- (3) Explicitly acknowledge the principle that secrecy is antithetical to a democratic system of "government of the people, by the people and for the people."<sup>2</sup>

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<sup>1</sup> See League of California Cities, *The People's Business, A Guide to the California Public Records Act*, Revised April 2017, Chap. 1, "Introduction and Overview," "Origins of the Public Records Act," p. 5.

<sup>2</sup> Gov. Code, § 6250 et seq.; Stats 1968, Ch. 1473.

In 2019, the City and the Department entered into an Agreement with the ACLU to adopt, maintain, and enforce an administrative policy, procedure, and protocol regarding the Department's compliance with the CPRA. The Agreement stipulates that the Department create and maintain, among other requirements, a public records access policy, a dedicated unit, the CPRA Unit, within Risk Management and Legal Affairs Division (RMLAD), and an online records portal that allows the public to access and view Department documents.<sup>3</sup> The Department is also required to conduct an annual CPRA inspection for five consecutive years to monitor the Department's compliance with the CPRA and the Agreement.<sup>4</sup>

The RMLAD Public Records & Subpoena Response Section A (PRSR), "has primary responsibility for accepting, processing, and responding to the CPRA requests for the Department. The PRSR shall log, process, and respond to every public record request it receives, in accordance with the CPRA."<sup>5</sup>

*California Public Records Act Unit Manual* states:<sup>6</sup>

The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so.

*The People's Business, A Guide to the California Public Records Act* states:<sup>7</sup>

The right of access to public records under the PRA is not unlimited; it does not extend to records that are exempt from disclosure. . . The PRA itself contains approximately 76 exemptions from disclosure.<sup>8</sup> . . . Despite the California Legislature's goal of accumulating all of the exemptions from disclosure in one place, there are numerous laws outside the PRA that create exemptions from disclosure.

California Government Code Section 6254 provides an additional 13 reasons why records should be either redacted or not disclosed.<sup>9</sup>

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<sup>3</sup> The CPRA Unit will be referred to as RMLAD to distinguish between the CPRA and the CPRA Unit.

<sup>4</sup> *See Settlement Agreement*, 8. Monitoring.

<sup>5</sup> *See Department Manual*, 3<sup>rd</sup> Quarter 2021, Vol. 3, "Management Rules and Procedures," Section 406.30, "California Public Records Act."

<sup>6</sup> *See California Public Records Act Unit Manual*, 09-30-19, Section 1, "Summary: California Public Records Act," Section 1.1, "Overview," p. 4.

<sup>7</sup> *See League of California Cities, The People's Business, A Guide to the California Public Records Act*, Revised April 2017, Chap. 1, "Introduction and Overview," "Exemptions From Disclosure — Protecting the Public's Fundamental Right of Privacy and Need for Efficient and Effective Government," p. 6.

<sup>8</sup> Gov. Code, §§ 6253.2 – 6268.

<sup>9</sup> *See Los Angeles Police Department webpage*, "California Public Records Act," "Records Exempt from Public Requests," <https://www.lapdonline.org/administrative-services-bureau/support-services-group/records-and-identification-division/california-public-records-act/>.

## **PRIOR INSPECTION**

This is AD's second inspection. The first one was conducted in 2020 and presented to the Board of Police Commissioners in May 2021.

## **SCOPE AND METHODOLOGY**

This inspection focused on RMLAD and its role in the Agreement regarding the intake and handling of requests for public records.

To determine the population for the inspection, AD used data from the online system, NextRequest, which documents all record requests, related activities, and actions taken. All requests made by mail, online, phone, or in person are entered into the NextRequest, which is used by multiple City agencies. Access to the NextRequest is publicly available at <https://lacity.nextrequest.com>, where the public can submit a public record request to the desired agency in the City and view the status of the request.

Auditors identified a total of 2,642 public records requests that were received by the Department from January 1, 2021 through September 30, 2021.<sup>10</sup> Of the 2,642 requests, 2,458 requests have been closed. A statistically valid random sample was selected from the closed requests which yielded 102 requests to measure the Department's processes in handling the record requests in its entirety from receipt of the request to its closure.<sup>11</sup> Auditors also performed an analysis of the 184 record requests that remained *open* during the inspection period.

## **SUMMARY OF FINDINGS**

The Department met the standards on most objectives (see Table No. 1 – Findings by Objective). Relative to Objective No. 2 – Justification of Additional 14-Day Extensions, requests that required additional time to search for and collect the requested records had documented the “unusual circumstances” 88 percent of the time. “Unusual circumstances” is statutorily defined and enumerated in the CPRA.<sup>12</sup>

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<sup>10</sup> The population was pulled from the NextRequest on October 26, 2021.

<sup>11</sup> For the sample selection, auditors used a 95 percent confidence level with an 89 percent proportion of success, a precision of five percent, and a one-tail test sample size.

<sup>12</sup> *California Government Code*, Title 1, “General,” Division 7, “Miscellaneous,” Chap. 3.5, “Inspection of Public Records,” Article 1, “General Provisions,” Section 6253(c).

**Table No. 1 – Findings by Objective**

| Objective No. | Description of Objectives   | 2020                               |                           | 2021                               |                           |
|---------------|---|------------------------------------|---------------------------|------------------------------------|---------------------------|
|               |   | Number Meeting Standards/Evaluated | Percent Meeting Standards | Number Meeting Standards/Evaluated | Percent Meeting Standards |
| 1             | Timely Initial Notice to Requestor  | 53/53                              | 100%                      | 93/102                             | 91%                       |
| 2             | Justification of Additional 14-Day Extensions                                     | 22/22                              | 100%                      | 23/26                              | 88%                       |
| 3             | Requests Fulfilled and Not Fulfilled Were Justified, and Requestors Were Notified |                                    |                           |                                    |                           |
| 3(a)          | Record Request Fulfilled and Record Provided to Requestor                         | 30/36                              | 83%                       | 53/53                              | 100%                      |
| 3(b)          | Record Request Not Fulfilled Was Documented and Justified                         | N/A                                |                           | 49/49                              | 100%                      |
| 4             | Status of Record Requests (Performance Assessment)                                | N/A                                |                           | See Discussion                     |                           |
| 5             | Reasonableness of Open Record Requests (Performance Assessment)                   | N/A                                |                           | 126/127                            | 99%                       |
| 6             | Reasonable Effort to Locate Records (Performance Assessment)                      | 52/52                              | 100%                      | 102/102                            | 100%                      |

## **DETAILED FINDINGS**

### **Objective No. 1 – Timely Initial Notice to Requestor**

#### **Criteria**

*Department California Public Records Act Unit Manual*, September 30, 2019, Section 4, “Responding to Requests for Records,” Section 4.1, “Procedures,” p. 11, states:

The Department is obligated by the CPRA to respond in writing to CPRA requests within 10 days,..., with the following information:

- Whether the requested records exist;
- Whether the Department will release any of the requested records, and if so, when and how; and,
- The legal reasons for withholding any requested records.

*Department Manual*, 4th Quarter 2021, Vol. 3, “Management Rules and Procedures,” Section 406.30, “California Public Records Act,” states:

The CPRA requires that, within 10 calendar days from receiving a request, the Department notify the requestor in writing whether the Department is in possession of the requested public records and any exemptions asserted by the Department...

## Inspection Procedures

California Government Code §6253(c) states, “When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available.” This section provides no statutory timeline for the actual production of the records.

Auditors reviewed all 102 sample requests within NextRequest to determine whether RMLAD provided a response in writing to the requestor within ten calendar days upon receiving a request. The response can either be the disclosure of the requested records or if the records cannot be immediately provided within 10 calendar days, the response should include the following information:

- Whether the requested records exist;
- Whether the Department will release any of the requested records, and if so, when and how; and,
- The legal reasons for withholding any requested records.

The Department met the standard if RMLAD appropriately provided a response to the requestor within the required 10 calendar days.

## Findings

Ninety-three (91 percent) of the 102 record requests met the standard for this objective. Of the nine that did not meet the standard, the 10<sup>th</sup> calendar day fell on a weekend day or a holiday. It was learned that RMLAD personnel calculated the 10 and 14-day requirements based on the related *California Civil Code*, § 11, “Preliminary Provisions,” which clarifies that when a due date falls upon a weekend or holiday, it is carried over to the next business day.<sup>13</sup>

The RMLAD Manual states “10 days” and the Department Manual states “10 calendar days,” both of which do not provide for the adjustment of the due date when it falls upon a weekend or holiday date, which is the method they currently employ. See Recommendation No. 1.

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<sup>13</sup> California Civil Code, §11 Preliminary Provisions: 7. Holidays within the meaning of this code are every Sunday and such other days are specified or provided for as holidays in the Government Code of the State of California; and, 11. Whenever any act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, it may be performed upon the next business day, with the same effect as if it had been performed upon the day appointed.



## **Objective No. 2 – Justification of Additional 14-Day Extensions**

### **Criteria**

*Department California Public Records Act Unit Manual*, September 30, 2019, Section 4, “Responding to Requests for Records,” Section 4.1, “Procedures,” p. 11, states:

The Department is obligated by the CPRA to respond in writing to CPRA requests within 10 days, or 24 days in unusual circumstances, with the following information:

- Whether the requested records exist;
- Whether the Department will release any of the requested records, and if so, when and how; and,
- The legal reasons for withholding any requested records.

*Department Manual*, 4th Quarter 2021, Vol. 3, “Management Rules and Procedures,” Section 406.30, “California Public Records Act,” states:

The CPRA requires that, within 10 calendar days from receiving a request, the Department notify the requestor in writing whether the Department is in possession of the requested public records and any exemptions asserted by the Department. When unusual circumstances exist, as defined by the CPRA, the Department may extend the time to respond by an additional 14 calendar days.

The CPRA defines “unusual circumstances” as used in *California Government Code*, Title 1, “General,” Division 7, “Miscellaneous,” Chap. 3.5, “Inspection of Public Records,” Article 1, “General Provisions,” Section 6253(c), which states:

Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or their designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

*Department California Public Records Act Unit Manual*, September 30, 2019, Section 4, “Responding to Requests for Records,” Section 4.1, “Procedures,” Section B, “Timing of Disclosure,” p. 12, states:

When faced with a voluminous public records request, a CPRA analyst has several options – for example, asking the requester to narrow the request, asking the requester to agree to a later deadline for responding to the request, and providing responsive records (whether redacted or not) on a “rolling” basis, rather than in one complete package. It is sometimes possible for the Department and the requester to work cooperatively to streamline a public records request, with the result that the requester obtains the records or information the requester truly wants, while the burden on the Department in complying with the request is reduced. If any of these options are used, it is advisable that it is documented in writing.

### **Inspection Procedures**

Auditors reviewed all 102 record requests to determine how many were extended beyond 10 calendar days from receiving the request. Of the 102 record requests, 26 needed extensions beyond the initial 10 days from receipt of request.

Auditors learned that RMLAD’s general practice was to continuously notify the requestor of the need for an extension in situations that required additional extensions. Auditors reviewed each request to determine whether the unusual circumstances permitted under the CPRA were cited in each of the 26 requests.

The Department met the standard if each request documented an explanation for every 14-day extension and 30-day extension thereafter and the explanation was an “unusual circumstance” as defined by the CPRA.

### **Findings**

Twenty-three (88 percent) of the 26 record requests met the standard for this objective. For the remaining three requests, two did not cite an explanation for the extension and one was not extended despite completion of the request three days after the initial 10-day response period. Table No. 2 provides a breakdown of the record requests requiring more time to complete.

**Table No. 2 – Breakdown of Responses to Requests Beyond 10-Day Response Period**

| Reasons for Extension                          | Number of Requests | Comments  |
|--|--------------------|---|
| Requests Sent Out to Other Department Entities | 19                 | Letters were sent to the requestors citing the need to search for and collect the requested records from other Department entities. |
| Awaiting Response from Requestor               | 4                  | RMLAD requested clarification from the requestor and awaiting response.   |
| No Reason Cited                                | 2                  | Extension notification was provided to the requestor; however, no specific section of the CPRA was cited for the extension.         |
| No Extension Notification                      | 1                  | No extension notification to requestor.   |
| <b>TOTAL</b>                                   | <b>26</b>          |   |

### Additional Assessment

Table No. 3 provides a breakdown of the 102 record requests closed within the 10, 24, and over 24-day time periods. The review of each of the requests completed after the initial 10-day response period indicated that RMLAD notified requestors within the required timeframe of the ongoing search for the requested documents and the explanations for the extensions.

**Table No. 3 – Breakdown of Requests Closed by Time Periods**

| Time Period                    | No. of Requests Closed Within Time Period | Percent     |
|--------------------------------|---|-------------|
| Initial 10-Day Response Period | 74  | 72%         |
| Additional 14-Day Extension    | 16  | 16%         |
| Beyond 24-Days                 | 12  | 12%         |
| <b>TOTAL</b>                   | <b>102</b>                                | <b>100%</b> |

### **Objective No. 3 – Requests Fulfilled and Not Fulfilled Were Justified, and Requestors Were Notified**

#### Criteria

*California Government Code*, Title 1, “General,” Division 7, “Miscellaneous,” Chap. 3.5, “Inspection of Public Records,” Article 1, “General Provisions,” Section 6254, states:<sup>14</sup>

Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records:

<sup>14</sup> Government Code Section 6254 contains 29 subsections that involve exceptions applicable to the work of all California state and local government agencies. The above subsections are the few identified that apply to the work of the Department.

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

...

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

...

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

...

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

*California Government Code*, Title 1, "General," Division 7, "Miscellaneous," Chap. 3.5, "Inspection of Public Records," Article 1, "General Provisions," Section 6253(b), states:

Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person . . . Upon request, an exact copy shall be provided unless impracticable to do so.<sup>15</sup>

### **Objective No. 3(a) – Record Request Fulfilled and Record Provided to Requestor**

#### **Inspection Procedures**

The Department provided responsive records to 53 of the 102 requests received. Forty-nine requests were not fulfilled for various reasons [Assessed in Objective No. 3(b)]. The 53 fulfilled record requests were assessed to verify that the records were in fact provided to the requestor as indicated.

Auditors reviewed each of the 53 record requests to determine whether each responsive and non-exempt record was fulfilled by uploading the record onto NextRequest where it was made available to the requestor and an exact copy (e.g., scan, photocopy) of the record was provided to the requestor via the requestor's preferred method of communication, such as email, fax, or United States Postal Service mail.

The Department met the standard if the record(s) permitted to be disclosed pursuant to the CPRA was promptly made available and an exact copy was provided to the requestor.

#### **Findings**

Each (100 percent) of the 53 record requests met the standard for this objective.

### **Objective No. 3(b) – Record Request Not Fulfilled Was Documented and Justified**

#### **Inspection Procedures**

As stated in Objective No. 3(a), of the 102 record requests reviewed, 49 were not fulfilled due to a variety of reasons and were assessed for this objective. Auditors reviewed each of the 49 record requests to determine the following:

- Whether a reason was documented as to why the record(s) was not provided to the requestor; and,
- Whether the reason the request was not fulfilled was in accordance with the CPRA.

The Department met the standards if the reason for not fulfilling the request was documented and justified.

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<sup>15</sup> The Department's promptness in response to a record request was assessed under Objective Nos. 1 and 2.

## Findings

Each (100 percent) of the 49 unfulfilled record requests met the standards for this objective. Table No. 4 provides a breakdown of the variety of reasons why the request was not fulfilled.

**Table No. 4 – Breakdown of Why Requested Records were not Provided**

| Reason Not Fulfilled                 | Number    | Comments  |
|--------------------------------------|-----------|---|
| Denied under the CPRA                | 32        | 30 - Criminal Investigations<br>1 - Personnel Records<br>1 - Confidential Notes   |
| No Responsive Allowable CPRA Records | 10        | 10 - No responsive records located.   |
| Not for Specific Records             | 4         | 2 - Generic requests with no specific identifying information. Requestor was asked to clarify. No response from requestor.<br>1 - Requested to initiate a personnel complaint. Re-directed to PSB.<br>1 - Requested to determine identity of a family member. |
| Duplicate Request                    | 1         | 1 - Duplicate request - Original request was denied under the CPRA.   |
| Different Entity                     | 2         | 1 - Los Angeles County Sheriff's Department<br>1 - General Services Department  |
| <b>TOTAL</b>                         | <b>49</b> |   |

## Objective No. 4 – Status of Record Requests (Performance Assessment)

### Assessment Procedures

The Department's performance in satisfying the record requests is not required by the Agreement. However, in order to provide the reader with an additional perspective of the Department's performance in completing the record requests, AD reviewed the status as a Performance Assessment. Auditors analyzed the 2,642 record requests.

### Results

Of the 2,642 record requests, 2,458 (93 percent) were closed and 184 (seven percent) remained open. Table No. 5 provides a breakdown of 2,458 record requests that were closed within 10, 11-24, and over 24-day periods to provide additional insight into the Department's performance with satisfying the requests.

**Table No. 5 – Time Periods for Closed Record Requests**

| Time Periods                     | No. of Requests Closed Within Time Period | Percent     |
|----------------------------------|---|-------------|
| Closed in 1-10 Days              | 1,780                                     | 72%         |
| Closed in 11- 24 Days            | 470                                       | 19%         |
| Closed Beyond 24 Days            | 208                                       | 9%          |
| <b>TOTAL RECEIVED AND CLOSED</b> | <b>2,458</b>                              | <b>100%</b> |

## **Objective No. 5 – Reasonableness of Open Record Requests (Performance Assessment)**

### **Assessment Procedures**

Auditors also reviewed the handling of open requests. This objective is an analysis of the Department's performance in handling the open requests, therefore, it was reviewed as a Performance Assessment.

Auditors performed a status review of the 184 open record requests (as of October 26, 2021, when population was determined) identified in Objective No. 4, Table No. 5. Auditors reassessed the 184 open requests on January 12, 2022, whereby an additional 57 requests were closed<sup>16</sup> (see Table No. 6). The remaining 127 open requests were reviewed to determine the reason(s) they remain open (see Table No. 7).

The Department met the conditions for this objective if regular entries were made indicating continued efforts to locate and produce responsive records, or a single significant entry was made that would indicate reasonableness for a delay in the production of records.

### **Results**

One hundred-twenty-six (99 percent) of the 127 open record requests had documented explanations that auditors determined to be reasonable. One request (No. 21-479) did not contain any documentation or response to the requestor of its status. The record request indicated it was pending assignment to a new analyst on April 16, 2021, and the NextRequest showed no activity after this date.

The review also determined that four requests have remained open for more than a year. They are as follows:

- The Officer-Involved Shooting (OIS) is closed. A critical incident video was released to the public. The responsible entity, Force Investigation Division (FID), is procuring the documents to begin the redaction process.
- This request involves multiple officers over a decade period. Thus, the voluminous records have been released in batches. The FID and Critical Incident Review Division are in the late stages of the redaction process.
- This request involves a Law Enforcement Related Injury (LERI) investigation and a complaint investigation. Per FID, the case is pending redaction.
- This request involves a Use of Force investigation. The RMLAD has received a redacted video from FID on September 2, 2022 and is conducting its own review. As soon as the review is completed, the video will be released to the requestor.

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<sup>16</sup> The additional 57 requests that were initially open were closed between October 27, 2021, and January 12, 2022.

Table No. 6 provides a breakdown of the open requests by time periods as of January 2022.

**Table No. 6 - Breakdown of Open Record Requests by Time Periods**

| <b>Time Range Record Requests were Open in Days</b> | <b>Number of Open Record Requests as of January 12, 2022</b> |
|---|--|
| 0-179 (6 months)                                    | 49   |
| 180-269 (9 months)                                  | 35   |
| 270-364 (One year)                                  | 39   |
| 365+ (Over one year)                                | 4  |
| <b>TOTAL</b>  | <b>127</b>   |

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Table No. 7 provides a breakdown of the 127 record requests that remain open and the circumstances cited that kept the requests open.

**Table No. 7 – Breakdown of Open Record Requests by Circumstances**

| <b>Circumstances</b>                | <b>Total</b> | <b>Comments</b>   |
|-------------------------------------|--------------|---|
| Pending Conclusion of Investigation | 9            | Requests for records involving an ongoing investigation of officer-involved shootings and serious uses of force are disclosable under PC 832.7(b), although subject to certain time limits for temporary withholding.   |
| Batch Release                       | 26           | The RMLAD discloses/releases records as they become available, rather than waiting until all records have been collected.   |
| Historical/Other Department Entity  | 17           | The RMLAD is waiting for response from other division to produce the requested records for their review.  |
| Requestor Clarification             | 16           | Records have been provided to the requestor along with questions for the requestor to respond. The RMLAD waits for a response from the requestor to verify that the records provided satisfied their requests.  |
| Redaction                           | 47           | Open cases that required redaction had indicated the number of involved records ranged from a few hundred to tens of thousands.   |
| Pending Final Action COC Approval   | 8            | Pending final action of Chain of Command for approval before records are disclosed/released to the requestor.   |
| Pending City Attorney Review        | 1            | Requested records are pending City Attorney review before being disclosed/released to the requestor.  |
| Voluminous                          | 2            | Two requests were noted as being voluminous or “any and all” records where the date range was large, and the scope of records requested was wide. It should be noted that in AD’s review of the requests, RMLAD would frequently ask for clarification to narrow their scope to assist in a timelier reply. The two requests in question were so broad that it did not appear that there could be any narrowing of scope. |
| No Activity                         | 1            | The request was pending reassignment to a new analyst on April 16, 2021. The request was reassigned on January 19, 2022 to an analyst who is handling a similar request. Once the similar request is completed, the requester for Request #21-01 will be referred to the similar request containing the responsive records.   |
| <b>TOTAL</b>                        | <b>127</b>   |   |

**Objective No. 6 – Reasonable Effort to Locate Records (Performance Assessment)**

**Criteria**

*Department California Public Records Act Unit Manual*, 09-30-19, Section 4, “Responding to Requests for Records,” Section 4.1, “Procedures,” Section C, “Locating Records,” p. 12, states:

The Department is legally obligated to make a reasonable effort to search for and locate requested records, including by asking probing questions of Department staff. No bright-line test exists to determine whether an effort is reasonable. That determination will depend on the facts and circumstances surrounding each request. In general, upon the

Department's receipt of a CPRA request, all persons or offices that would most likely be in possession of responsive records should be consulted in an effort to locate the records.

### **Assessment Procedures**

To evaluate whether RMLAD made reasonable efforts to satisfy the requests, auditors reviewed each of the 102 record requests to determine if activity was documented to locate records, attempts made to locate records, and Department resources utilized to enhance these efforts.

### **Results**

Each (100 percent) of the 102 record requests met the conditions for this objective and contained documentation that indicated reasonable efforts were made, and continue to be made, to locate the requested records.

### **Additional Assessment**

Risk Management and Legal Affairs Division often requests assistance from Department entities to fulfill record requests. During this inspection period, of the 102 record requests, RMLAD was able to fulfill 79 requests independently and required other Department entities to assist with the remaining 23 requests.

Table No. 8 provides a breakdown of the Department entities' responses to RMLAD's requests for assistance. This breakdown provides insight into the Department entities' ability to locate and identify the requested records within the required timeframe.

**Table No. 8 – Response to Fulfill the CPRA Requests from Other Department Entities**

| Entity Fulfilling the CPRA Requests | No. of CPRA Requests | No. of CPRA Requests by Response Time | Response Time to the CPRA Requests |
|-------------------------------------|----------------------|---------------------------------------|------------------------------------|
| Other Department Entities           | 23                   | 9                                     | Within 5 days                      |
|                                     |                      | 2                                     | Within 6-10 days                   |
|                                     |                      | 7                                     | Within 11-20 days                  |
|                                     |                      | 5                                     | 21+ days                           |

### **OTHER RELATED MATTERS**

1. The two points of interest within the Agreement, Proactive Disclosure and Historical Data Preservation, continue to be reviewed annually based on their need for a continued assessment:

#### **A. Proactive Disclosure**

The City will institute and maintain processes for routine proactive disclosure of Department records and information in the public interest. The City will:

- Post online Department's current Special Orders and entire policy manual;
- Indicate online the date it last confirmed that the Special Orders and policy manual available online reflect the most updated versions;
- Make available to the public online all statistical data that the Department reports to the California Department of Justice or the Bureau of Justice Statistics;
- Continue to publish online, archive, and keep current the arrest incident data, crime incident data, drug possession arrest incident data, and vehicle and pedestrian stop data it currently maintains on the Los Angeles Open Data website; and,
- Publish online, archive, and keep current the Department's jail booking data.

### **Findings**

At the time of the inspection, the Department was in the process of migrating contents to the revamped public website. The Department met the conditions with the exception of Special Order Nos. 22, 24-27, 2021, and the corresponding dates the Special Orders were uploaded and made available on the website to the public. Upon notification, Media Relations Division uploaded all the missing Special Orders and added their corresponding "dates of update" to the public site: <https://www.lapdonline.org/>.

### **B. Historical Data Preservation**

The City will make all reasonable efforts to preserve as "historical" both existing and future documents in certain categories including Statistical Digests, all Department annual Use of Force reports, COMPSTAT profiles, Organizational Charts, Categorical Use of Force Investigation Records, Officer Involved Shooting Files, and Board of Police Commissioners agenda packages and meeting minutes.

### **Findings**

The Department met the conditions of the above requirements after its successful conversion of its contents to the revamped public website at <https://www.lapdonline.org/>.

## **2. The following Other Related Matters Arose During the Course of This Audit.**

During the course of the audit, it was found that the Department's California Public Records Act Unit Manual and the Department Manual's timeliness requirements to respond to a request for copies of public records were not consistent with the California Government Code.

*California Government Code*, Title 1, "General," Division 7, "Miscellaneous," Chap. 3.5, "Inspection of Public Records," Article 1, "General Provisions," Section 6253(c), states:

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or their designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days.

The Department's California Public Records Act Unit Manual addressed the requirements to respond back to the requestor within "10 days, or 24 days in unusual circumstances." The related Department Manual Section described the CPRA requirements as "10 calendar days" and "additional 14 calendar days," whereas the related Government Code described the requirements as "10 days" and "more than 14 days" [See Recommendations Nos. 1(a) and 2(a)].

## **RECOMMENDATIONS**

The 2020 CPRA Inspection Report Recommendations have all been implemented. The following are current recommendations for the 2021 CPRA Inspection.

1. It is recommended that the Policy Analysis and Development Unit, Office of Constitutional Policing and Policy, in conjunction with RMLAD, update the related Department Manual section to reflect the applicable sections of:
  - a) The California Government Code, Section 6253(c), with regards to "10 days" and "more than 14 days" (See Other Related Matters No. 2); and,
  - b) The California Civil Code § 11, which allows for the adjustment of the due date when it falls upon a weekend or holiday to the next business day. This will memorialize their current practice (See Objective No. 1).
2. It is recommended that RMLAD amend the California Public Records Act Unit Manual to reflect the applicable sections of:
  - a) The California Government Code, Section 62353(c), where extensions are to be no more than 14 days (See Other Related Matters No. 2); and,
  - b) The California Civil Code § 11, which allows for the adjustment of the due date when it falls upon a weekend or holiday to the next business day. This will memorialize their current practice (See Objective No. 1).

**ACTIONS TAKEN/MANAGEMENT RESPONSE**

Auditors provided a draft report to the Commanding Officer, Risk Management and Legal Affairs Division who was in general agreement with the audit findings and provided a response (see Addendum IV).

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## ADDENDUM I

### **Prior Inspection Findings, Recommendations, and Other Related Matters Addressed in Current Inspection**

#### **PRIOR FINDINGS**

##### ***Follow-up of the Six Findings Related to Objective No. 4. from the Prior 2020 Inspection***

As part of the 2020 inspection, AD evaluated whether requested records were provided to the requestor. See Objective No. 4 (a copy of the CPRA Inspection 2020 Report is attached as Exhibit I). Thirty of the 36 (83%) sample record requests applicable to this objective met the standard. Six record requests remained open because records had not yet been provided to the requestor due to their volume and complexity including review for confidential information and possible redaction required.

As of December 11, 2021, all six prior outstanding requests have a status of “**Closed.**” The following details the complexity of each request:

- **Request #01** - Request for 20 months of documents and data, resulted in retrieval and review of nearly 10,000 pages of emails containing sensitive security records, which was exempt from disclosure. Ultimately, request was denied pursuant to the CPRA in its entirety.
- **Request #02** - Broad request for detailed Department equipment inventory/manuals, which involved assistance from multiple Department entities. The Department has no single database for all equipment, and requestor did not respond to RMLAD's inquiry for specifics. Ultimately, a response to the request was only partially provided.
- **Request #03** - Lengthy request that comprised of 13 sub-requests for information, including bodycam/dashcam recordings, radio transmissions, emails, reports, and metadata. After extensive and time-consuming review, no responsive records were located, and the requestor was informed of the lack of responsive documents.
- **Request #04** - Lengthy request that comprised of 13 sub-requests for information, including bodycam/dashcam recordings, radio transmissions, emails, reports, and metadata. One summarized incident report was provided. Remaining requests were either not located or exempt from disclosure pursuant to the CPRA. Requests #3 and #4 are from the same requestor who submitted similar CPRA requests for multiple locations.
- **Request #05** - Request regarding a specific helicopter, including equipment, purchase orders, maintenance, and logs/flight plans. Nearly 5,000 emails were located but were investigatory, therefore they could not be released pursuant to the CPRA. Aircrew logs were provided; however, Air Support Division does not maintain the remainder of the information requested. City General Services Department (GSD) was contacted to search purchase data but found limited 2008 information due to retention policies. Requestor was directed to GSD for maintenance information.
- **Request #06** - Broad request for records with approximately 4,500 emails located. The RMLAD asked requestor if search could be narrowed, and requestor agreed to emails from command staff and above. About 2,500 emails located. This was still too burdensome for staff review, so search was further narrowed to Chief of Police and senior command staff. The records provided to requestor required redaction pursuant to CPRA. Ultimately, the request, as limited, was fulfilled.

For each of the above requests, auditors determined that the conditions of the Agreement had been met.

### **PRIOR RECOMMENDATIONS**

Audit Division made three recommendations from the prior Inspection. Each has been implemented as follows:

1. The California Public Records Act (CPRA) Unit, Discovery Section, Risk Management and Legal Affairs Division (RMLAD), with the assistance of the Field Training Services Unit, Police Training and Education, should create training, such as online or roll-call training, that will provide information to Department personnel regarding the CPRA and related responsibilities when staff are presented with a CPRA request.

Status of recommendation: Implemented. The CPRA training was incorporated into the Department's standardized roll-call training with detailed training instructions which began December 2021.

2. The Department, with the assistance of the Information Technology Bureau, should ensure that all Special Orders are up to date and available at [lapdonline.org](http://lapdonline.org).

Status of recommendation: Implemented. Special Orders are up to date and available on [lapdonline.org](http://lapdonline.org).

3. The Department, with the assistance of the Information Technology Bureau, should incorporate an "updated as of" date for the Special Orders and policy manual at [lapdonline.org](http://lapdonline.org) to reflect the most updated versions.

Status of recommendation: Implemented. Special Orders and policy manual have incorporated an "updated as of" date at [lapdonline.org](http://lapdonline.org) to reflect the most updated versions.

### **PRIOR OTHER RELATED MATTERS**

The previous inspection included six Other Related Matters. Four of the Other Related Matters that required a one-time assessment and were subsequently closed as the conditions of the Agreement were met. See Addendum III. The other two Other Related Matters remain open due to their need for continued annual assessment and are addressed within the Other Related Matters section at the end of the current inspection report.

## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into by and between "the Parties": Plaintiffs-Petitioners Ali Winston, ACLU of Southern California, Kelly Hernandez, and Shawn Nee (collectively, "Petitioners"), and the City of Los Angeles and the Los Angeles Police Department ("LAPD") (collectively, "the City").

WHEREAS, on April 24, 2017, Petitioners filed a Corrected Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief alleging violations by LAPD of the California Public Records Act ("CPRA") and the California Constitution, Cal. Const. art. I § 3, in the Superior Court of the State of California, County of Los Angeles, Case No. BS 169474 ("Litigation");

WHEREAS, the City denies the allegations made by Petitioners in the Litigation;

WHEREAS, the Parties have agreed to settle the matters raised in the Litigation;

WHEREAS, by this Agreement, the Parties intend to settle any and all of Petitioners' claims or causes of action, including those for injunctive relief, against the City, as well as claims for monetary relief, damages, attorneys' fees, expert witness fees and expenses, and all other expenses and costs that have been or will be incurred, in connection with the allegations raised in the Litigation.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants, and conditions contained herein, the Parties hereby agree as follows:

1. Public Records Access Policy. LAPD will adopt, maintain, and enforce an administrative policy, procedure and protocol regarding LAPD's compliance with CPRA. The policy, procedure and protocol will be set forth in an LAPD Order, as attached in Exhibit A ("Order"). Within one month of execution of this agreement by all Parties (as further defined in Paragraph 18 below), LAPD will issue a written notice to all LAPD employees advising them of the Order. LAPD reserves the right to revise the Order so long as the revisions are consistent with the prevailing law and this Agreement. The City will make the Order available to the public online.
2. CPRA Unit. LAPD will adopt an LAPD CPRA Unit Manual (Manual) that it is fully consistent with the Order. LAPD reserves the right to revise the Manual so long as the revisions are consistent with the prevailing law and this Agreement. LAPD will make the Manual available to the public online. The procedures and protocols set forth in the Manual and relevant training will instruct LAPD staff of their legal obligations under CPRA and the relevant timeframes for responding to CPRA requests, as described more fully below.
  - a. To reflect the current law, the Manual will:
    - i. Unequivocally instruct LAPD staff on their legal obligations to respond to requests within 10 days, or 24 days in unusual circumstances, with the following information: (i) whether the information requested exists; (ii) whether LAPD will



release any of the information, and if so, when and how; and (iii) the legal reasons for withholding any requested information;

- ii. Instruct staff that an extension of the 10-day response period is permitted only in unusual circumstances defined as follows: (i) the request requires the search and collection of records from multiple physical locations separate from the offices of the CPRA Unit and Department headquarters; (ii) the request requires the collection of voluminous records separate and distinct from each other; (iii) the request requires consultation with another agency that has a substantial interest in the processing of the request; or (iv) the request requires computer programming;
  - iii. Instruct LAPD staff on their legal obligations to notify the requestor before extending the 10-day response period and to give the reason(s) for the extension and the date on which a determination is expected, not to exceed an additional 14 days;
  - iv. Instruct LAPD staff on their legal obligations to produce requested records promptly; and
  - v. Instruct LAPD staff on their legal duties to identify records and information responsive to the purpose of the request.
- b. The Manual will also:
- i. Instruct LAPD staff that they may withhold records only if authorized by CPRA or other state or federal laws;
  - ii. Clarify the difference between CPRA's discretionary and mandatory exemptions and state that LAPD staff shall consult with a supervisor for further instruction when discretionary disclosure of a record appears appropriate in light of the public interest in disclosure and the absence of countervailing privacy and public safety concerns; and
  - iii. Instruct LAPD staff to disclose the record holding division if a requestor asks for such information in the course of communications about a CPRA request.
- c. Relevant training and/or instruction will include guidance about relevant aspects of LAPD's information technology and the physical locations of various types of records, and assistance with overcoming any logistical or practical barriers in obtaining records.
3. Online Public Records Portal. The City will maintain an online public records portal that enables members of the public to do the following as it relates to CPRA Requests to LAPD:
- a. Submit public records requests online;
  - b. Browse, search and sort public records requests;
  - c. View the following information about all public records requests submitted to LAPD:
    - i. Date the request was received;
    - ii. Text of request (subject to redactions to protect privacy);
    - iii. CPRA Unit staff point of contact for request;

- iv. A timeline of activity that shows the date the request was opened, the date the request was closed, and correspondence between the requestor and LAPD staff about the request.
  - v. Date documents were produced;
  - vi. Documents produced in response to the request; and
  - vii. Date request was closed;
  - d. Download public records that LAPD produces in response to requests; and
  - e. Browse, sort, and search by subject matter for records available for download.
4. Proactive Disclosure. The City will institute and maintain processes for routine proactive disclosure of LAPD records and information in the public interest, and will make such documents available online for download. The City will:
- a. Post online, in a reasonably conspicuous or easily searchable manner, LAPD's current special orders and entire policy manual;
  - b. Indicate online the date it last confirmed that the special orders and policy manual available online reflect the most updated versions;
  - c. Make available to the public online all statistical data that LAPD reports to the California Department of Justice or the Bureau of Justice Statistics;
  - d. Continue to publish online, archive, and keep current the arrest incident data, crime incident data, drug possession arrest incident data, and vehicle and pedestrian stop data it currently maintains on the Los Angeles Open Data website; and
  - e. Publish online, archive, and keep current a dataset reflecting LAPD's jail booking data, including the following information about each booking: booking number or Release from Custody ("RFC") number, booking date and time, race of person booked, sex of person booked, date of birth or age of person booked, charge for which person was booked, location of booking, and disposition.
5. Responses to Petitioner Kelly Hernandez's Public Records Act Requests. By no later than May 1, 2019, the City will complete the following with respect to the records responsive to Petitioner Kelly Hernandez's public records request currently held at the City Records Center ("CRC"):
- i. Determine whether the records are exempt from disclosure under CPRA;
  - ii. Determine whether LAPD will disclose the records or any reasonably segregable portions of them;
  - iii. Digitize all responsive Officer Involved Shooting files; redact the names and address of victims and witnesses from the files; and disclose to Petitioner Kelly Hernandez the redacted copies of the files which shall include the officers' names; and
  - iv. Provide all other disclosable records or reasonably segregable portions of records to the University of California, Los Angeles to be digitized.
6. Historical Records Preservation. The City will make all reasonable efforts to preserve as "historical" both existing and future documents that fall into the following categories:

- a. Statistical Digest (Year)
- b. LAPD Annual Reports
- c. LAPD End of Year Reports
- d. LAPD Use of Force Year End Reviews
- e. Chief of Police General Staff Meeting Agendas
- f. Chief of Police Speeches, Press Releases, and Correspondence
- g. Department Manuals, Procedures Manuals, Tactical Manuals, and Division Manuals
- h. LAPD City COMPSTAT Profiles
- i. LAPD Citywide COMPSTAT Profiles
- j. RD Maps, Geographic Area Maps
- k. Awards and Decorations – Spreadsheet/Covers and Ceremony Programs
- l. The Beat Magazine
- m. LAPD Organization Charts
- n. OCOP (Office of the Chief of Police) Notices
- o. OCOS (Office of the Chief of Staff) Notices
- p. Administrative Orders
- q. Operations Orders
- r. Special Orders
- s. Uniform Committee Notices
- t. Photographs of key LAPD events, e.g. graduation photos, various ceremonies, facilities
- u. Police Commission Agenda Packages
- v. Police Commission Meeting Minutes
- w. Police Commission Agenda Packages - Confidential
- x. Categorical Use of Force Investigation, Review, and Adjudication Records and Officer-Involved Shooting Files
- y. OIG Audits, Investigations, and Reports
- z. Settlement Agreements

The City reserves the right to assert appropriate exemptions and/or privileges as to any documents it has designated “historical.” The City also reserves the right, at its discretion, to identify and preserve as “historical” other categories of documents not listed above.

- 7. Monitoring. The City will include a CPRA Inspection in LAPD’s annual audit plan for a term of five years following the execution of this agreement by all Parties (as described in

Paragraph 20 below). The CPRA Inspection will evaluate and report on the LAPD's compliance with both the CPRA and this Settlement Agreement, including the response and production times for public records requests submitted to LAPD, the frequency and propriety of 14-day extensions invoked pursuant to Gov't Code § 6253(c), the accuracy and thoroughness of LAPD's determination of whether it has responsive disclosable records, and the responsiveness of record holding divisions to requests for records from the CPRA Unit. The City will publish each CPRA Inspection report online. On an annual basis for a term of five years following the execution of this agreement, the City will present the results of that year's CPRA Inspection to the Los Angeles Board of Police Commissioners at a public meeting and allow for public comment on its presentation.

8. Payment Terms. Within ninety days of the execution of the agreement by all Parties (as described in Paragraph 20 below), the City shall deliver to counsel for Petitioners a check in the amount of \$57,500 payable to ACLU Foundation of Southern California in full and complete satisfaction of any and all claims for costs, expenses, disbursements, and attorney fees that the attorneys for Petitioners may have concerning any aspect of this litigation and their representation of Petitioners in this Action.
9. Dismissal with Prejudice. Petitioners agree within ten days of its receipt of payment of the funds described in paragraph 8 herein, they will file a Dismissal with Prejudice of the entire Action entitled *Ali Winston et al. v. Los Angeles Police Department*, Case No. BS 169474. Each Party hereby irrevocably authorizes and directs its attorneys of record to execute and deliver to the court the Dismissals with Prejudice, so that the same may be filed with the Court in accordance with this Agreement.
10. Each Party Responsible for Own Attorneys' Fees and Costs. Subject to the terms of paragraph 8 above, the Parties each shall be responsible for the payment of their own costs, attorneys' fees, and all other expenses in connection with the matters referred to in this Settlement Agreement.
11. Binding Agreement. This Settlement Agreement, and each and every item, covenant and condition hereof shall be binding upon and shall inure to the benefit of the respective heirs, successors, insurers, representatives, officers, directors, shareholders, and assigns of the respective Parties.
12. Meet and Confer. In the event that Plaintiffs allege that the City is not conforming with paragraphs 1-8 of this Agreement, Plaintiffs shall, within ten court days of discovering the alleged noncompliance, meet and confer with the City in order to set forth the nature and basis of their concerns, and shall give the City a reasonable opportunity to respond by explaining why they are in compliance with this Agreement or by taking corrective measures to come into compliance. If the Parties are unable to resolve the objections within thirty days of the parties' meeting, Plaintiffs may seek intervention of the Court via a motion for contempt or other relief, after providing the City ten days' notice of its intent to file such a motion.
13. Choice of Law. Each of the Parties hereto agrees that this Settlement Agreement shall be interpreted, construed, governed, and enforced under and pursuant to the internal laws of the State of California.
14. No Modifications Unless in Writing, Signed by all Parties. No modification of this Settlement Agreement shall be effective unless made in a writing signed by all Parties.

15. Section 1123(b) Admissibility and Retention of Jurisdiction. Pursuant to California Evidence Code § 1123(b), the Parties agree and intend that this Settlement Agreement is fully enforceable and binding, and admissible in any court proceeding to enforce its terms under Code of Civil Procedure § 664.6. The Parties agree that the Court shall retain jurisdiction to enforce the terms of this Settlement Agreement pursuant to Code of Civil Procedure § 664.6.

16. Entire Agreement. This Settlement Agreement represents the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior understandings and agreements, whether written or oral.

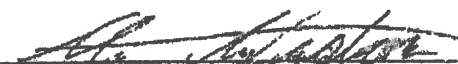
17. Invalidity; Severability. In case any one or more of the provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

18. Construction. Each Party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party.

19. Multiple Copies. This Settlement Agreement may be executed in any number of counterparts and multiple copies, and may be transmitted by fax or e-mail, each of which is to be considered as if it were original, but all of which together will constitute one and the same Agreement which shall be fully effective against all persons executing.

20. Council Approval. The Parties understand and agree that this Agreement is subject to final approval by City officers and or officials, including, but not limited to, the City Council ("Official Approval"). The execution of this Agreement is subject to and conditioned upon the granting of Official Approval to make this Agreement final and binding. Within 14 days of the signing of this Agreement by all parties, the person signing this Agreement on behalf of the City will submit a written recommendation that this Agreement be approved.

Date: 4/24/19

  
\_\_\_\_\_  
Ali Winston

Date: \_\_\_\_\_

\_\_\_\_\_  
ACLU of Southern California

Date: \_\_\_\_\_

\_\_\_\_\_  
Shawn Nee

15. Section 1123(b) Admissibility and Retention of Jurisdiction. Pursuant to California Evidence Code § 1123(b), the Parties agree and intend that this Settlement Agreement is fully enforceable and binding, and admissible in any court proceeding to enforce its terms under Code of Civil Procedure § 664.6. The Parties agree that the Court shall retain jurisdiction to enforce the terms of this Settlement Agreement pursuant to Code of Civil Procedure § 664.6.
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Date: \_\_\_\_\_

\_\_\_\_\_  
Ali Winston

Date: 5/21/13

\_\_\_\_\_  
Kathy Villanueva  
ACLU of Southern California

Date: \_\_\_\_\_

\_\_\_\_\_  
Shawn Nee

15. Section 1123(b) Admissibility and Retention of Jurisdiction. Pursuant to California Evidence Code § 1123(b), the Parties agree and intend that this Settlement Agreement is fully enforceable and binding, and admissible in any court proceeding to enforce its terms under Code of Civil Procedure § 664.6. The Parties agree that the Court shall retain jurisdiction to enforce the terms of this Settlement Agreement pursuant to Code of Civil Procedure § 664.6.
16. Entire Agreement. This Settlement Agreement represents the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior understandings and agreements, whether written or oral.
17. Invalidity Severability. In case any one or more of the provisions of this Settlement Agreement shall be deemed invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.
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Date: \_\_\_\_\_

\_\_\_\_\_  
Ali Winston

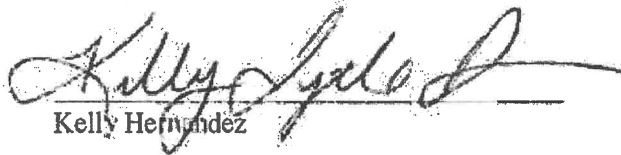
Date: \_\_\_\_\_

\_\_\_\_\_  
ACLU of Southern California

Date: 4/10/12

Shawn Nee  
Shawn Nee

Date: 3-12-19

  
Kelly Hernandez

Date: \_\_\_\_\_

Los Angeles Police Department  
City of Los Angeles, by and through its counsel, A.  
Patricia Ursea, Los Angeles City Attorney's Office



# **EXHIBIT A**

## OFFICE OF THE CHIEF OF POLICE

### ADMINISTRATIVE ORDER NO.

**SUBJECT: CALIFORNIA PUBLIC RECORDS ACT – ESTABLISHED; AND,  
REQUESTS BY THE PUBLIC FOR INFORMATION CONTAINED IN  
POLICE RECORDS – REVISED**

**PURPOSE:** The California Public Records Act (CPRA), Government Code Sections 6250 – 6257, establishes the right of the public to access public records. Department records are subject to public disclosure unless a specific legal exemption exists. The purpose of this Order is to revise and establish various Department Manual Sections pertaining to the CPRA and other information release procedures.

This Order supersedes Office of the Chief of Police Notice, *Guidelines for Handling Requests for Department Statistics or Crime Data*, dated June 12, 2012.

### PROCEDURE:

- I. **CALIFORNIA PUBLIC RECORDS ACT – ESTABLISHED.** Department Manual Section 3/406.30, *California Public Records Act*, has been established and is attached.
- II. **REQUESTS BY THE PUBLIC FOR INFORMATION CONTAINED IN  
POLICE RECORDS – REVISED.** Department Manual Section 3/406.20, *Requests by the Public for Information Contained in Police Records*, has been revised. Attached is the revised Department Manual section with the revisions indicated in italics.

**AMENDMENTS:** This Order adds Section 3/406.30, and amends Section 3/406.20 of the Department Manual.

**AUDIT RESPONSIBILITY:** The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.

MICHEL R. MOORE  
Chief of Police

Attachments

DISTRIBUTION "D"

**DEPARTMENT MANUAL  
VOLUME III  
Revised by Administrative Order No. , 2019**

**406.20 REQUESTS BY THE PUBLIC FOR INFORMATION CONTAINED IN POLICE RECORDS.**

***Routine Requests.** Routine requests for copies of, or information contained in, crime, arrest, or traffic reports shall be forwarded to the Commanding Officer, Records and Identification (R&I) Division. Community members requesting such information may be directed to <http://lapdonline.org/faqs> for specific instructions.*

**Exception:** News releases and information about newsworthy incidents shall be handled in accordance with Section 3/406.10 of the Department Manual.

**Requests for Master Arrest Blotter Information.** Requests for Master Arrest Blotter Information *shall* be submitted in writing to:

The Commanding Officer, *Legal Affairs* Division  
200 N. Main Street, 7<sup>th</sup> Floor  
Los Angeles, CA 90012

**Exception:** Requests for Blotter information for incidents less than 24 hours old may be made verbally to either the Commanding Officer, R&I Division, for Department-wide arrest information, or to the watch commander of the Department jail facility for arrests occurring within the Area(s) serviced by the jail.

**406.30 CALIFORNIA PUBLIC RECORDS ACT.** *The Department is committed to upholding the right of the public to access records and information concerning the conduct of the people's business consistent with the Constitution of the State of California and the California Public Records Act (CPRA). The Department recognizes its obligation to comply with the CPRA, to facilitate public records access, and to promote a culture of transparency and accountability. Pursuant to the CPRA, Government Code Sections 6250 – 6257, all Department records are public records and shall be disclosed to the public, upon request, unless there is a specific legal basis not to do so. The CPRA contains exemptions from disclosure and there are additional laws outside the CPRA that create exemptions from disclosure. The CPRA requires that, within 10 calendar days from receiving a request, the Department notify the requestor in writing whether the Department is in possession of the requested public records and any exemptions asserted by Department. When unusual circumstances exist, as defined by the CPRA, the Department may extend this time to respond by an additional 14 calendar days. The Department must then promptly provide the requestor access to or copies of the responsive and non-exempt records.*

**Method of Accepting Requests.** *The Department accepts CPRA requests in person, by phone, in writing, or online at [lapdonline.org](http://lapdonline.org).*

**Responsibilities of the California Public Records Act Unit.** *The CPRA Unit, Discovery Section, Legal Affairs Division, has primary responsibility for accepting, processing, and responding to CPRA requests for the Department. The CPRA Unit shall log, process, and respond to every public record request it receives, in accordance with the CPRA.*

**DEPARTMENT MANUAL**  
**VOLUME III**  
**Revised by Administrative Order No. , 2019**

*The CPRA Unit employees shall assist requestors by helping to identify records and information applicable to the request, describing the information technology and physical location in which the records exist, and providing suggestions for expediting the production of records.*

***Responsibilities of Department Employees.*** *The duties of Department employees in response to a request for assistance from the CPRA Unit include, but are not limited to:*

- *Reviewing and responding to a request for assistance from the CPRA Unit;*
- *Describing categories of potentially applicable documents and identifying locations where responsive documents may be located within the unit for which the Department employee is responsible;*
- *Identifying other Department employees with knowledge of possible responsive documents and/or their locations;*
- *Searching for requested documents; and,*
- *Reviewing documents and assisting the CPRA Unit to identify information that requires withholding and/or redaction.*

*A Department employee responding to a request for records from the CPRA Unit shall provide all requested records to the CPRA Unit. If a Department employee believes that some or all the information in a record is protected from public disclosure, they should provide the record to the CPRA Unit and recommend to the CPRA Unit what information should be withheld and why. If for any reason a Department employee cannot respond to a request for assistance from the CPRA Unit within the time requested by the CPRA Unit, the employee shall notify the CPRA Unit promptly that he or she cannot comply with the request.*

*Any Department employee not assigned to the CPRA Unit who receives a public records request from a member of the public shall promptly notify his or her supervisor of the request.*

***Responsibilities of Department Supervisors.*** *A supervisor who receives a public records request, shall attempt to determine if the requested records are readily available for public release. Many frequently requested Department records are readily available online at [lapdonline.org](http://lapdonline.org) or from other Department resources. It is not necessary to refer such requests to the CPRA Unit. If the requested records are readily available for public release, the supervisor shall provide the records to the requestor. Supervisors may call the CPRA Unit for advice regarding such requests. If the requested records are not readily available for public release, or if the requestor is not satisfied by the records provided, the requestor should be advised to submit a CPRA request to the CPRA Unit. The supervisor may also accept the request, and forward it to the CPRA Unit no more than one calendar day after receipt of the request.*

***Employee Accountability.*** *Any Department employee may be assigned to assist in the work of responding to a public records request and/or preparing records for disclosure. A Department employee who willfully withholds Department records or information relating to a CPRA request or willfully violates any other obligation under this policy may be subject to discipline.*

## INTRADEPARTMENTAL CORRESPONDENCE

May 12, 2021  
14.2

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** CALIFORNIA PUBLIC RECORDS ACT INSPECTION (AD NO. 20-008)

### RECOMMENDED ACTION

It is recommended that the Board of Police Commissioners REVIEW and APPROVE the attached California Public Records Act Inspection.

### DISCUSSION

Audit Division conducted the California Public Records Act Inspection to evaluate compliance with Department policies and procedures.

If additional information regarding this audit is required, please contact Trina Unzicker, Commanding Officer, Audit Division, at (213) 486-8480.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Attachment

ADDENDUM III

**LOS ANGELES POLICE DEPARTMENT**

***CALIFORNIA PUBLIC RECORDS ACT  
INSPECTION  
(AD No. 20-008)***



Conducted by  
**AUDIT DIVISION**

**MICHEL R. MOORE**  
Chief of Police

*May 2021*

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AD No. 20-008

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## **CALIFORNIA PUBLIC RECORDS ACT INSPECTION**

### **Conducted by Audit Division**

#### **OVERVIEW**

Audit Division (AD) evaluated the Los Angeles Police Department's (LAPD; Department) adherence to a settlement agreement (Agreement) with the American Civil Liberties Union (ACLU) and the City of Los Angeles (City). The objectives in this inspection were identified to determine compliance with the Agreement and the California Public Records Act (CPRA).

In assessing a sample of over 50 Department record requests received for the 30-day period between June 1, 2020 through June 30, 2020, auditors found that:

- The Department provided a timely response to the requestor 100 percent of the time. (*Objective No. 1*);
- Additional 14-calendar-day extensions obtained due to unusual circumstances were justified 100 percent of the time. (*Objective No. 2*);
- Reasonable efforts to locate records were made 100 percent of the time. (*Objective No. 3*); and,
- Access and/or copies of documents were provided to the requestor 83 percent of the time. (*Objective No. 4*)

#### **BACKGROUND**

The CPRA was enacted in 1968 to:

- Safeguard the accountability of government to the public;
- Promote maximum disclosure of the conduct of governmental operations; and,
- Explicitly acknowledge the principle that secrecy is antithetical to a democratic system of "government of the people, by the people and for the people."<sup>1</sup>

In 2019, the City and the LAPD entered into an Agreement with the ACLU to adopt, maintain, and enforce an administrative policy, procedure, and protocol regarding LAPD's compliance with the CPRA. The Agreement stipulates that the Department create and maintain, among other requirements, a public records access policy, a dedicated CPRA unit, and an online records portal that allows the public to access and view LAPD documents. The LAPD is also required to conduct a CPRA inspection for five consecutive years to monitor compliance with the CPRA and the Agreement.

The CPRA Unit, Discovery Section, Risk Management and Legal Affairs Division (RMLAD), has primary responsibility for accepting, processing, and responding to CPRA requests for the Department. The CPRA Unit shall log, process, and respond to every public record request it

<sup>1</sup> See *The People's Business, A Guide to the California Public Records Act*, Revised April 2017.



receives, in accordance with the CPRA.<sup>2</sup> The CPRA's fundamental precept is that governmental records shall be disclosed to the public, upon request, unless there is a legal basis not to do so.<sup>3</sup>

The right of access to public records under the CPRA is not unlimited; it does not extend to records that are exempt from disclosure. The CPRA itself contains over 70 exemptions from disclosure. Despite the Legislature's goal of accumulating all the exemptions from disclosure in one place, there are numerous laws outside the CPRA that create exemptions from disclosure.<sup>4</sup> Government Code (GC) 6254 provides that certain items are to be withheld or disclosed in a redacted form. These are:

- Identifying juvenile information;
- Identifying victim information associated with certain crimes under certain Penal Code Sections 261 through 289;
- Confidential informant identifying information;
- Criminal offender record information;
- Information that may endanger the safety of a witness or other person;
- Information that may jeopardize an investigation, related investigation, or law enforcement proceeding;
- Any portion of the report that reflects analysis, recommendation or conclusion of the investigating officer;
- Information that may disclose investigative techniques;
- Information that may deprive a person of a fair trial;
- Preliminary drafts, notes, or memorandums that are not retained in the ordinary course of business;
- Records pertaining to pending litigation to which the city is a party until the litigation is adjudicated or settled;
- Personnel, medical or similar files; and,
- Follow-ups to initial investigation.<sup>5</sup>

### **PRIOR INSPECTIONS**

The terms of the Agreement provide that a CPRA inspection will be included in LAPD's Annual Audit Plan for a term of five years. This is the first inspection that AD conducted of the Department's compliance with the CPRA.

<sup>2</sup> See *Department Manual*, 3<sup>rd</sup> Quarter 2020, Vol. 3, Section 406.30, "Responsibilities of the California Public Records Act Unit".

<sup>3</sup> See *California Public Records Act Unit Manual*, 4. Responding to Requests for Records, Section C.

<sup>4</sup> See *The People's Business, A Guide to the California Public Records Act*, Revised April 2017.

<sup>5</sup> See [http://www.lapdonline.org/home/content\\_basic\\_view/36329](http://www.lapdonline.org/home/content_basic_view/36329), California Public Records Act, Records Exempt from Public Requests.

### **SCOPE AND METHODOLOGY**

This inspection focused on the CPRA Unit, Discovery Section, RMLAD and its role in the Agreement regarding the intake and handling of requests submitted for public records. To determine the population for the inspection, AD used data from the NextRequest online system which documents all record requests, related activities, and actions taken. All requests made by mail, online, or phone are input into NextRequest which is used by multiple agencies in the City. Access to the NextRequest system is publicly available at [recordsrequest.lacity.org](http://recordsrequest.lacity.org).

Due to the large number of public record requests, AD identified a single month, June 2020, to obtain samples for the review. Auditors identified a total of 393 LAPD public record requests from June 1, 2020 through June 30, 2020. A statistically valid random sample was obtained from the population that yielded 53 requests assessed for this inspection. Of these 53 requests from NextRequest, 50 were received online and three were received by mail.

### **SUMMARY OF FINDINGS**

The Department performed well on Objective Nos. 1-3 (see Table No. 1 – Findings by Objective). Relative to Objective No. 4, where access and/or copies of documents were provided to the requestor, the Department met the standard 83 percent of the time.

**Table No. 1 – Findings by Objective**

| <b>Objective No.</b> | <b>Description of Objectives</b>                             | <b>Number Meeting Standards/Evaluated</b> | <b>Percent Meeting Standards</b> |
|----------------------|--|---|----------------------------------|
| 1                    | Timeliness of Initial Response to Requestor                  | 53/53                                     | 100%                             |
| 2                    | Justification of Additional 14-Day Extensions                | 22/22                                     | 100%                             |
| 3                    | Reasonable Effort to Locate Records (Performance Assessment) | 52/52                                     | 100%                             |
| 4                    | Access and/or Copies of Documents Provided to Requestor      | 30/36                                     | 83%                              |

## **DETAILED FINDINGS**

### **Objective No. 1 – Timeliness of Initial Response to Requestor**

#### **Criteria**

Time is critical in responding to a request for copies of public records. The Department is obligated by the CPRA to respond in writing to CPRA requests within 10 days, or 24 days in unusual circumstances, with the following information:

- Whether the requested records exist;
- Whether the Department will release any of the requested records, and if so, when and how; and,
- The legal reasons for withholding any requested records.<sup>6</sup>

A local agency may extend the 10-day response period for copies of public records for up to 14 additional calendar days because of the need:

- To search for and collect the requested records from field facilities or other establishments separate from the office processing the request;
- To search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request;
- To consult with another agency having substantial interest in the request (such as a state agency), or among two or more components of the local agency (such as two City departments) with substantial interest in the request; or
- In the case of electronic records, to compile data, write programming language or a computer program, or to construct a computer report to extract data.<sup>7</sup>

It should be noted that while the Department is legally obligated to promptly disclose any responsive and nonexempt records at the same time the Department responds in writing to the requestor, in some cases, immediate disclosure is not possible because of the volume of records encompassed by the request.<sup>8</sup>

#### **Inspection Procedures**

Auditors reviewed all 53 requests submitted during the inspection period to determine whether the CPRA unit responded in writing to the requestor within 10 calendar days, or 24 days in unusual circumstances, upon receiving a records request.

The Department met the standard if the CPRA unit responded in writing to the requestor within 10 calendar days or, 24 days in unusual circumstances, upon receiving a records request.

<sup>6</sup> See *California Public Records Act Unit Manual*, 4.1 Responding to Requests for Records, Procedures.

<sup>7</sup> See *Government Code*, Section 6253, Subdivisions (c) (1)-(4).

<sup>8</sup> See *California Public Records Act Unit Manual*, 4.1.B Timing of Disclosure

### Findings

Each of the 53 record requests (100%) met the standard.

### Additional Assessment

Table No. 2 shows a breakdown of the record requests closed within 10, 24, and over 24-day periods to provide additional insight into how the Department, as a whole, responded to the requests. A review of the 14 requests completed after the initial 24-day response period indicated that the CPRA Unit notified requestors every two weeks of the ongoing search for the requested documents and the reasons for the extension.

**Table No. 2 – Breakdown of Requests by Time Periods**

| Time Period                           | No. of Requests Closed Within Time Period | No. of Open Requests |
|---------------------------------------|---|----------------------|
| 10-Day Period                         | 25  | 0                    |
| Additional 14-Day Extension           | 8   | 0                    |
| Beyond 24-Day Initial Response Period | 14  | 6                    |
| Sub-Totals                            | 47  | 6                    |
| Total                                 | 53  |                      |

### Objective No. 2 - Justification of Additional 14-Day Extensions

#### Criteria

If the Department cannot respond to a record request within 10 calendar days due to unusual circumstances, an extension of 14 calendar days may be added. Unusual circumstances include those listed under Objective No. 1 criteria. If a local agency exercises its right to extend the response time beyond the 10-day period, it must do so in writing, stating the reason or reasons for the extension and the anticipated date of the response within the 14-day extension period.<sup>9</sup>

When a request is received and determined to be voluminous, the CPRA Unit has options to provide and fulfill the request. The CPRA Unit can ask the requestor to narrow the request and/or ask for a later deadline. Another option is to provide requested documents on a "rolling basis" rather than in one complete package. If any of these options are used, it is advisable to document.<sup>10</sup>

<sup>9</sup> See *Government Code*, Chapter 3.5 Inspection of Public Records, Article 1 General Provisions, Section 6253(c).  
<sup>10</sup> See *California Public Records Act Unit Manual*, 4. Responding to Requests for Records, Section C.

### **Inspection Procedures**

All 53 record requests were reviewed to determine those that were extended beyond 10 calendar days from receiving the request. Of the 53 record requests, 22 were extended an additional 14 days and were assessed for this Objective. Each request was reviewed to determine whether the unusual circumstances cited were permitted under the CPRA. Additionally, auditors learned that the CPRA Unit's general practice, although not policy, was to notify the requestor every two weeks of the need for an extension in situations beyond a 24-day total period.

The Department met the standard if the reason for the additional 14-day extension was justified based on the above unusual circumstances defined by the CPRA.

### **Findings**

Each of the 22 record requests (100%) met the standard.

### **Objective No. 3 - Reasonable Effort to Locate Records (Performance Assessment)**

#### **Criteria**

The Department is legally obligated to make a reasonable effort to search for and locate records related to a CPRA request and notify the requestor. Offices that may be in possession of records must search for said records. No bright-line test exists to determine whether an effort is reasonable. That determination will depend on the facts and circumstances surrounding each request.<sup>11</sup>

### **Inspection Procedures**

Because reasonable effort is subjective, this Objective was reviewed as a Performance Assessment. Auditors reviewed the 53 record requests received by the CPRA Unit and found that one involved documents maintained by the California Highway Patrol, leaving 52 records to review. Additionally, 46 record requests were fulfilled and closed. Therefore, a total of 47 requests were deselected, and the remaining six record requests were assessed for this Objective. Auditors reviewed these requests to determine if the CPRA Unit made a reasonable effort to locate the records by documenting actions to locate the records, making multiple attempts, and incorporating Department resources to enhance efforts.

The Department was assessed to determine if multiple attempts to locate and identify records were made by the CPRA Unit while incorporating Department resources where necessary to make a reasonable effort to process the request.

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<sup>11</sup> See *California Public Records Act Unit Manual*, 4. Responding to Requests for Records, Section C, Locating Records.

## Conclusions

Each of the six record requests contained documentation that indicated reasonable efforts were made, and continue to be made, to locate the requested records. After a review of the history of activities for each of the requests, it was found that the six open requests required outreach to multiple entities within the Department as well as other City Departments, including the Controller's Office and Department of General Services, to ascertain the multitude of records and documents. The CPRA Unit is awaiting the many responses from these entities to determine if the records and documents were located. Additionally, these records and documents occasionally consist of thousands of pages that require meticulous review and redaction before release and therefore take significant time to process.

## Additional Assessment

The CPRA Unit often requests assistance from Department entities to fulfill record requests. During this inspection period, of the sample of 52 record requests, the CPRA Unit was able to fulfill 26 requests independently and required other Department entities to assist with the remaining 26 requests.

Table No. 3 shows a breakdown of the Department entities' responses to the CPRA Unit's requests for assistance. This breakdown provides insight into LAPD's ability to locate and identify the requested records within the required timeframe:

**Table No. 3 – Response to Fulfill CPRA Requests from Other Department Entities**

| Entity Fulfilling Requests | No. of Requests | No. of Requests by Response Time | Response Time to CPRA    |
|----------------------------|-----------------|----------------------------------|--------------------------|
| CPRA Unit                  | 26              |                                  |                          |
| Other Department Entities  | 26              | 7                                | Within 5 days            |
|                            |                 | 5                                | Within 6-10 days         |
|                            |                 | 6                                | Within 11-20 days        |
|                            |                 | 7                                | 21+ days                 |
|                            |                 | 1                                | Still Open – In Progress |
| Total                      | 52              |                                  |                          |

## Objective No. 4 - Access and/or Copies of Documents Provided to Requestor

### Criteria

Once the Department responds to and notifies the requestor that it is in possession of the requested public records, the Department must then promptly provide the requestor access to or copies of the responsive and non-exempt records.<sup>12</sup>

<sup>12</sup> See *Government Code*, Chapter 3.5 Inspection of Public Records, Article 1 General Provisions, Section 6253(c).

### **Inspection Procedures**

The record requests were reviewed to determine if each was fulfilled by providing access to or copies of the responsive and non-exempt records. Of the 53 record requests, 10 involved records that were exempt from CPRA for investigatory reasons, six involved records that could not be identified,<sup>13</sup> and one involved records maintained by an entity outside of the Department (California Highway Patrol). Therefore, 36 records requests were assessed for this Objective.

The Department met the standard if the requested records were provided to the requestor.

### **Findings**

Thirty of the 36 record requests (83%) met the standard. Six record requests remained open because records had not been provided to the requestor. These six requests included inquiries for multiple voluminous records. Upon review, AD found the requests complex due to documents spanning several months to several years and required reviewing every page for confidential information and possible redaction.

### **OTHER RELATED MATTERS**

To further assess the implementation of the Agreement, auditors reviewed the following Agreement requirements:<sup>14</sup>

#### **A. Public Records Access Policy**

According to the Agreement, the LAPD will adopt, maintain, and enforce an administrative policy, procedure and protocol regarding LAPD's compliance with CPRA. The LAPD will issue a written notice to all LAPD employees advising them of the Order. The LAPD will make the Order available to the public online.

#### **Actions Taken**

The conditions of the Agreement have been met. The Department created and posted *Administrative Order No. 4*, dated March 18, 2019, and *Department Manual*, 3rd Quarter 2020, Vol. 3, "Management Rules and Procedures," Section 406.30, "California Public Records Act." Both documents were provided to all Department Employees via the E-Learning Management System and posted on the Local Area Network. Additionally, the documents are available online at [lapdonline.org](http://lapdonline.org).

<sup>13</sup> The six requests that could not be identified involved information that was dated, missing pertinent data, or too broad to search. Requests were made to the requestor for additional information to assist with the search; however, there was no response.

<sup>14</sup> The Agreement is publicly posted on the ACLU Southern California website at [https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_winston\\_20190926\\_settlement.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_winston_20190926_settlement.pdf)

## **B. CPRA Unit**

The LAPD will adopt an LAPD CPRA Unit Manual (Manual) that it is fully consistent with the LAPD Order.<sup>15</sup> The LAPD will make the Manual available to the public online. The procedures and protocols set forth in the Manual and relevant training will instruct LAPD staff of their legal obligations under CPRA and the relevant timeframes for responding to CPRA requests.

### **Actions Taken**

The Department created the *California Public Records Act Unit Manual* which is available online at [lapdonline.org](http://lapdonline.org).

## **C. Training**

Relevant training and/or instruction will include guidance about relevant aspects of LAPD's information technology and the physical locations of various types of records, and assistance with overcoming any logistical or practical barriers in obtaining records.

### **Actions Taken**

The Office of the City Attorney provides training for CPRA Unit employees. CPRA staff then host sectional training workshops and other training sessions for Department entities. The CPRA Unit staff will investigate options for making training available Department-wide such as including information on the Local Area Network or creating roll call training. (See Recommendation No. 1.)

## **D. Online Public Records Portal**

The City will maintain an online public records portal that enables members of the public to do the following as it relates to CPRA Requests to the LAPD:

- Submit public records requests online;
- Browse, search and sort prior requests and records;
- View a timeline of activity that shows the date a request was open and closed and correspondence between the requestor and LAPD staff about the request;
- Date that documents were produced;
- View text of request (subject to redactions to protect privacy); and,
- View staff point of contact for request.

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<sup>15</sup> See Administrative Order No. 4, dated March 18, 2019, *Requests by the Public for Information Contained in Police Records – Revised; and, California Public Records Act – Established*.



Actions Taken

Each of these conditions is available online at [recordsrequest.lacity.org](https://recordsrequest.lacity.org).

**E. Proactive Disclosure**

The City will institute and maintain processes for routine proactive disclosure of LAPD records and information in the public interest. The City will:

- Post online LAPD's current Special Orders and entire policy manual;
- Indicate online the date it last confirmed that the Special Orders and policy manual available online reflect the most updated versions;
- Make available to the public online all statistical data that LAPD reports to the California Department of Justice or the Bureau of Justice Statistics;
- Continue to publish online, archive, and keep current the arrest incident data, crime incident data, drug possession arrest incident data, and vehicle and pedestrian stop data it currently maintains on the Los Angeles Open Data website; and,
- Publish online, archive, and keep current LAPD's jail booking data.

Actions Taken

The above information is available online at [lapdonline.org](https://lapdonline.org) and [data.lacity.org](https://data.lacity.org) with two exceptions. First, the Special Orders are only current through mid-2020. Second, the Special Orders and policy manual available online do not have an "updated as of" date indicator to affirm that they are most recent versions. That said, as of February 3, 2021, auditors verified that the most updated versions are online. (See Recommendation Nos. 1 and 2.)

**F. Historical Data Preservation**

The City will make all reasonable efforts to preserve as "historical" both existing and future documents in certain categories including Statistical Digests, all LAPD annual Use of Force reports, COMPSTAT profiles, Organizational Charts, Categorical Use of Force Investigation Records, Officer Involved Shooting Files, and Board of Police Commission agenda packages and meeting minutes.

Actions Taken

Auditors noted that LAPD maintains historical data online at [https://lapdonline.org/home/content\\_basic\\_view/62284](https://lapdonline.org/home/content_basic_view/62284). As of January 2021, LAPD Annual Reports are up to date.

It should be noted that the CPRA Unit was affected, along with other LAPD entities, by the global pandemic and managed attrition due to significant cuts to LAPD's 2020-21 budget.

### **RECOMMENDATIONS**


1. The California Public Records Act (CPRA) Unit, Discovery Section, Risk Management and Legal Affairs Division (RMLAD), with the assistance of the Field Training Services Unit, Police Training and Education, should create training, such as online or roll-call training, that will provide information to Department personnel regarding the CPRA and related responsibilities when staff are presented with a CPRA request. (See Related Matters C.)
2. The Department, with the assistance of the Information Technology Bureau, should ensure that all Special Orders are up to date and available at [lapdonline.org](http://lapdonline.org). (See Other Related Matters E.)
3. The Department, with the assistance of the Information Technology Bureau, should incorporate an "updated as of" date for the Special Orders and policy manual at [lapdonline.org](http://lapdonline.org) to reflect the most updated versions. (See Related Matters E.)


### **ACTIONS TAKEN/MANAGEMENT RESPONSE**


Auditors presented these findings to the RMLAD Commanding Officer who agreed with the findings and provided a detailed response. See attached.

## APPENDIX I

**Audit Division Contact:** Police Performance Auditor III Sophia Liu, Serial No. N3298,  
(213) 486-8480 or N3298@LAPD.online, made key contributions  
to this report.

  
JENNIFER CHAVEZ  
Project Manager, Audit Division  
Police Officer III

  
CYNTHIA CHOW  
Acting Officer in Charge, Audit Division  
Sergeant II

  
TRINA UNZICKER  
Commanding Officer, Audit Division  
Police Administrator I

**INTRADEPARTMENTAL CORRESPONDENCE**

February 11, 2021  
14.4

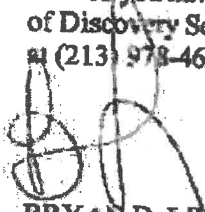
**TO:** Commanding Officer, Audit Division

**FROM:** Commanding Officer, Legal Affairs Division

**SUBJECT:** REVIEW OF CALIFORNIA PUBLIC RECORDS ACT  
INSPECTION FINAL DRAFT REPORT

On February 4, 2021, Legal Affairs Division (LAD) received the final draft of the California Public Records Act Inspection report completed by Audit Division personnel for review. We have completed the review process and agree with both the findings and recommendations contained in the report.

Should you have any questions, please contact Lieutenant II Marla Ciuffetelli, Officer-in-Charge of Discovery Section, LAD, at (213) 847-3584, or my adjutant, Management Analyst Ken Tran, at (213) 978-4629.



**BRYAN D. LIEM, Captain**  
Commanding Officer  
Legal Affairs Division

## **INTRADEPARTMENTAL CORRESPONDENCE**

May 16, 2022  
14.4

**TO:** Commanding Officer, Audit Division

**FROM:** Commanding Officer, Risk Management and Legal Affairs Division

**SUBJECT:** RESPONSE TO CALIFORNIA PUBLIC RECORDS ACT INSPECTION  
OF 2021

Risk Management and Legal Affairs Division (RMLAD) is generally in agreement with the results of California Public Records Act (CPRA) inspection of 2021. The following are detailed responses to various components of the inspection in which the standard was met less than 100% of the time.

### **Objective No. 1 – Timely Response to Requester**

The California Public Records Act, as defined by Government Code 6250-6270, permits the Department ten days to comply by reviewing records to determine if there are records to be released; to determine whether the Department will release the records, and if so, how; and the legal reasons for withholding any requested records.

If the tenth day falls on a weekend or a legal holiday, the legally required response date is then calculated to fall on the next business day. The Next Request system employed by the Department automatically calculates and adjusts the due dates that fall on a weekend or a holiday. Additionally, the CPRA unit is not staffed on weekends or holidays.

Currently, the legal requirement is not clearly stated in either the CPRA manual or the Department manual, so the policy reads that the due date for response is on the tenth day, (notwithstanding a weekend or a holiday.)

The inspection revealed that in 93 out of 102 requests, timely notice was given to the requestor and nine requests were not timely.

While this is technically true pursuant to current Department policy, the nine requests still meet the *legal* requirement, as the response was provided on the next business day after a weekend or holiday; therefore, the legal requirement was met on 100% of the requests reviewed for this objective.

As such, we agree with the recommendation to revise both the CPRA manual and the Department manual to accurately reflect the legal requirements in calculating the 10-day response. The process to revise the manuals has been started by RMLAD.

ADDENDUM IV

**Objective No. 2 – Justification of Additional 14-Day Extensions**

When unusual circumstances exist, as defined by CPRA, the Department may extend the time to respond by an additional 14 calendar days.

The inspection reviewed 102 record requests and found that 26 were extended beyond the initial ten-day response period. Of the 26 extensions, 23 of them met the standard for this objective. Of the three that did not meet the standard, an analysis revealed:

Request No. 21-4011 and No. 21-3988 were extended with notification but lacked a proper explanation to the requestor on the Next Request timeline.

**21-4011:** This request was received via the internet on Saturday, May 22, 2021. It was tagged on Wednesday, May 26, 2021, and assigned to an analyst on Tuesday, June 1, 2021. It was extended for 14-days but the extension message was not included on the timeline. The request was closed on June 3, 2021, twelve calendar days from when it was received.

**21-3988:** This request was received via U.S. Mail on Thursday, May 13, 2021, but was not entered into Next Request until Friday, May 21, 2021. It was extended for 14-days on Monday, May 24, 2021, but the extension message was not included on the timeline. The request was assigned to an analyst on Tuesday, May 25, 2021, and was closed on June 7, 2021, 25 days after it was received.

In the above two cases, several handling errors were identified. The proper extension message was not entered into Next Request timeline as required, and the requests lay dormant due to either being received on a weekend, or not being addressed when the assigned analyst had an unanticipated absence.

**21-5449:** This request was received on Thursday, July 1, 2021, and it was tasked to an analyst and approved by a supervisor on Thursday, July 8, 2021, seven days after receipt. The analyst was on an extended stretch of days off which delayed the publishing of the Department's response until Wednesday, July 14, 2021, thirteen days after receipt,

In the above case, a combination of errors unnecessarily delayed the publishing of the Department's response to the request, even though it was completed on time.

These handling errors have been addressed by a change in supervisorial oversight and additional training given to both analysts and supervisors. Supervisors have been given full visibility and access rights and are tasked to review request extensions and ensure the proper documentation is included. Pending requests are frequently reviewed for due dates. Requests that cannot be handled by an analyst are re-assigned, rather than be allowed to languish. Other analysts are tasked to assist with sending external messages, revising draft responses, and publishing or closing requests on behalf of the absentee analyst.

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**Objective No. 5 – Reasonableness of Open Record Requests (Performance Assessment)**

This portion of the inspection reviewed the reasonableness of requests that have remained open past the 10-day or 24-day limit, including the reasons for the requests remaining open.

The Department met the conditions for this objective if regular entries were made indicating continued efforts to locate and produce responsive records, or a single significant entry was made that would indicate reasonableness for a delay in the production of records.

Out of 127 requests that met the criteria to be reviewed for this objective, 126 of them were found to have met the objective. RMLAD analyzed the single request (No. 21-479) and found that there was no documented activity on the request between April 2021 and January 2022, due to lack of management situational awareness and personnel turnover among CPRA analysts.

Once RMLAD was alerted to the outstanding request and lack of documentation, it was assigned to an analyst to handle as a priority. After reaching out to various Department entities for responsive records, the analyst determined the requested records had already been released in several prior requests by the same requester. The requester was directed to those prior responses for the records. There were no new records released on this request. The request was ultimately closed March 31, 2022.

RMLAD receives numerous requests that are voluminous and time consuming; some requestors, while asserting their rights under CPRA, make repeated requests for the same information. The CPRA analysts are charged with contacting requestors to see if the request can be reasonably narrowed, which often culminates in a faster response, while satisfying the spirit of the request and the spirit of the CPRA as law. If the requestor refuses to narrow the request, the Department still strives to provide responsive records, but will default to a “rolling production” method in which a reasonable amount of time is dedicated to the request each week, while still serving other requestors.

Enhanced supervisory oversight now ensures that long-term requests are monitored for consistent progress. Requests from repeat requesters are monitored and handled in succession, but supervisors ensure that progress is made simultaneously on other backlogged requests.

**Other Objectives:**

Objective Nos. 3a, 3b, 4, and 6 all met the standard, 100% of the time.

Objective No. 3a includes fulfilling requests, providing records to the requestor, and Objective No. 3b includes documenting and justifying the reasons for not supplying responsive records. The Department’s performance on these objectives increased from 83% in the 2020 inspection to 100% in 2021.

Objective No. 4 includes a performance assessment on how long records requests remain open. A set of 2,642 records requests were evaluated. The Department closed 1,780 of records requests (72%) in ten days or less. 470 requests (19%) were closed in 11-24 days. 208 requests (9%) were closed beyond 24 days. While each request is different and requires varying amounts

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Commanding Officer, Audit Division

May 16, 2022

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research and document production, it speaks volumes to the hard work of the CPRA analysts to recognize that for such a large Department, the majority of requests are handled as expeditiously as possible.

Objective No. 6 includes whether a reasonable effort was made to locate records. Out of 102 requests, the evaluators determined that 100% of them had sufficient and reasonable efforts made to locate documents, and that the efforts were adequately documented.

**Training:**

The Department has conducted training on CPRA in the past via Standardized Roll Call Training. RMLAD is in the process of refreshing this training to reflect current law, and to include it on the Cornerstone training website for civilian employees.

Relevant training will include guidance about relevant aspects of LAPD's information technology and the physical locations of various types of records, and assistance with overcoming any logistical or practical barriers in obtaining records.

If you have any questions regarding the response to the inspection, please contact Lieutenant Eric Quan, Risk Management and Legal Affairs Division, at (213) 847-3615.

A handwritten signature in black ink, appearing to read "Robin Petillo". The signature is fluid and cursive, with the first name "Robin" and last name "Petillo" clearly distinguishable.

ROBIN PETILLO, Captain  
Commanding Officer  
Risk Management and Legal Affairs Division