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Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: March 19, 2021
RE: *In the Matter of the Oakland Police Department (Case No. M2021-03); Mediation Summary*

I. INTRODUCTION

On February 18, 2021, the Commission received a request for mediation alleging that the Oakland Police Department failed to disclose records in response to a public records request made by the Requester on February 20, 2018. On February 19, 2021, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department has indicated that they do not have any responsive documents per the request, Staff closed the mediation without further action.

II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be 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

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.³ 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 they have requested and participated in the Commission's mediation program.⁴

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.⁵

¹ Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.

² Government Code § 6253(b).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

III. SUMMARY OF FACTS

On February 20, 2018, the City received, via NextRequest, the following public records request (No. 25589):

Criminal Record- Peter William Kwaak Born [REDACTED] Charged as Bigamist in 1937. Former address was [REDACTED] Oakland 3 Oct 1936.

On February 25, 2018, OPD requested an extension to fulfill the public records request stating the following:

Our agency is in the process of reviewing your requested records to determine what information can be released in accordance with the California Public Records Act. All records must be reviewed and in some cases redactions may be necessary. Due to the Department's limited staffing resources and the numerous public records requests received, our agency needs additional time to respond to your request. All records that are not exempt will be provided within 30 days. Please contact the undersigned if you need the records sooner or can identify a shorter list of records (for voluminous requests) that can be provided to you. We will do our best to work with you. We appreciate your patience.

On February 18, 2021, the Commission received a complaint alleging that the Oakland Police Department had failed to disclose records in response to public records request No. 25589. At the time that the Commission received the Complaint, no responsive records had been produced by the City.

On February 19, 2021, Staff initiated its mediation program and notified OPD of the mediation request.

On February 22, 2021, OPD closed the record request and stated the following: "The Oakland Police Department does not have any records responsive to this request." Subsequently, OPD notified Staff stating that, "We conducted a thorough search of our archived documents. We did not find any responsive records. We updated the NextRequest portal and closed this request."

On March 10, 2021, Staff followed up with the Requester and notified him that the PEC would be closing the mediation. The Requester did not respond to Staff's outreach.

IV. RECOMMENDATION

Because OPD found no responsive records for the public records request, and because the Requester did not respond with any further inquiry, Staff closed the mediation without further action.