

CITY OF OAKLAND

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Public Ethics Commission

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November 29, 2023

Darren Allison
Interim Chief
Oakland Police Department
Police Administration Building
455 7th St.
Oakland, CA 94607

RE: Requested appearance at the Public Ethics Commission’s January 17, 2024 meeting regarding public records requests made to the Oakland Police Department

Dear Interim Chief Allison:

On behalf of the Public Ethics Commission (PEC or Commission), we would like to invite you or a designee from the Oakland Police Department (OPD) to present at the Commission’s January 17 meeting to provide information on the Department’s process, successes, and challenges in responding to public records requests. The Commission will meet on January 17, 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 receives more than half of the total records requests in the City. The Commission is also particularly interested in hearing how OPD’s process has changed in light of recent changes in state law regarding police records, including SB 1421 of 2019 and SB 16 of 2022, and the recent settlement regarding OPD records in *Morris et al. v. City of Oakland et al.*, Case No. 20072029 (settlement approved March 2022).

Our goals are to learn more about OPD’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 OPD and the public.

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

1. 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, and who supervises and supports the public records response when challenges arise?
2. Roughly how many requests come into your department each week/month/year? How does the department categorize the requests that are received for data and reporting purposes?
3. What challenges does your department face in responding to records requests? What changes, if any, have you made to improve retention or response to records requests?
4. What is the department's process for ensuring that the legal requirements are met before withholding any requested documents or redacting any information?
5. 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.)
6. 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?
7. How has your processing of records requests changed, respectively, with the adoption of (a) SB 1421 (2019), (b) SB 16 (2022), and (c) the Morris et al settlement? Has this made responding to requests easier, or more challenging?
8. Has the department considered providing data on the department's website about responsiveness to records requests so the public can see the level of responsiveness over time?
9. What capacity and expertise is there within OPD to review internal recordkeeping practices and technology with regard to records requests?
10. What additional information would you like to share with the Commission on this issue?
11. Please attach all reports OPD has provided to the City Council pursuant to *Morris et al*.

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 December 15 whether you or a Department designee (and if so who) will attend the PEC's January 17 meeting? To facilitate discussion, it would be helpful if OPD could provide written responses to the questions above by January 3, 2024, so that they may be included with the agenda for that meeting.

Item 8b - OPD Letter

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