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Public Ethics Commission | CITY OF OAKLAND

TO: Public Ethics Commission
FROM: Milad Dalju, Chief of Enforcement
Kyle McLean, Law Clerk
DATE: October 24, 2018
RE: *In the Matter of the Oakland Police Department (Case No. 16-15)*; Mediation Summary

I. INTRODUCTION

On August 24, 2016, the Commission received a complaint alleging that the Oakland Police Department (OPD) failed to disclose records in response to public records requests (PRR) Nos. 3544, 7354, 8936, 13074, and 14437. On November 10, 2016, Commission Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance. Upon conclusion of the mediation program on July 16, 2018, the requester stated that he had no outstanding issues or concerns regarding Request Nos. 7354, 8936, and 13074. However, PRR Nos. 3544 and 14437 remain open with relevant records still unproduced by OPD, even though those public records requests were made on April 6, 2014, and March 10, 2016, respectively.

Commission Staff has attempted to resolve this matter through mediation for almost two years with significant success. However, the parties have reached an impasse regarding PRR Nos. 3544 and 14437. For those reasons, Commission Staff recommends that the Commission close this matter.

II. SUMMARY OF LAW

One of the primary purposes of the Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records are open to inspection by the public unless there is a specific reason not to allow inspection.[1] The CPRA requires each agency to make public records promptly available to any person upon request.[2]

The time limit to respond to a request may be extended in unusual circumstances up to fourteen days by written notice to the person making the request; this notice must set forth the reasons for the extension, and the date on which the determination is expected to be dispatched.[3] When a member of the public requests to obtain a copy of a public record, the public agency, in order to

[1] Oakland Municipal Code § 2.20.010(C); Government Code § 6250 et seq.
[2] Government Code § 6253(b).
[3] Government Code § 6253(c).

assist the member of the public make a focused and effective request, shall assist the member of the public to identify records and information that are responsive to the request.[4]

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.[5] A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in the Commission's mediation program.[6]

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.[7]

III. SUMMARY OF FACTS

PRR No. 3544

On April 6, 2014, OPD received, via RecordTrac, the following public records request: "Please provide in electronic format (pdf) a copy of all documents containing the search terms "Hailstorm" "Hail Storm" "Pen-Link" "Pen Link" "Harpoon", and any documents related to a cell phone mimicking tower, or cell phone signal interceptor."

At the time, RecordTrac was the City's online portal for sharing public records. It allowed members of the public to make requests, receive responses from the City, and search past requests and responses.

On April 7, 2014, OPD stated the following on RecordTrac: "Dear requester: Your request has been forwarded to the public records liaison of the Department of Information Technology. They will be in contact with you for any further clarification, but by reading your request, it might be helpful if you determine a period of time, kind of records, and names of city staff."

Also on April 7, 2014, the requester stated the following on RecordTrac: "You may narrow the time period to years 2009 through April 1, 2014. I seek all records (and specifically emails), including any record meeting the definition of a 'writing' per Cal. Evidence Code Sec. 250."

On April 14, 2014, OPD stated the following on RecordTrac: "Request extended: Additional time is required to answer your public records request. We need to compile data or create a computer report to extract data (Government Code Section 6253(c)(4))."

On May 2, 2014, the requester stated the following on RecordTrac: "Please provide a status update. Thank you."

[4] Government Code § 6253.1(a).
[5] O.M.C. § 2.20.270(C)(1).
[6] O.M.C. § 2.20.270(F).
[7] Complaint Procedures § IV (C)(5).

Also on May 2, 2014, OPD stated the following on RecordTrac: "Department of Information Technology does not have any responsive documents pertaining to this request. I am forwarding your request to the Oakland Police Department Public Records Request Liaison to see if they have any responsive documents to your request."

On May 18, 2014, the requester stated the following on RecordTrac: "The statutory deadline for a response has long passed, and no extension of time has been requested. Please comply with this request."

On June 5, 2014, OPD stated the following on RecordTrac: "In order for IT staff to conduct an e-mail search, please provide the target mail box names to be searched. The existing request cannot be run without the specific names."

On June 25, 2014, OPD stated the following on RecordTrac: "Dear requester: We have not heard from you yet in regards to this public records request. Please contact us so we can further assist you (see the note below). Please provide the target mail box names or the departments in the City to be searched."

On July 7, 2014, OPD stated the following on RecordTrac:

> This message is in regard to the below public records request that was submitted to the Department of Information Technology (DIT) for an email search. The City has tried to contact you via the online request you submitted several times. Annie To responded and stated: "In order for IT staff to conduct an e-mail search, please provide the target mail box names to be searched. The existing request cannot be run without the specific names." I want to clarify which personnel or departments you would like DIT to search for these records. Please be advised that the email search will pick up on each term listed on your request and may provide a voluminous amount of records to be reviewed. Once we receive a response from you we will proceed with your request and update you with our progress.

On August 14, 2014, OPD stated the following on RecordTrac:

> The Department of Information & Technology (DIT) is conducting the search for emails. DIT estimates the search for responsive records will be complete around September 20, 2014. Until the search is complete we do not know how many records will need to be reviewed. All records from the search results must be reviewed and in some cases redacted. When we receive the CDs we will provide you with a date your request will be complete. You will receive your next response by September 26, 2014.

On September 5, 2014, OPD stated the following on RecordTrac: "IT Completed the e-mail search and forwarded the CD to OPD for review on 09/03/14."

On September 18, 2014, OPD stated the following on RecordTrac: "Dear requester: Do you want all documents containing the below listed terms in your request that relate to a cell phone mimicking tower or cell phone signal interceptor? This message was also sent directly via email." Also on September 18, 2014, the requester stated the following on RecordTrac: "I want all of the above."

On October 2, 2014, OPD stated the following on RecordTrac: "At this time we do not have any responsive records to provide. You will receive your next response by October 17, 2014."

On October 14, October 30, November 13, December 12, December 30, 2014; and January 17, February 20, April 2, April 30, June 8, July 2, August 3, August 28, October 5, December 1, and December 30, 2015; and February 1, March 1, March 31, and April 28, 2016, OPD stated the following on RecordTrac: "At this time the Department still needs additional time to answer your request."

On May 31, 2016, OPD provided thirty pages of documents.

On July 1, and July 29, 2016, OPD stated the following on RecordTrac: "At this time the Department still needs additional time to answer your request."

On August 24, 2016, the requester filed his complaint with the Commission.

On September 6, October 10, and October 31, 2016, OPD stated the following on RecordTrac: "At this time the Department still needs additional time to answer your request."

On November 10, 2016, Commission Staff started its mediation efforts by sending the complaint to OPD and requesting a response to the allegations.

On November 23, 2016, OPD provided 434 pages of documents, and stated the following on RecordTrac:

> Personal information, such as home addresses, telephone numbers, and credit card numbers, were removed from the documents to protect the privacy or identity of another individual (Government Code Section 6254(k)) and the constitutional right to privacy Article 1 Declaration of Rights Section 1). Authorized redactions or omissions made pursuant to 6254(f) CGC (records of security and tactical procedures).

On November 29, 2016, OPD stated the following on RecordTrac: "The remainder of the records are still being reviewed and will be released as soon as possible."

On November 30, 2016, PEC Staff asked OPD for an update, and OPD informed Commission Staff that some of the responsive records had been provided on November 23, 2016, and that more records would be provided once OPD finished reviewing them.

On June 29, 2018, Commission Staff reached out to OPD and asked if it was going to upload additional documents in response to the request. No additional documents had been uploaded at this time.

On July 16, 2018, OPD stated that the request previously was being completed by an employee who is no longer with the City while the current supervisor assigned to public records requests was out of the office. OPD stated that records were being reviewed but that the last batch of the records may have to be reviewed again.

As of November 2018, this request was closed and all responsive documents were reported disclosed.

PRR No. 7354

On December 30, 2014, the City received, via RecordTrac, the following public records request:

> Please provide in electronic format (pdf) a copy of all writings, defined by California Evidence Code Section 250, including but not limited to training manuals, privacy policy, data retention policy, warrants, court orders, correspondence, emails, purchase orders, invoices, memos, grant applications and awards, funding sources, city council resolutions or information reports, for the following items used by Oakland Police Department, or vendors of equipment used by OPD: 1. Pole Attic camera 2. Under the door camera 3. Thru-wall camera 4. Crawl space camera 5. Stingray van 6. Lincoln System 7. GPS Vehicular tracking devices 8. Cellbrite 9. Penlink 10. Tracking the world 11. Anything relevant or referring to monitoring of social media 12. Handheld Doppler radar 13. Thermal imaging devices 14. FLIR (Forward Looking Infrared Device) For reference, please see to the March 16, 2010 Shawn Knight memo to Chief Batts. #DACPRR

On January 12, 2015, OPD stated the following on RecordTrac: "Your request was received today by our office. The Department needs additional time to respond to your request based on the following reason: The need to search for, collect, or examine a voluminous amount of records (Government Code Section 6253(c)(2)). The Department will continue to update you on the status of your request."

On January 15, 2015, OPD stated the following on RecordTrac: "In order to proceed with fulfilling your PRR #7354, I would like to get clarity on the information you are requesting. Please contact the PRR Unit at 238-7143."

On January 20, 2015, the requester stated the following on RecordTrac: "Please add "15. Rang-R" to the list of items I am seeking information about. Thank you."

On January 30, 2015, OPD stated the following on RecordTrac: "The Alameda County DAs Office PRR is Stephanie Chan. She can assist with copies of warrants or court orders and is located at 1225 Fallon St. Suite 900. 510-272-6213."

On February 3, 2015, OPD stated the following on RecordTrac: "Mr. Hofer, the Department does not have an OPD policy, nor any training manuals for cell site simulators or "stingrays"."

On February 5, 2015, OPD stated the following on RecordTrac: "Mr. Hofer, The Department does not possess templates for judicial orders and/or warrant applications that involve or mention the use of cell site simulators, also known as stingrays."

On February 9, 2015, OPD stated the following on RecordTrac: "The Department does not have any invoices or purchase orders produced regarding the listed items."

On February 20, 2015, the requester stated the following on RecordTrac: "The statutory 10 days, plus 14 days extension per code, have expired. I haven't been provided a single document. Please comply. Thank you."

Also on February 20, 2015, OPD provided an excel spreadsheet and the following statement: "The City Clerk's Office do not have any resolutions or report regarding the listed item. However, I am attaching the Citywide Record Retention Schedule policy as requested above."

On March 10, 2015, OPD stated the following on RecordTrac:

> The Information Technology Department (ITD) is conducting a comprehensive search for emails and any documents relating to your request. Once we receive the search results the records will need to be reviewed, and if necessary redacted per Government Code 6254(f), so as not to release any confidential information. In addition, consultation with other members of the Department who may have substantial knowledge of this subject matter may also be required. We will provide you with periodic updates and/or any responsive documents as they become available. You will receive your next response by March 31, 2015.

On April 3, May 4, and June 1, 2015, OPD stated the following on RecordTrac: "At this time the Department does not have any records to provide."

On June 30, 2015, OPD stated the following on RecordTrac:

> Public Records Request Unit still needs additional time to review the email search results, in addition, consultation with other members of the Department who may have substantial knowledge of this subject matter may also be required in order to ensure no confidential information is released. We will continue to provide periodic updates and/or any responsive records as they become available. You will receive your next response by July 10, 2015.

On July 10, 2015, OPD stated the following on RecordTrac: "At this time the Department does not have any responsive records to provide. We will provide you with an update by July 17, 2015."

On July 17, 2015, OPD stated the following on RecordTrac: "Responsive emails are being reviewed by the custodian of the records. In addition, consultation with other members of the department may also be required. We will provide you with an update by July 24, 2015."

On July 24, July 31, and August 7, 2015, OPD stated the following on RecordTrac: "At this time the Department does not have any responsive records to provide. We will provide you with an update by July 31, 2015."

On August 14, 2015, OPD provided thirty pages of records and the following statement on RecordTrac: "The PRR Unit has provided some material related to your request. You will receive your next response on or before August 21, 2015."

On August 21, and August 28, 2015, OPD stated the following on RecordTrac: "The PRR Unit has provided some material related to your request."

On September 3, and September 23, 2015, OPD stated the following on RecordTrac: "At this time the Department does not have any responsive records to provide."

On October 15, 2015, OPD provided 57 pages of records and the following statement on RecordTrac: "Our agency needs additional time to respond to your request based on the following reason: The need to search for, collect, or examine a voluminous amount of records (Government Code Section 6253(c)(2)). You will receive a response or an up-date by 29 Oct 15."

On November 13, November 24, and December 18, 2015, OPD stated the following on RecordTrac: "At this time the Department does not have any responsive records to provide."

On December 30, 2015, OPD provided 25 pages of records and the following statement on RecordTrac: "Our agency needs additional time to respond to your request based on the following reason: The need to search for, collect, or examine a voluminous amount of records (Government Code Section 6253(c)(2)). You will receive a response or an up-date by 15 Jan 16."

On February 11, and May 11, 2016, OPD stated the following on RecordTrac: "At this time the Department does not have any responsive records to provide."

On July 14, 2016, OPD stated the following on RecordTrac: "Due to the Departments limited staffing, resources and the numerous public records requests received, our agency needs an additional 30 days to respond to your request."

On August 24, 2016, the requester filed his complaint with the Commission.
On November 10, 2016, Commission Staff started its mediation effort by sending the complaint to OPD and requesting a response to the allegations.

On November 23, 2016, OPD provided 111 pages of records, the following statement on RecordTrac, and closed the records request: "We released all responsive documents."

On November 30, 2016, Commission Staff requested an update from OPD. OPD replied and informed Commission Staff that all responsive records had been provided on November 23, 2016, and the request was closed and considered resolved.

On December 28, 2016, Commission Staff relayed this statement to the requestor, who found the response unsatisfactory and stated that he had "firsthand knowledge of the existence of documents" related to several categories of the request.

On July 2, 2018, Commission Staff reached out to OPD and requested confirmation that no additional documents existed. OPD responded and stated that the requester had been informed by Supervisor Davis of the Oakland Police Department via email that all responsive documents had been released.

PRR No. 8936

On April 15, 2015, the City received, via RecordTrac, the following public records request: "Please provide in electronic format (pdf) all emails and attachments sent to or from the following email accounts, and for the time period of January 1, 2010 through April 14, 2015: 1) Jason Saunders jsaunders@oaklandnet.com; 2) Shawn Knight sknight@oaklandnet.com."

On April 23, 2015, the requester stated the following on RecordTrac: "Please amend this request to include all faxes, including cover sheets and all attachments, sent to or from Jason Saunders and Shawn Knight for the same time period."

On May 7, 2015, OPD stated the following on RecordTrac: "Request extended."

Also on May 7, 2015, OPD stated the following on RecordTrac:

> Dear requester: Staff from the Information Technology Department (ITD) has informed today (see history tab here in RecordTrac system), that they had run a search and produced two CD's. Staff will now have to review and redact (if necessary) those records. Representatives from those departments shall contact you no later than May 29 to provide you a status update and/or responsive records.

On July 6, 2015, OPD stated the following on RecordTrac: "The Department is still waiting on the search results from the City's Information & Technology Department. We will provide you with any updates and/or responsive records as they become available. You will receive your next response on or before July 20, 2015."

On July 14, August 3, August 29, and September 29, 2015, OPD stated the following on RecordTrac: "Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request."

On October 14, 2015, OPD stated the following on RecordTrac: "The Oakland Public Works Department does not have any info regarding this request."

On October 29, November 30, December 30, 2015; and February 3, March 1, March 31, April 28, May 31, July 1, and July 29, 2016, OPD stated the following on RecordTrac: "Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request."

On August 24, 2016, the requester filed his complaint with the Commission.

On September 6, October 11, and November 15, 2016, OPD stated the following on RecordTrac: "Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request."

On November 22, 2016, OPD provided 343 pages of documents.

On November 24, 2016, OPD provided 1,299 pages of documents and stated the following on RecordTrac:

> Dear requester: I apologize for the delay in providing you with all the responsive records for this request in a timely manner. There are over 8,000 records. Your request asks for all emails to and from the listed accounts. I am providing you with the releasable records while the others are being reviewed. If you do not wish to receive further emails that were sent to these accounts from the system administrator, such as the ones I have recently provided, please let me know and I will stop uploading them to this request. The remainder of the records are being reviewed and will be released as soon as possible.

Also on November 24, 2016, the Complainant stated the following on RecordTrac: "Ms. Fuller, first, why are you working on Thanksgiving? Don't do it! Secondly, I want real emails. You have uploaded thousands of pages of a form response stating the inbox is full. Those are NOT responsive, nor helpful. I need the real emails from the requested date range. Thanks, and happy thanksgiving."

On November 29, 2016, OPD provided 310 pages of documents and stated the following on RecordTrac: "Personal information, such as home addresses, telephone numbers, and credit card numbers, were removed from the documents to protect the privacy or identity of another individual (Government Code Section 6254(k)) and the constitutional right to privacy Article 1 Declaration of Rights Section 1)."

On November 30, 2016, in response to the requester's request for mediation, Commission Staff reached out to Records Division and requested an update on the request. Records Division replied and informed Staff that the documents responsive to the records request were in the process of being reviewed by the custodian of the record for consultation and possible redactions, and that Records Division would forward the documents to the requester once received from the custodian of the record.

In December 2016 and January 2017, Commission Staff, as part of its mediation effort, discussed this matter with OPD and the requester.

On January 30, 2017, OPD provided 108 pages of documents.

On February 1, 2017, OPD stated the following on RecordTrac: "Authorized redactions or omissions made so as not to release any personnel information pursuant to California Government Code 6254(c)."

On April 3, 2017, OPD stated the following on RecordTrac: "The Department is still reviewing records responsive to your request. Some documents have been omitted pursuant to California Government Code 6254(f) (confidential intelligence records and officer safety information). We will continue to provide you with updates and/or any responsive non-exempt documents as they become available."

On December 19, 2017, OPD provided 19 pages of records, the following statement on RecordTrac, and closed the records request:

> We released the requested documents. Personal information, such as home addresses, telephone numbers, and credit card numbers, were removed from the documents to protect the privacy or identity of another individual (Government Code Section 6254(k)) and the constitutional right to privacy Article 1 Declaration of Rights Section 1). Authorized redactions or omissions made pursuant to 6254(f) (investigative records) and (The case is pending, still active, under appeal or may be recharged; or the release may deprive a person(s) of a fair trial and release of this information may endanger the successful completion of any current or prospective investigation, or may disclose investigative techniques).

PRR No. 13074

On December 17, 2015, the City received, via RecordTrac, the following public records request:

> Please provide in electronic format (pdf) a copy of all writings, defined by California Evidence Code Section 250, including but not limited to training manuals, privacy policy, data retention policy, warrants, court orders, correspondence, emails, purchase orders, invoices, memos, grant applications and awards, funding sources, city council resolutions or information reports, for the following items/social media monitoring software: 1. MediaSonor 2. Beware

On December 21, 2015, OPD stated the following on RecordTrac: "No records of legislations or any other materials were found in the City Clerk's Office."

On January 6, 2016, OPD stated the following on RecordTrac: "Dear requester: Please advise the date range you would like the Department to search for the requested records. Also if possible please clarify the term beware, as this will produce a response for all records containing this word and may result in an excess of unresponsive documents and prolong the completion of your request."

Also on January 6, 2016, the requester stated the following on RecordTrac: "Use date range 1/1/12 to 1/6/16. Beware is made by Intrado. Search "Intrado Beware", "Intrado", "Beware"."

On January 11, 2016, OPD stated the following on RecordTrac: "Request extended: Additional time is required to answer your public records request. We need to search for, collect, or examine a large number of records (Government Code Section 6253(c)(2))."

On February 8, 2016, OPD stated the following on RecordTrac:

> The Department did not locate any training manuals, purchase orders, invoices, memos, grant applications and awards, funding sources, privacy policy, data retention policy, warrants, or court orders related to the MediaSonor and Beware. We are still in the process of conducting an email search for any correspondence related to these terms. We will continue to provide you with periodic updates and/or any responsive records as they become available. You will receive your next response by February 29, 2016.

On March 1, 2016, OPD stated the following on RecordTrac: "The Department is still waiting on the search results from the City's Information & Technology Department. We will provide you with any updates and/or responsive records as they become available. You will receive your next response on or before March 31, 2016."

On March 25, 2016, the requester stated the following on RecordTrac: "Please add Geofeedia to the request."

On March 31, 2016, OPD stated the following on RecordTrac: "Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request. You will receive an update by April 30, 2016."

On April 28, 2016, OPD stated the following on RecordTrac:

> The previous message for this request was incorrect. The Public Records Request Unit is still waiting on the search results from the City's Information & Technology Department (ITD). ITD is currently backlogged and working to provide records as soon as possible. We will continue to provide you with any updates as they become available. You will receive your next response on or before May 31, 2016.

On May 31, 2016, OPD stated the following on RecordTrac: "The Public Records Request Unit has received the CD containing the results of the email search. Additional time is needed to review each document. Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request. You will receive an update by June 30, 2016."

On July 1 and July 29, 2016, OPD stated the following on RecordTrac, and stated that Complainant would receive an update by the end of the next month: "Due to limited staffing resources the

Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request."

On August 24, 2016, the requester filed his complaint with the Commission.

On September 6, October 10, and November 30, 2016, OPD stated the following on RecordTrac, and stated that the requester would receive an update by the end of the next month: "Due to limited staffing resources the Oakland Police Department needs additional time to review the search results and determine if there are any documents responsive to your request."

On November 30, 2016, in response to Complainant's request for mediation, Commission Staff reached out to Records Division and requested an update on the request. Records Division replied and informed Staff that the documents responsive to the records request would be provided by December 30, 2016.

On December 30, 2016, OPD provided 522 pages of records and stated the following statement on RecordTrac: "We released all responsive documents."

On January 26, 2017, the requester informed Commission Staff that the records provided in response were erroneous and "not what I was seeking." On January 27, 2017, Commission staff relayed this concern to OPD.

On February 6, 2017, OPD stated that the request was completed because there were no additional documents to provide and that it had informed the requester by posting a message on RecordTrac.

On February 6, 2017, OPD stated the following on RecordTrac and closed the records request: "The Department did not locate any other records for this request. Although some of the responses provided to you were not responsive to this request, we provided the records we found relating to your requested search terms."

PRR No. 14437

On March 10, 2016, the City received, via RecordTrac, the following public records request:

> Please provide in electronic format (pdf) a copy of all writings, defined by California Evidence Code Section 250, related to CCTV surveillance, video surveillance, or other electronic surveillance within the City of Oakland and involving the following agencies during the date range of 01/01/2010 through 03/10/2016: 1. Bureau of Alcohol Tobacco Firearms and Explosives (ATF) 2. US Department of Justice 3. Drug Enforcement Agency 4. Department of Homeland Security 5. US Immigration and Customs Enforcement 6. Northern California Regional Intelligence Center 7. US Marshals 8. Federal Bureau of Investigations The writings shall include, but not be limited to, privacy policies, data sharing agreements, memoranda of understanding, emails or any other correspondence, legal authorization or justification for the surveillance, invoices, purchase orders, and grant applications.

On March 17, 2016, OPD stated the following on RecordTrac: "Request extended: Additional time is required to answer your public records request. We need to search for, collect, or examine a large number of records (Government Code Section 6253(c)(2))."

On April 19, 2016, OPD stated the following on RecordTrac:

> The Oakland Police Department did not locate any privacy policies, data sharing agreements, memoranda of understanding, invoices, purchase orders, or grant applications. The Information Technology Department (ITD) is conducting a search for emails or writings responsive to your request. There is a backlog of requests and at this time we cannot provide a date the search will be complete. We will provide you with any updates as they become available. You will receive your next response by April 30, 2016.

On April 28, May 31, July 1, and July 29, 2016, OPD stated the following on RecordTrac: "The Public Records Request Unit is still waiting on the search results from the City's Information & Technology Department (ITD). ITD is currently backlogged and working to provide records as soon as possible. We will continue to provide you with any updates as they become available."

On August 24, 2016, the requester filed his complaint with the Commission.

On September 6, and October 11, 2016, OPD stated the following on RecordTrac: "The Public Records Request Unit is still waiting on the search results from the City's Information & Technology Department (ITD). ITD is currently backlogged and working to provide records as soon as possible. We will continue to provide you with any updates as they become available."

On November 10, 2016, Commission Staff started its mediation efforts by sending the complaint to OPD and requesting a response to the allegations.

On November 29, 2016, OPD stated the following on RecordTrac: "The Department is still working on obtaining the search results for this request. We will continue to provide you with any updates and/or responsive records as they become available."

On November 30, 2016, Commission Staff requested an update from OPD. Records Division replied and informed Commission Staff that IT was still working on searching for all responsive records due to the scope of the request.

On January 27, 2017, Commission Staff requested an update from OPD because no records had been provided. On February 6, 2017, OPD stated that it was still working on this request and did not have responsive records to provide at that time.

On February 6, 2017, OPD stated the following on RecordTrac: "The Department is still working on obtaining the search results for this request. We will continue to provide you with any updates and/or responsive records as they become available."

On June 29, 2018, Commission Staff requested an update as no records had been provided. On July 16, 2018, Fuller stated that she submitted an e-discovery request to the IT Department to conduct a search for emails but did not receive a response. Fuller stated she will need to submit a new request.

As of October 15, 2018, this request remains open and OPD has not provided any records.

IV. RECOMMENDATION

Mediation efforts have resolved Complainant's concerns regarding PRR Nos. 7354, 8936, 13074, and 3544. Request 14437 has not been closed. However, because this matter has been in mediation status for more than two years and the parties have reached an impasse regarding OPD's lack of response to PRR No. 14437, Commission Staff recommends that the Commission close mediation and not take any further action.