

Item 12A - Transparency Subcommittee

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair), Arvon Perteet, Alea Gage

January 8, 2024 Minutes

Attendees – Members: Commissioners Upton IV, Perteet, Gage

Attendees – Staff: Director Nicolas Heidorn

Discussion

1. **Vision Statement** - the intent of this Subcommittee is to look at how government responds to and provides public records from a current perspective, where most government records are now on computers rather than paper. There is more data to be gathered before the Subcommittee can draft a Vision Statement; we will defer this goal to the next iteration of this subcommittee, likely starting in March 2024.
2. **Goldman Students** - we will ask to have the students find cases for this and then we review the cases before they go in depth for this. We will also coordinate with Chris Nardi (new law clerk) based on his knowledge, so maybe we can provide some additional resources for the students. After that we will meet with the students for the kick off.
3. **OPD presentation in January** - Each commissioner will ask whatever questions they want. It would be good to have the commissioners write down their questions so that we can review/revise our master questions for other departments.
4. **Other department presentations** - The Subcommittee will review its Department Questions after the OPD presentation before sending them out to the next Departments.
5. **OCA** - we would like to talk with the Open Government Coordinator (Mark Forte) to understand his role.

Action Items

1. Getting information from Chris Nardi about people that the Goldman students might want to contact (Nicolas)
2. Coordinating the process with the Goldman students and the subcommittee (Nicolas).
3. Requesting that Mark Forte attend a meeting of the subcommittee (perhaps in February) (Nicolas).

Item 12A - Transparency Subcommittee

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair), Alea Gage

January 22, 2024 Minutes

Attendees – Members: Commissioners Upton IV, Gage

Attendees – Staff: Director Nicolas Heidorn

Discussion

1. **Revised Standard Questions** - we started on this, working from the OPD questions. We will complete this offline over the next week so that a letter can be sent to OFD soon.
2. **Goldman Students Launch Tasks** - Nicolas will draft something (today) giving them information to start their investigation. More discussion will be had at the meeting on 30 Jan.
3. **Schedule Chris Nardi** - Chris will be asked to attend the Goldman Students meeting on 30 Jan.
4. **Schedule Mark Forte** - he will be invited to the 26 Feb subcommittee meeting.
5. **OPD items follow up** - did not get time to discuss this.

Action Items

1. **See above**

Item 12A - Transparency Subcommittee

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair), Alea Gage

January 25, 2024 Minutes

Attendees – Members: Commissioners Upton IV, Gage

Attendees – Staff: Director Nicolas Heidorn

Attendees – Guest: Chris Nardi

Discussion

Special meeting with Chris Nardi

1. Francis/Nicolas Introduction: talk about the what the Goldman students are doing. Looking for examples of taking a new or transformative response to records access.
2. Chris - SF and SJ likely doing well with PRA (according to discussions with the officials). SF Sunshine act is dealing with more advanced issues, like to what extent should metadata be provided? SJ appeals mechanism is not used very frequently which could be a signal that people are getting what they want.
3. Make sure we compare with jurisdictions of similar sizes.
4. Personal experience with Berkeley has been good.
5. LA has a data portal (possibly similar to the Oakland one). He worked with parking spot data (updated every 15 minutes).
6. FOIA has proactive disclosure requirements; state and cities typically don't have this requirement. The FOIA requirement is that the records must be available by self-service if they have been requested frequently.
7. Oakland - building permits are available self service.
8. Thinks municipalities contract for the police reports.
9. Alea - we should look for self-service for public safety.
10. eDiscovery tools that work with Office 365 might be useful - Chris' experience is that email requests took a long time, so maybe we are not using this technology.
11. NextRequest has automatic redaction but Oakland is likely not using this.
12. Organizations to look at are: First Amendment Coalition, Reporters Committee for Freedom of the Press, EFF.
13. Francis - maybe point Goldman students to the above organizations.
14. Alea - perhaps the students can review tools that are available for PRA.
15. Francis - distinguish between high volume requests vs. things like overall transparency for the GPP students.
16. Come up with a list of different approaches to the investigation for the GPP students and the students can do some initial investigation to determine which is the best path.

Action Items (all Nicolas)

Item 12A - Transparency Subcommittee

1. Look at the previous Goldman presentation that identified San Diego as being good
2. Make a list of organizations for the students (see above)
3. Provide Chris Nardi's powerpoint
4. Invite Mark Forte for Monday to talk about what he thinks the student can look at
5. Schedule subcommittee meeting on Monday to prepare for the GPP students

Item 12A - Transparency Subcommittee

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair), Alea Gage

February 1, 2024 Minutes

Attendees – Members: Commissioners Upton

Attendees – Staff: Director Nicolas Heidorn

Attendees – Guest: Mark Forte, Lindsey Chow (Deputy City Attorney)

Discussion

The Subcommittee met with Mark Forte and Lindsey Chow to understand the City Attorney's role in responding to records requests and administering the NextRequest system.

Action Items

None.

Item 12A - Transparency Subcommittee

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair), Alea Gage

February 26 , 2024 Minutes

Attendees – Members: Commissioners Upton IV, Gage

Attendees – Staff: Director Nicolas Heidorn

Discussion

1. Follow up about OPD presentation:
 - a. Sequencing of work for new records system
 - b. Short term system for self service with existing data for frequently access records
2. Review and Revise Termination Statement
3. Follow on work - “Transparency by default”
 - a. New subcommittee could focus on taxonomy and measurements for this to help find the biggest opportunities. For example, contract performance could be a big opportunity.
 - b. Law could be changed to require a department's evaluation about how they are transparent by default (as appropriate) periodically.
4. Progress with Goldman Students
 - a. They are enthusiastically working on the project (our proposal was the first choice for each member of the research team.
 - b. We have status meetings every two weeks.
 - c. Final delivery in March
 - d. It's possible they might not find significant innovative transparency initiatives, and if not, will search for success stories in traditional PRA

Action Items

1. Write questions about discussion item 1 to Nicolas (Francis) to email to OPD.

Item 12A - Transparency Subcommittee

Chair's Termination Statement:

Transparency and Public Records Subcommittee

(ad hoc, created March 8, 2023)

Members: Francis Upton IV (Chair) and Alea Gage. (Former member: Arvon Perteet.)

A) What was the specific goal of the committee?

The original goal of the subcommittee is to identify a long-term vision statement for government transparency in Oakland and short-term next steps to make progress towards that goal. This evolved to be focused more on 1) proposing a research project and beginning the partnership with a team of graduate students from UC Berkeley's Goldman School of Public Policy (GSPP) and 2) coordinating presentations from the three City departments that receive the most public records requests to gather data on current practices and challenges.

B) What was the expected deliverable and in what time period?

The subcommittee was going to draft a vision statement (or statements) to assert the PEC's view of and aspirations for transparency within Oakland city government and bring it back to the PEC for consideration. The subcommittee was going to prepare near-term options for how to make progress towards that goal and present those to the PEC.

We concluded it was premature to produce a long-term vision statement, and so adjusted the deliverables to be in line with what we produced below.

C) What did the Subcommittee accomplish?

1. Prepared a list of standard questions for any department related to transparency and public records access.
2. Planned that OPD, OFD, and the Planning Department present about public records activity once a quarter for 2024.
3. Prepared specific questions for OPD and facilitated their presentation to the PEC; asked a number of questions of the presenter and identified some items for further follow-up.
4. Formulated questions for OFD and invited them to present to the PEC.
5. Prepared a research proposal for the GSPP which was accepted; started working closely with researchers as the project began.
6. Interviewed PEC Law Clerk Chris Nardi to get insight into his previous work on Oakland's public records access.
7. Interviewed Mark Forte and Lindsey Chow (CAO) for information about how the CAO works with records requests and NextRequest administration.

D) Are there any recommended next steps coming out of the Subcommittee's work?

1. Set up a meeting with the Planning Department to present its work in responding to records requests.
2. Synthesize the data obtained by OPD, OFD, and Planning Department presentations as well as the work of the GSPP students for recommendations for further action.

Item 12A - Transparency Subcommittee

3. Consider producing a long-term vision statement based on learnings from above.
4. Consider changes to the Sunshine Act.
5. Consider any other deliverables (i.e. a report and/or an action plan/set of recommendations) to disseminate and implement improvements to further transparency and/or the City's practices related to public records.
6. Consider focusing on "Transparency by Default". Defining what this might look like and how to encourage short and long term actions to get the most value for our residents.

E) Are there any lessons learned or other comments to memorialize about the Subcommittee's work or process?

1. Records - Subcommittees should do a good job in keeping records/documents in a place where subcommittee members and PEC staff can get to them; this includes keeping good meeting minutes.
2. Pivot - We realized that we would be better served by deferring the goal of a long-term vision statement and focus more on gathering data first, so we pivoted to that.
3. Collaboration - We approached departments seeking to understand their process and challenges and with a goal of being helpful, rather than confrontational about their process, which we feel led to more useful information and encouraged participation.
4. Build on Previous Work - we determined which three departments to invite to present based on a 2021 PEC report. The 2021 report also allows a first point in time for department performance, which provides a baseline understanding for us to take into the presentations and the process of generating questions for departments.

CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • Suite #104 • OAKLAND • CA 94612

Public Ethics Commission

(510) 238-3593

(510) 238-3315 Fax

(510) 238-325 TDD



February 6, 2023

Damon Covington
Chief
Oakland Fire Department
150 Frank H. Ogawa Plaza,
Oakland, CA 94612

RE: Requested appearance at the Public Ethics Commission’s April 10, 2024 meeting regarding public records requests made to the Oakland Fire Department

Dear Chief Covington:

On behalf of the Public Ethics Commission (PEC or Commission), we would like to invite you or a designee from the Oakland Fire Department (OFD) to present at the Commission’s April 10 meeting to provide information on the Department’s process, successes, and challenges in responding to public records requests. The Commission will meet on April 10, 2024, at 6:30 p.m. in Hearing Room 1 at City Hall.

As you likely know, the Public Ethics Commission oversees compliance with the Oakland Sunshine Ordinance and its state equivalent, the California Public Records Act. The Sunshine Ordinance, as a supplement to state law, also authorizes the PEC to mediate between requesters seeking public records and City employees responding to their requests. In addition, under the City Charter, the PEC is required to periodically study the laws within its purview to make administrative or policy change recommendations to the City Council (City Charter Section 603(b)(2) & (7)).

As part of this responsibility, the Commission is currently engaged in a study of the City’s process for responding to records requests. In 2024, the Commission will be inviting the three departments with the largest volume of records requests to present before the Commission on their process, beginning with the Police Department, which presented at our January meeting.

As one of the other departments with the highest volume of requests, we would love to learn more about OFD’s experiences. Our goals are to learn more about OFD’s capacity and challenges, discover any commonalities between City departments, and recommend changes to improve performance and capacity with regard to public records requests. We hope to partner with you to help identify any resources you need to address challenges and potentially find efficiencies that could be implemented to benefit OFD and the public.

To this end, the Commission would appreciate hearing from you regarding the following questions:

Item 12A - Transparency Subcommittee

1. How many records requests are submitted to your department each week/month/year?
2. What percentage of requests receive a response within 10 days providing a determination of whether there are responsive records?
3. Does the department categorize the requests that are received for data and reporting purposes? If so, please list the categories your department uses and the number of requests received for each category. Are any of these categories easier or harder to respond to?
4. What is the department's existing process for responding to public records requests? How do requests typically come to your department and who handles the initial contact, ongoing communications and response to the requester?
5. What are the biggest challenges your department faces in responding to records requests?
6. Do you have any staff dedicated to responding to records requests? How many vacancies exist among total funded positions that respond to records requests? Are your total funded positions adequate to respond to records requests? If not, what positions and how many would be sufficient?
7. Does your agency provide, or have you considered providing, a self-service means of handling routine requests, i.e. having some portion of the website where a request can be made and fulfilled without human intervention?
8. What process or technology changes, if any, have you made to improve response to records requests, including but not limited to self-service access to records?
9. What training and support do you provide to employees with responsibilities in the department's records retention and public records response process? How is the performance of these employees measured with regard to public records retention and response? (Please note we are only requesting to know how performance is measured in general, and not any particular employee's performance.)
10. What is the department's experience using the NextRequest platform to manage and respond to public records requests? Is it working? How can it be improved?
11. What additional information would you like to share with the Commission on this issue?

Thank you in advance for your cooperation with the Commission's review pursuant to its authority under the City Charter. Could you please confirm by February 21 whether you or a Department designee (and if so who) will attend the PEC's April 10 meeting? To facilitate discussion, it would be helpful if OFD could provide written responses to the questions above by March 18, 2024, so that they may be included with the agenda for that meeting.

Please feel free to reach out if you would like to discuss these questions, or the context for the Commission's inquiry. You may contact me directly at (510) 604-1002 or nheidorn@oaklandca.gov.

Sincerely,

/s/ *Nicolas Heidorn*

Nicolas Heidorn

Executive Director

Oakland Public Ethics Commission