



MEMORANDUM

TO: Nicolas Heidorn
Executive Director
Oakland Public Ethics Commission

FROM: Kiona Suttle
Deputy Director
Oakland Police Department

SUBJECT: Oakland Police Department
Public Records Request

DATE: January 2, 2024

Dear Executive Director Heidorn and Commissioners on the Public Ethics Commission:

Please find below the Oakland Police Department's (OPD) responses to your questions regarding the Department's Public Records Request (PRR) response process, which was posed by the Public Ethics Commission to the Department in a letter dated November 29, 2023.

Question 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?

When a request for information is received by OPD, a member of the Records Division will review the request to determine whether it specifies identifiable records. This is done by searching for the records in various databases or contacting the respective custodian of record to determine if the record exists. Once this is determined, staff will provide the requester with a Records Determination, informing them whether disclosable responsive records have been located and, if so, whether the Department intends to produce the records. The next step is to review the records and, if necessary, redact or withhold information where appropriate. Finally, responsive records are published on the City's NextRequest platform and made available to the requester.

Requests for information are received in several ways, including by U.S. postal mail, email, the City's NextRequest platform, by phone, and in person. Records Division personnel are responsible for handling the initial contact, ongoing communication, and response to the requester. When challenges arise related to a request, a supervisor from the Records Division will provide support to staff. Supervisors also utilize the assistance of the Office of the City Attorney (OCA) to address challenges related to responding to requests.

Question 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?

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On average, OPD receives approximately 800 PRRs monthly. Requests are typically categorized based on the nature of the information sought. For example, if the request is related to a police report and the associated video, this would be considered a bifurcated request and assigned to the Records Division to provide the police report and the IT Unit to provide the video.

Question 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?

OPD faces many challenges in responding to PRRs, including concerns about privacy, ongoing investigations, and the need to balance transparency with maintaining the integrity of sensitive information. However, the greatest challenge OPD faces when responding to PRRs is staffing. Inadequate staffing has significantly impacted the efficiency of responding to PRRs, resulting in delays, backlog accumulations, and increased response times.

In the Department's ongoing commitment to transparency and efficient public service, management has implemented several changes to enhance the retention and response to public records requests with the aim of streamlining processes, improving accessibility, and ensuring compliance with legal requirements. The Department has invested in digital technology to transition from paper-based record-keeping to electronic document management systems. This has facilitated quicker retrieval of records which reduces processing times. The Department also conducts training for staff involved in handling public records requests to ensure a consistent and standardized approach. This training includes guidance on legal requirements, response timelines, and best practices for managing sensitive information.

To enhance transparency, the Department has proactively disclosed certain types of information on the OPD website, including many Departmental General Orders, making them accessible to the public without the need for formal requests.

Question 4. What is the department's process for ensuring that the legal requirements are met before withholding any requested documents or redacting any information?

To ensure employees are well-equipped to handle PRR requests effectively, Records Division personnel receive regular training on the PRR process and the California PRA. Training covers legal requirements, best practices, and the importance of timely and accurate responses to requests for information. However, if staff are unsure of what can or cannot be released, and to ensure legal requirements are met before withholding any requested document or redacting information, they will seek guidance from the OCA.

Question 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.)

To ensure employees are well-equipped to handle PRRs effectively, Records Division personnel receive regular training on the Department's PRR process, the California Public Records Act

(PRA), and the City of Oakland Sunshine Ordinance. Training covers legal requirements, best practices, and the importance of timely and accurate responses to requests for information. However, if staff are unsure of what can or cannot be released, and to ensure legal requirements are met before withholding any requested document or redacting information, they will seek guidance from the OCA.

Employee performance is measured through several key criteria. Employees are evaluated based on their ability to gather, review, and release accurate information while ensuring that nothing is omitted or redacted inappropriately. Adherence to relevant laws and regulations governing PRRs is also a fundamental aspect of performance evaluation. This includes compliance with privacy laws, exemptions, and other legal considerations when disclosing information. Effectiveness in communicating with requesters is also assessed, including providing clear and concise explanations and updates on the status of requests. Efficiency in managing workload and processing requests is a key performance indicator that is assessed for each employee. This includes handling a reasonable volume of requests within the available resources and optimizing workflow processes for increased productivity.

Question 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?

OPD employees use the NextRequest platform daily to manage and maintain online requests. The platform is also used to communicate with requesters and upload responsive documents. Although staff regularly use NextRequest, the system has limited capabilities related to searching and redacting information, which poses significant constraints for staff who are required to use the system. It would be beneficial for the City to look at a system that offers features that include online redactions, automated fulfillment of requests, and a more efficient process for logging requests.

Question 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?

Since the adoption of Senate Bill (SB) 1421 (2019) and SB 16 (2022), which granted the public the right to access records related to investigations and discipline of peace officers, all requests that fall within these categories are referred to the OCA. Staff assigned to the OCA complete these requests on behalf of OPD.

In 2020, a class action lawsuit was filed against the City of Oakland and OPD for violating the California PRA and the Oakland Sunshine Ordinance. As a result, in 2021, the City entered into a settlement agreement (Morris Settlement Agreement), with a major component of the agreement related to adopting new policies aimed at ensuring ongoing compliance with the California PRA and Sunshine Ordinance. The agreement has created additional steps and oversight to the Department's process for responding to PRRs. With the current staffing in the Records Division, there have been challenges adhering to the new process; however, once the division is fully staffed, it should lead to a more effective and efficient process for responding to requests for information.

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Question 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?

Recognizing the importance of public awareness, OPD is researching how it can better educate the public about its PRR process. This includes publishing informational materials and providing resources on the Department's website and social media platforms to help requesters navigate through the process, provide information on the volume of requests received and the average amount of time it takes to complete a request so that the public can see the Department's level of responsiveness over time.

Question 9. What capacity and expertise is there within OPD to review internal recordkeeping practices and technology with regard to records requests?

The Records Division is comprised of experienced professionals with a background in records management, and employees work closely with the OCA to ensure legal compliance when responding to PRRs. However, in the coming year, staff will partner with the IT Unit to research how to leverage modern technology to enhance the speed and accuracy of responses. This will include the use of advanced software tools for document redaction and disclosure. The Department is also investing in upgrading its record management systems to facilitate quicker access to information. This will include the implementation of advanced indexing and search functionalities, enabling staff to respond to requests with greater efficiency.

Question 10. What additional information would you like to share with the Commission on this issue?

OPD remains committed to transparency and open communication, and the Department is dedicated to improving the PRR request experience for both our staff and the public.

Question 11. Please attach all reports OPD has provided to the City Council pursuant to *Morris et al.*

OPD has not provided any reports to the City Council pursuant to Morris et al.

Respectfully submitted,

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