

1 LAW OFFICES OF KELLY AVILES
2 KELLY AVILES (State Bar No. 257168)
3 1502 Foothill Blvd., #103-140
4 La Verne, California 91750
5 Telephone: (909) 991-7560 / Fax: (909) 991-7594
6 kaviles@opengovlaw.com

7 LOS ANGELES TIMES COMMUNICATIONS LLC
8 JEFF GLASSER (State Bar No. 252596)
9 2300 E. Imperial Highway
10 El Segundo, California 90245
11 Telephone: (213) 237-5000
12 jeff.glasser@latimes.com

13 Attorneys for Petitioner/Plaintiff
14 LOS ANGELES TIMES COMMUNICATIONS LLC

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF LOS ANGELES**

17	LOS ANGELES TIMES)	Case No.:	20STCP02106
18	COMMUNICATIONS LLC,)	
19)		
20	Petitioner/Plaintiff,)		VERIFIED PETITION FOR WRIT OF
21)		MANDATE AND DECLARATORY
22	v.)		RELIEF FOR VIOLATIONS OF THE
23)		CALIFORNIA PUBLIC RECORDS
24	COUNTY OF LOS ANGELES,)		ACT WITH EXHIBITS A THROUGH
25)		DD
26	Respondent/Defendant.)		[Gov't Code § 6250 <u>et seq.</u>]
27)		

28 Under California Code of Civil Procedure sections 1085 and 1060 and
Government Code sections 6258 and 6259, Petitioner/Plaintiff LOS ANGELES TIMES
COMMUNICATIONS LLC (“The Times”) petitions this Court for a writ of mandate and
declaratory relief directed to Respondent/Defendant COUNTY OF LOS ANGELES,
ordering the County to provide public records that it has improperly withheld and to
respond to public records requests within the deadlines set out in the California Public

1 Records Act (“CPRA”). The County’s refusal to provide the withheld records and to
2 respond within the time required by the CPRA has obstructed and unnecessarily
3 delayed The Times’ and the public’s access to important public records, including video
4 footage and other files concerning shootings, uses of force causing great bodily harm,
5 sexual assaults, and acts of dishonesty by Los Angeles Sheriff’s deputies.

6 In this verified Petition, The Times alleges as follows:

7 **INTRODUCTION**

8 1. Respondent County of Los Angeles (the “County”) has refused repeatedly
9 to disclose public information. In 2016, The Times filed a lawsuit – still pending –
10 against the County for its attempt to charge exorbitant fees to search for and produce
11 emails relating to bias and discrimination within the Sheriff’s Department command
12 staff. (*Los Angeles Times Communications LLC v. County of Los Angeles*, Second
13 Appellate District Case No. B294142, Los Angeles Superior Court Case No. BS 162607.)

14 Two years later, The Times was forced to file another lawsuit contesting the
15 County’s pattern and practice of refusing to turn over a variety of public records,
16 including records related to sexual harassment and misconduct within the District
17 Attorney’s Office, homicide data, official email addresses of Sheriff’s Department
18 employees, CPRA policy and procedural manuals, and information about the positions
19 held by officers in the Sheriff’s Department. (*Los Angeles Times Communications LLC*
20 *v. County of Los Angeles*, Los Angeles Superior Court Case No. BS172865.)

21 Then, in January 2019, The Times had to file a lawsuit to contest the Sheriff’s
22 Department’s delays in producing disciplinary records about Caren Carl Mandoyan, a
23 Sheriff’s official whom Sheriff Alex Villanueva reinstated two years after his
24 predecessor had fired him. The Times and other media companies also intervened in
25 January 2019 to fight a litigation brought by the Sheriff’s union to preclude the
26 Sheriff’s Department from releasing any records regarding shootings and/or discipline
27 meted out to Sheriff’s employees prior to 2019. (*Association of Los Angeles Deputy*
28 *Sheriffs v. County of Los Angeles (Los Angeles Times Communications LLC Real*

1 *Party In Interest*), Second Appellate District Case No. B295936, Los Angeles Superior
2 Court Case No. 19STCPO0166.). The records sought by The Times became disclosable
3 January 1, 2019, when SB 1421 took effect, providing the press and the public with
4 access to records and information about shootings and/or discipline of law
5 enforcement officers for the first time in more than 40 years.

6 After the Sheriff’s union’s litigation failed, the County released video clips and
7 other records in March 2019 showing that the Sheriff’s Department “determined [Mr.]
8 Mandoyan repeatedly lied to internal affairs investigators by claiming that he never
9 tried to break into a woman’s home – statements that were contradicted by the video
10 footage,” as The Times reported. See [https://www.latimes.com/local/lanow/la-me-](https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-video-20190327-story.html)
11 [sheriff-mandoyan-video-20190327-story.html](https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-video-20190327-story.html). The SB 1421 records also revealed that
12 a woman who accused Mr. Mandoyan of abuse told investigators that Mandoyan had a
13 tattoo of the Grim Reaper signifying that he was a member of a secret group of Sheriff’s
14 deputies. See [https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-tattoo-](https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-tattoo-20190328-story.html)
15 [20190328-story.html](https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-tattoo-20190328-story.html). As The Times noted, the woman said he warned her that
16 because of his membership with the Reapers, he had influential friends who could ruin
17 careers in the Sheriff’s Department. See *id.*¹

18 2. Despite The Times’ repeated litigations to compel the County to comply
19 with transparency laws, and in spite of the new law, SB 1421, intended to lift the cloud
20 of secrecy that has so long obscured issues of serious police misconduct, officer-
21 involved shootings, and other uses of force by law enforcement officers in California,
22 the County has continued to deny The Times and the public access to public records
23 and information.

24 3. SB 1421 mandates that the public must have access to all records related
25 to four categories of information as of January 1, 2019. The four categories are (1)
26 incidents involving the discharge of a firearm at a person by a peace officer; (2)

27 ¹ The County eventually settled The Times’ lawsuit regarding Mandoyan’s records in
28 2020. (*Los Angeles Times Communications, LLC, et al. v. County of Los Angeles*, Los
Angeles Superior Court Case No. 19STCPO0118.)

1 incidents involving the use of force by a peace officer against a person, resulting in
2 death or great bodily injury; (3) incidents in which a sustained finding was made by a
3 law enforcement agency or oversight agency that a peace officer or custodial officer
4 engaged in the sexual assault of a member of the public; and (4) incidents in which a
5 sustained finding was made by a law enforcement agency or oversight agency of
6 dishonesty by a peace officer or custodial officer directly relating to the reporting,
7 investigation, or prosecution of a crime, or directly relating to the reporting of, or
8 investigation of misconduct by, another peace officer or custodial officer, including, but
9 not limited to, any sustained finding of perjury, false
10 statements, filing false reports, and the destruction, falsifying, or concealing of
11 evidence. A true and correct copy of SB 1421 is attached hereto as Exhibit A. (See Pen.
12 Code § 832.7(b) [as amended].)

13 4. In enacting SB 1421, the Legislature was clear about its intent. The public
14 has a right to know all about serious police misconduct, as well as about officer-
15 involved shootings and other serious uses of force. Concealing crucial public safety
16 matters such as officer violations of civilians' rights, or inquiries into deadly use of force
17 incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it
18 harder for tens of thousands of hardworking peace officers to do their jobs, and
19 endangers public safety. (SB 1421, § 1(b).)

20 5. Almost 18 months have passed since SB 1421 went into effect, and the
21 County continues to withhold records from The Times and the public on hundreds of
22 deputies who were involved in shootings, used force inflicting great bodily harm,
23 committed sexual assaults, or were disciplined for dishonesty, concealing evidence, or
24 similar misconduct. The County has improperly denied a number of The Times'
25 requests and has only agreed to produce SB 1421 records for those deputies or other
26 covered employees whom the Times can identify, by name, as possibly having
27 disclosable records under the new law.
28

1 pursuant to the California Public Records Act, notwithstanding any other law. A copy
2 of the Legislative Digest regarding SB 1421 is attached hereto as **Exhibit A.**²

3 13. Pursuant to the new law, on January 1, 2019, The Times submitted
4 various California Public Records Act Requests for disclosure of information mandated
5 by SB 1421.

6 14. The first request sought letters of discipline from January 1, 2014
7 through January 1, 2019, for current and former sworn officers employed by LASD
8 relating to the four specific categories of information made public by SB 1421.³ A copy
9 of the first CPRA request is attached as **Exhibit B.** The request made clear it was
10 “referring to any documents sent to peace officers that notify them of the discipline
11 being imposed against them.” The Times is informed and believes, and on that basis
12 alleges, that LASD issues letters of discipline any time it disciplines an officer. An
13 example of a letter of discipline issued by LASD in 2013 is attached hereto as **Exhibit**
14 **C.**

15 15. The second request asked for electronic records for the same four
16 categories of information sought in the first request. A copy of the second CPRA
17 request is attached as **Exhibit D.** For those officers subject to discipline, the request
18 specified that The Times was seeking the following categories of information
19 maintained by the Sheriff’s Department: “First, last and middle name of officer;
20 employee or badge number; most recent rank; rank at the time of discipline; date
21 hired; current employment status (active, retire, etc.); current salary; current total
22

23 ² All Exhibits attached hereto are true and correct copies of the documents they
purport to be and are incorporated by reference herein as if set forth in full.

24 ³ The four categories of incidents made disclosable by SB 1421 include any incident
25 involving discharge of a firearm at a person by an officer; any incident in which use of
26 force by an officer against a person resulted in death or great bodily injury; any
27 incident in which an agency made a sustained finding that an officer engaged in sexual
28 assault involving a member of the public, as defined in the statute; any incident in
which any agency made a sustained finding of dishonesty directly relating to the
reporting, investigation or prosecution of a crime, or directly relating to the reporting
or investigation of misconduct, including findings of perjury, false statements, filing
false reports, falsifying or concealing evidence.

1 compensation; date of separation from the agency; work location (station, beat or
2 division); policy violation type, date of policy violation; discipline type (suspension,
3 reprimand, termination); suspension length in days; whether the discipline was
4 contested or appealed; result of the appeal.” (See Ex. D.) The Times is informed and
5 believes, and on that basis alleges, that LASD maintains a Personnel Performance
6 Index (“PPI”) and/or a Personnel Records Management System (“PRMS”), both of
7 which are computer systems that track uses of force by specific sworn members of the
8 Sheriff’s Department, policy violations, and any discipline imposed by the
9 Department. The Times is further informed and believes, and on that basis alleges,
10 that the computer tracking system(s) used by the Sheriff’s Department contain the
11 information sought by The Times in an electronic format.

12 16. The third request sought all (1) “letters sent on or around Oct. 14, 2016 by
13 former Assistant Sheriff Todd Rogers to deputies notifying them that potential *Brady*
14 *v. Maryland* material has been identified in their personnel files;” (2) “letters received
15 by Capt. Gregory Nelson, sent by Los Angeles County Sheriff’s deputies or their
16 representatives, in response to Rogers’ Oct. 2016 letter about *Brady* material;” (3)
17 “letters sent by the Los Angeles County Sheriff’s Department to deputies, after Oct. 24,
18 2016, including printouts of the deputies’ Personnel Performance Indexes (PP[I]s);”
19 and “lists of deputies with potential *Brady* material in their personnel files –
20 sometimes called a “*Brady* list” – compiled in any form by the Los Angeles County
21 Sheriff’s Department.” A copy of the third CPRA request is attached as **Exhibit E**.

22 17. The fourth request specifically asked for SB 1421 information for 325
23 named officers who worked at the LASD. A copy of the fourth request is attached
24 hereto as **Exhibit F**.

25 18. On January 10, 2019, the Sheriff’s Department extended its time to
26 respond to The Times’ requests for first and second requests (letters of discipline and
27 electronic records). Copies of the extension letters are attached hereto as **Exhibit G**.

28

1 19. On the morning of March 8, 2019, The Times General Counsel, Jeff
2 Glasser, wrote a letter via email to the Sheriff’s Department regarding the Sheriff’s
3 Department’s delays. “The Times made [CPRA] requests to the Los Angeles County
4 Sheriff’s Department ... for certain SB 1421 records January 1 and 7, 2019, including
5 asking for letters of discipline, *Brady v. Maryland* letters.... LASD has had almost ten
6 weeks to process the records, and yet LASD has not disclosed a single record to The
7 Times.” The Times noted that the Sheriff’s Department’s delays violated the CPRA –
8 “LASD’s continued delays in disclosing SB 1421 records are obstructing public access to
9 key records reflecting on shootings and how the agency dealt with police misconduct.”
10 A true and correct copy of the March 8, 2019 letter from Mr. Glasser of The Times to
11 Sheriff Alex Villanueva and Chad Smeltzer is attached as **Exhibit H**.

12 20. Later that afternoon, the Sheriff’s Department denied The Times’ first
13 and second CPRA requests for electronic records and letters of discipline, claiming that
14 The Times’ requests were overbroad. LASD claimed that it was “unable to assist ...
15 with your request as it is too broad in scope” and that The Times had not made
16 requests that “reasonably describe the identifiable record or records.” The Sheriff’s
17 Department claimed that The Times would have to identify specific names to obtain SB
18 1421 records, even though SB 1421 has no such requirement and the names of deputies
19 disciplined were not public before the Legislature enacted SB 1421. A copy of the
20 March 8, 2019 letters from the Sheriff’s Department denying The Times’ first and
21 second requests are attached hereto as **Exhibit I**.

22 21. On March 12, 2019, the Sheriff’s Department denied The Times’ third
23 CPRA request for *Brady* list materials, including the notification letters sent by the
24 Sheriff’s Department to deputies in 2016 and the response letters sent back by
25 deputies, the printouts from the PPI or PRMS databases reflecting the deputies on the
26 *Brady* list, and any other *Brady* lists compiled by the Sheriff’s Department. LASD
27 claimed that the requested records “were exempt from disclosure” under Article I,
28 Section I of the California Constitution, Government Code sections 6254(b),(c),(f),(k)

1 and 6255, Evidence Code section 1043, Penal Code sections 832.7 and 832.8, and a
2 court order in Los Angeles Superior Court Case No. BS 166063. A copy of the
3 Department's March 12 denial is attached hereto as **Exhibit J**.

4 22. On March 29, 2019, Mr. Glasser of The Times wrote to Sheriff Villanueva
5 and Lt. Alise Norman and asked LASD to reconsider its denials of The Times' first,
6 second, and third requests. The Times pointed out that the County's position that The
7 Times did not describe identifiable records in the CPRA requests "does not pass the
8 barest of scrutiny – it is well known, for example, that the County has a Personnel
9 Performance Index ("PPI") database that tracks Sheriff's deputies and officials who are
10 disciplined." The County is required to disclose those electronic records, Mr. Glasser
11 pointed out. As for letters of discipline, Mr. Glasser wrote, "We know the County
12 Sheriff's Department maintains letters of discipline because The Times has published
13 prior letters of intent to discipline deputies. *See*

14 <http://documents.latimes.com/andrea-cecere-letter-discipline;>

15 [http://documents.latimes.com/william-cordero-letter-discipline/;](http://documents.latimes.com/william-cordero-letter-discipline/)

16 [http://documents.latimes.com/jeffrey-l-moore-letter-intent-discipline/.](http://documents.latimes.com/jeffrey-l-moore-letter-intent-discipline/)"

17 On the Sheriff's Department's claim that the requests are overbroad, The Times
18 explained that the "Department's evident distaste for the new law, SB 1421, does not
19 make The Times' requests overbroad. Letters of Discipline published by The Times are
20 three pages long. Therefore, it would be hardly onerous or overly burdensome for the
21 County to produce five years of such letters in response to The Times' requests." As to
22 the requested electronic records, Mr. Glasser noted that "the County can query the PPI
23 system for responsive records on use of force and/or discipline in minutes, if not
24 seconds." The Times also noted that the "Legislature was aware of the burden on
25 police agencies in having to search for underlying responsive records reflecting
26 discipline and/or uses of force and still enacted SB 1421 requiring that agencies
27 disclose them."

1 On access to *Brady* lists compiled by the Sheriff's Department and related
2 letters to affected Sheriff's deputies, The Times noted that the case cited by the County
3 was decided before the enactment of SB 1421 and could not prohibit the disclosure of
4 records that the Legislature expressly made disclosable after January 1, 2019.

5 Finally, The Times discussed the California Supreme Court and Court of Appeal
6 authorities recognizing the profound public interest in access to records on uses of
7 force by police and/or discipline for misconduct such as dishonesty and sexual abuse.
8 As part of establishing why any burden on the Sheriff's Department could not clearly
9 outweigh the public interest in disclosure of SB 1421 records, The Times quoted from
10 the statute: "The public has a right to know all about serious police misconduct, as well
11 as about officer-involved shootings and other serious uses of force. Concealing crucial
12 public safety matters such as officer violations of civilians' rights, or inquiries into
13 deadly use of force incidents, undercuts the public's faith in the legitimacy of law
14 enforcement, makes it harder for tens of thousands of hardworking peace officers to do
15 their jobs, and endangers public safety." A copy of Mr. Glasser's March 29, 2019 letter
16 is attached as **Exhibit K**.

17 23. While Cmdr. Scott Johnson of the Sheriff's Department stated on April 5
18 and 8, 2019, in communications by phone and email, that the Sheriff's Department
19 would provide records on a rolling basis regarding the 325 named individuals, the
20 County has failed to provide responsive information on more than 300 of them even
21 though more than 18 months have passed since SB 1421 went into effect. A copy of the
22 April 8, 2019 correspondence between LASD and The Times is attached as **Exhibit L**.

23 24. On July 9, 2019, the County produced letters of discipline for Sheriff's
24 employees Lawrence Del Mese and Daniel Morris. The County claimed it had no
25 responsive letters of discipline for eight other Sheriff's employees. For one other
26 Sheriff's deputy, Giancarlo Scotti, the County claimed that responsive records were
27 "part of an ongoing and active criminal investigation" and cited to pre-SB 1421 cases
28 recognizing before the law changed that evidence gathered as part of an ongoing

1 investigation is confidential. Mr. Scotti pleaded no contest to sexually assaulting six
2 women September 5, 2019, and was sentenced to two years in prison September 26,
3 2019. Despite the conclusion of criminal proceedings, the Sheriff's Department has not
4 released any letters of discipline or electronic records concerning Mr. Scotti's
5 misconduct. A copy of LASD's July 9, 2019 response is attached hereto as **Exhibit M.**

6 25. On September 17, 2019, the Sheriff's Department sent a response
7 regarding 25 officers, producing letters of discipline for six: Joseph Ament, Jesus
8 Anguiano, Marco Allen, Michael Ascolese, Samuel Aldama, and Sussie Ayala. The
9 County refused to "confirm or deny the existence of any responsive records concerning
10 Armes, Andrew and certain personnel pursuant to Government Code section 6255(a)."
11 The County did not include any justification for its invocation of Government Code
12 section 6255, the CPRA's "catch-all" exemption, which requires the Department to
13 demonstrate that the public interest served by not disclosing each record clearly
14 outweighs the public interest served by disclosure of the records. A copy of LASD's
15 September 17, 2019 response is attached hereto as **Exhibit N.**

16 26. Despite the limited disclosures of letters of discipline for nine of the
17 identified deputies, LASD has also failed to provide the files about the incidents
18 underlying those instances of discipline or any response for the rest of the 325 officers
19 that The Times had reason to believe were involved in incidents which would be
20 disclosable under SB 1421.

21 27. On February 6, 2020, the Sheriff's Department sent several hundred
22 identical emails claiming that "stays ... prohibited the Department from releasing
23 records until they were lifted," even though the stays had been lifted eleven months
24 earlier. The Sheriff's Department stated that it was processing the requests for specific
25 deputies made by The Times. A copy of one such email containing the same language
26 used in all the emails is attached as **Exhibit O.**

27 28. On April 23, 2020, the Sheriff's Department asked The Times if the
28 requested SB 1421 electronic records and letters of discipline for the other 335

1 identified officers and any other pending CPRA requests remained a priority. While
2 The Times responded that the requests are still a priority, no further response has been
3 received and no further records have been produced. A copy of LASD's
4 correspondence and The Times' response is attached hereto as **Exhibit P**.

5 29. The County has also failed to respond to numerous requests made by
6 Times.

7 30. On April 9, 2019, Maya Lau of The Times made CPRA requests for letters
8 of discipline and underlying case files, reports, investigations or findings involving
9 Sheriff's Department employees Danilo Martinez and David Parker. A copy of Ms.
10 Lau's request is attached as **Exhibit Q**.

11 31. On April 12, 2019, Capt. Kimberly Unland responded, claiming the
12 Sheriff's Department had no responsive records to either CPRA request because
13 neither one was employed as a peace officer. On April 12, 15 and 16, 2019, the parties
14 exchanged emails, and Ms. Lau of The Times made clear that if the County was taking
15 the position that Martinez and Parker were custody assistants and not sworn peace
16 officers, then the Pitchess statutes had no application, and the records reflecting
17 discipline or well-founded allegations of misconduct have to be disclosed. Ms. Lau
18 stated that she had been given access to disciplinary records of custody assistants in
19 the past. On April 26, Captain Unland responded, "Upon further review, the
20 Department will not release the requested personnel records for its custody assistants
21 based on Government Code sections 6254(c) and 6255(a)." Copies of the
22 communications between The Times and the Sheriff's Department are attached as
23 **Exhibit R**.

24 32. On April 30, 2019, Mr. Glasser of The Times wrote to Sheriff Villanueva
25 and County Counsel Mary Wickham and stated that "the County has been required **for**
26 **more than 40 years** to disclose records reflecting misconduct by non-sworn public
27 employees where the allegations against them are true or well founded, or discipline is
28 imposed. *E.g., American Federation of State, County and Municipal Employees v.*

1 *Regents of the University of California*, 80 Cal. App. 3d 913, 918 (1978); *Marken v.*
2 *Santa Monica-Malibu Unified School Dist.*, 202 Cal. App. 4th 1250, 1268 (2012); *BRV,*
3 *Inc. v. Superior Court*, 143 Cal. App. 4th 742, 759 (2006); *Bakersfield City Sch. Dist. v.*
4 *Superior Court*, 118 Cal. App. 4th 1041, 1047 (2004). This long-standing rule requires
5 public agencies to produce records reflecting the complaint, the discipline, and the
6 information upon which it was based. *Id.* The County’s Sheriff’s Department once
7 again appears to be flouting California law as part of refusing to disclose the
8 disciplinary records for employees such as David Parker and Danilo Martinez. The
9 County employs Parker and Martinez despite prior imposition of discipline or well-
10 found accusations of misconduct against them. Under the controlling case law, the
11 County must disclose to The Times records reflecting the complaints, underlying facts,
12 and the outcomes of any investigation involving Parker and/or Martinez where the
13 allegations were true or well-founded, or discipline was imposed. As custody
14 assistants, Parker and Martinez are entrusted with helping to ensure the safe
15 administration of the jails and inmate care, which only heightens the public interest in
16 access to records reflecting on any well-founded allegations of misconduct or discipline
17 imposed by the County against them.” A copy of Mr. Glasser’s April 30 letter to Sheriff
18 Villanueva and County Counsel Wickham is attached as **Exhibit S**.

19 33. On May 10, 2019, Ms. Lau of The Times spoke on the telephone with
20 Capt. Unland, who said the Sheriff’s Department was no longer invoking blanket
21 denials of the records requests for Parker and Martinez and that they would be placed
22 in the queue for processing.

23 34. Despite the passage of more than one year and one month, the Sheriff’s
24 Department has not produced any records for Parker or Martinez.

25 35. On October 3, 2019, The Times made a CPRA request for an Excel
26 spreadsheet of all promotions within LASD to the rank of captain and above since
27 December 1, 2018, including name, prior rank and assignment and current rank and
28 assignment; Sheriff Villanueva’s daily schedule since he took office; an Excel

1 spreadsheet of in-custody jail deaths since January 1, 2009, including the following
2 categories: name, facility, date, cause of death; and all public records requests sent to
3 LASD from 12/1/18 to present/PRA log or spreadsheets kept by LASD to track
4 requests, including the requestor, request, date received and status of the request. A
5 copy of The Times' October 3 request is attached hereto as **Exhibit T**.

6 36. On April 9, 2020, more than six months after the October 3, 2019 CPRA
7 request, the Sheriff's Department alleged it was "continuing to gather records to
8 review." The Sheriff's Department claimed: "Once we have determined what records
9 are responsive to your request, we will review them to determine if some of the records
10 are exempt from disclosure. Not having reviewed all of the records, we cannot specify
11 all the applicable authorities upon which records would be withheld or redactions
12 would be required. The authorities may include, but are not limited to, the
13 following: *California Constitution*, article I, section 1; matters protected by the
14 attorney-client, official information, and deliberative process privileges; matters
15 relating to pending litigation, personnel matters, investigations, or where the
16 particular facts and circumstances warrant nondisclosure of the information.
17 (Government Code §§ 6254 (a), (b), (c), (f), (k), and 6255(a).)" A copy of LASD's April
18 9 correspondence is attached hereto as **Exhibit U**.

19 37. Despite the passage of more than eight months, The Times has not
20 received any records in response to its October 3, 2019 request.

21 38. On October 7, 2019, The Times requested SB 1421 records for Deputies
22 Carrie Esmeralda Robles-Placencia and Vincent Moran. On October 11, 2019, The
23 Times requested SB 1421 records for Deputy Fernando Quintero. Copies of these two
24 requests are attached hereto as **Exhibits V and W**, respectively. Despite the passage
25 of more than eight months, the Sheriff's Department has produced no responsive
26 records to these requests

27 39. On October 11, 2019, The Times made a CPRA request for all of the
28 internal audits conducted within the Sheriff's Department since December 1, 2018. A

1 copy of the request is attached hereto as **Exhibit X**. The request has been pending for
2 more than eight months, but the Sheriff's Department has not responded or produced
3 any responsive records.

4 40. On January 9, 2020, The Times made a CPRA request for: all
5 LASD/Probation Dept. emails and records returned as a result of a Jan. 25 2019 search
6 warrant prepared by Sgt. Richard Biddle (warrant number: 82189); all records
7 returned as a result of an April 3 2019 search warrant prepared by Sgt. Richard Biddle
8 for Scott Budnick's Google account info (warrant number: 84191); any and all reports
9 or memos or documents or communications concerning Scott Budnick being banned
10 from/not allowed into LA County jails, from Dec. 1 2018 to the date this request is
11 fulfilled; any and all emails sent to or received by Alex Villanueva that contain any of
12 the following words: "Scott" "Scott Budnick" "Budnick" "Anti Recidivism Coalition" or
13 "ARC," from Dec. 1 2018 to the date this request is fulfilled; and emails sent to or
14 received by Alex Villanueva from the following email addresses:
15 scottarcla@gmail.com and comm.private@gmail.com, from Dec. 1 2018 to the date this
16 request is fulfilled. A copy of this request is attached hereto as **Exhibit Y**.

17 41. Despite the deadlines set forth in the CPRA (Gov't. Code § 6253(c)),
18 LASD failed to respond to the January 9 requests until April 22, 2020, at which time it
19 claimed it was gathering information, but could not "specify all the applicable
20 authorities upon which records would be withheld or redactions would be required"
21 because it had not reviewed all of the records. A copy of LASD's April 22 response is
22 attached hereto as **Exhibit Z**. As of the date of the filing of this lawsuit, the Sheriff's
23 Department has not produced a single responsive record.

24 42. On February 11, 2020, The Times made a CPRA request for a spreadsheet
25 of promotions to sergeant and above from the day the Sheriff took office, Dec. 3, 2018,
26 to the date this request is fulfilled. The Times stated that the list should include: name,
27 prior rank/assignment, current rank/assignment, ethnicity and gender. A copy of The
28

1 Times' February 11 request is attached hereto as **Exhibit AA**. To date, the Sheriff's
2 Department has not responded or produced any records responsive to this request.

3 43. On February 26, 2020, The Times requested the following records: "any
4 and all communications -- including but not limited to text messages, emails, reports,
5 complaints, memos and voicemails -- that reference the taking and/or sharing of Kobe
6 Bryant helicopter crash photos by Sheriff's Department employees. These emails would
7 have been sent or received by employees assigned to the Lost Hills station, including
8 trainees and reserves, and/or any members of the LASD command staff, including
9 Sheriff Villanueva, and possibly others. The search should include communications
10 sent or received between Jan. 26, 2020 and the date this request is fulfilled. The search
11 could include, but would not be limited to, the following terms: "photos," "photo,"
12 "pictures," "picture," "images," "image," "crash," "Kobe," "helicopter." We ask that you
13 search all files and baskets, including those for deleted items and drafts, and all drives.
14 Please include all attachments with the emails you produce. We ask that any electronic
15 records be produced in their original electronic form." The request also sought a
16 record of all calls to the internal affairs bureau from Jan. 26, 2020 to Feb. 25, 2020;
17 recordings of all voice messages left with the internal affairs bureau from Jan. 26, 2020
18 to Feb. 25, 2020; and a list of Sheriff's Department personnel who responded to the
19 Kobe Bryant helicopter crash. A true and correct copy of this request is attached hereto
20 as **Exhibit BB**. The request also made clear that "[b]ecause this concerns a timely
21 matter of significant public interest, we ask that records be produced as soon as they
22 are located, including in piecemeal form, as the search for more records continues" and
23 asked if there was anything The Times could do "to speed production of the records."
24 To date, the Sheriff's Department has not responded or produced any records
25 responsive to this request.

26 44. On February 26, 2020, The Times made a CPRA request to the Los
27 Angeles County Auditor for the daily time sheets of every Sheriff's Department
28

1 employee who worked at the Lost Hills Station on Jan. 26, 2020. A copy of the
2 February 26 request is attached hereto as **Exhibit CC**.

3 45. On March 12, 2020, the Sheriff's Department denied The Times' request
4 regarding the time sheets. Without any explanation, the Sheriff's Department cited
5 Penal Code sections 832.7 & 832.8 (part of the Pitchess statutes), Art. 1, section 1 of the
6 California Constitution, and Gov't Code section 6254(c) and 6255, even though Section
7 6255 requires the Sheriff's Department to justify withholding the time sheets by
8 demonstrating on the facts of the particular case that the public interest served by not
9 disclosing the time sheets clearly outweighs the public interest served by disclosure of
10 the time sheets. A copy of LASD's denial of the February 26 CPRA request is attached
11 hereto as **Exhibit DD**.

12 46. The Times is the largest news organization covering the day-to-day
13 activities and actions of the County and the Sheriff's Department as part of
14 disseminating important information to the general public. That coverage requires
15 timely access to public records. The baseless obstruction of access to records made
16 public by SB 1421 and the CPRA and frequent, unjustified delays in accessing County
17 records directly affects the ability of the press, like The Times, to report on information
18 of great public interest, and consequently damages the public's ability to monitor its
19 government – a fundamental and basic right of our democratic society.

20 **CAUSE OF ACTION**

21 **FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT**

22 *(GOV. CODE §§ 6258, 6259; CODE CIV. PROC. §§ 1060, 1085)*

23 47. Petitioner hereby realleges and incorporate herein by this reference
24 Paragraphs 1 thorough 46 of this Petition as though set forth herein in full.

25 48. The CPRA defines the term “public records” to include “any writing
26 containing information relating to the conduct of the public's business prepared,
27 owned, used, or retained by any state or local agency regardless of physical form or
28 characteristics....”

1 49. The requested records relate to the conduct of the public's business and
2 were prepared, owned, used or retained by the County. Therefore, the records are
3 deemed to be public records pursuant to Government Code section 6252(e).

4 50. Government Code section 6253(a) requires public records to be "open to
5 inspection at all times during the office hours of the state or local agency" and provides
6 that "every person has a right to inspect any public record."

7 51. Requests for copies of records are governed by Government Code sections
8 6253(b) and (c), which provide that "**upon a request for a copy of records that**
9 **reasonably describes an identifiable record or records, [the agency] shall**
10 **make the records promptly available**" and requires that "[e]ach agency, upon a
11 request for a copy of records, shall, **within 10 days from receipt of the request,**
12 determine whether the request, in whole or in part, seeks copies of disclosable public
13 records in the possession of the agency and shall promptly notify the person making the
14 request of the determination and the reasons therefor."

15 52. The only time that an agency may take longer than 10 days to make its
16 determination is in "unusual circumstances." (Gov't. Code § 6253(c).) In that case, the
17 time limit may be extended by written notice by no more than 14 days.

18 53. Government Code section 6253(c) defines unusual circumstances as
19 follows:

20 As used in this section, "unusual circumstances" means the following, but
21 only to the extent reasonably necessary to the proper processing of the
particular request:

22 (1) The need to search for and collect the requested records from field
23 facilities or other establishments that are separate from the office
processing the request.

24 (2) The need to search for, collect, and appropriately examine a
25 voluminous amount of separate and distinct records that are demanded in
a single request.

26 (3) The need for consultation, which shall be conducted with all
27 practicable speed, with another agency having substantial interest in the
28 determination of the request or among two or more components of the
agency having substantial subject matter interest therein.

1 (4) The need to compile data, to write programming language or a
2 computer program, or to construct a computer report to extract data.

3 54. Government Code section 6253(d) provides “Nothing in this chapter
4 shall be construed to permit an agency to delay or obstruct the inspection or copying
5 of public records.”

6 55. Amended by SB 1421, Government Code section 6254(k) and Penal Code
7 sections 832.7 and 832.8 now **require** disclosure of: (1) incidents involving the
8 discharge of a firearm at a person by a peace officer; (2) incidents involving the use of
9 force by a peace officer against a person, resulting in death or great bodily injury; (3)
10 incidents in which a sustained finding was made by a law enforcement agency or
11 oversight agency that a peace officer or custodial officer engaged in the sexual assault of
12 a member of the public; and (4) incidents in which a sustained finding was made by a
13 law enforcement agency or oversight agency of dishonesty by a peace officer or
14 custodial officer directly relating to the reporting, investigation, or prosecution of a
15 crime, or directly relating to the reporting of, or investigation of misconduct by, another
16 peace officer or custodial officer, including, but not limited to, any sustained finding of
17 perjury, false statements, filing false reports, and the destruction, falsifying, or
18 concealing of evidence.

19 56. The County has violated Government Code section 6254(k) and Penal
20 Code sections 832.7 and 832.8 by refusing to disclose: (1) the letters of discipline for
21 **all** Sheriff’s deputies or officials since 2014 (the hyperlinks to sample letters of
22 discipline cited above shows each one is two-three pages long); (2) the responsive
23 electronic records from 2014-2019 reflecting covered use of force and disciplinary
24 incidents and the names of affected Sheriff’s deputies and sworn employees – the
25 names and incidents are readily available through disclosure of the Sheriff’s
26 Department’s PPI or PRMS databases, among other obviously disclosable records; and
27 (3) the *Brady* lists and letters or other covered records sent to/from affected
28 Deputies/employees, their counsel or authorized representatives, and the Sheriff’s

1 Department.⁴ Government Code section 6254(k) and Penal Code sections 832.7 and
2 832.8 include no requirement that a requester provide specific names of a public
3 agency’s employees to obtain SB 1421 records – for the obvious reason that a requester
4 would not necessarily know such names since many were not known prior to
5 enactment of the law. The Sheriff’s Department’s imposition of this additional
6 prerequisite for disclosure therefore does not comply with SB 1421’s disclosure
7 mandates. The records sought by The Times in their various CPRA requests are not
8 exempt from disclosure under any of the provisions relied on by the County, any other
9 provision of the CPRA, or any other relevant statute, and are specifically required to be
10 disclosed under SB 1421 “notwithstanding any other law.”

11 57. The County also violated the CPRA by invoking the catchall exemption
12 (Government Code section 6255) as to “Andrew Armes and certain personnel.” The
13 catchall exemption requires that the County justify for each record withheld that the
14 public interest in nondisclosure clearly outweighs the public interest in disclosure.
15 But the County provided no justification – and failed even to identify what “personnel”
16 were subject to the withholding on this basis.

17 58. The County violated the CPRA by invoking the investigative records
18 exemption (Government Code section 6254(f)) as to former Sheriff’s Deputy Giancarlo
19 Scotti and then never providing the responsive records to The Times even though
20 Scotti pleaded no contest to sexually assaulting six women in September 2019.

21 59. The County violated the CPRA by refusing to provide the time sheets for
22 Sheriff’s Department deputies who worked at the Lost Hills Station January 26, 2020.
23 The County cited Penal Code sections 832.7 & 832.8, but neither of these provisions
24 applies to time sheets, which are not specified as among the categories of personnel
25

26 ⁴ The Times asked for letters sent by former Assistant Sheriff Todd Rogers to deputies
27 informing them that *Brady* information had been identified in their personnel files;
28 letters received by Capt. Greg Nelson in response to Rogers’ letters; letters containing
printouts of deputies’ PPIs; and any lists of deputies with potential *Brady* material in
their files. (Ex. __.)

1 records that are protected from public disclosure.⁵ The Sheriff's Department also cited
2 Section 6254(c) (the privacy exemption), Section 6255 and the privacy provision in the
3 California Constitution (Art. 1, § 1). Time sheets fit none of the categories made
4 confidential by the Pitchess statutes, and disclosure of time sheets does not constitute
5 an unwarranted invasion of privacy, as time sheets are about Sheriff's employees
6 public work paid for by taxpayers, and not any private activities of those employees.
7 For that reason, any invocations of privacy by the Sheriff's Department do not clearly
8 outweigh the public's interest in access to time sheets at a Sheriff's station on the day
9 when Kobe Bryant died.

10 60. The County violated the CPRA by failing to timely or adequately respond
11 as required by Government Code section 6253(c) to The Times' various CPRA
12 requests, including the January 1, 2019 (Ex. F), April 9, 2019 (Ex. Q), October 3, 2019
13 (Ex. T), October 7, 2019 (Exs. V & W), October 11, 2019 (Exs. W & X), January 9, 2020
14 (Ex. Y), February 11, 2020 (Ex. AA), and February 26, 2020 (Ex. BB) requests.

15 61. The County's delays have obstructed access to important information
16 about police misconduct, uses of force and other important information in violation of
17 Government Code sections 6253 and 6253.3. The Sheriff's Department's failure *for*
18 ***almost 18 months*** to provide any letters of discipline or other responsive SB 1421
19 records for nearly all of the more than 300 officers that The Times identified is
20 inexcusable. The Sheriff's Department's inactivity with regard to these requests makes
21 a mockery of the CPRA's requirement that agencies make records "promptly available"
22 and its requirements that agencies do not "delay or obstruct the inspection or copying
23 of public records." See Gov't Code §§ 6253(b),(d). Likewise, the Sheriff's Department
24 created effectively a public records blackout by ignoring many of the requests made by

25
26 ⁵ The categories are "[p]ersonal data, including marital status, family members,
27 educational and employment history, home addresses or similar information";
28 "[m]edical history"; "[e]lection of employee benefits; [e]mployee advancement,
appraisal, or discipline"; "[c]omplaints or investigation of complaints; and "[a]ny other
information the disclosure of which would constitute an unwarranted invasion of
personal privacy." (Pen. Code § 832.8.)

1 The Times and by invoking inapposite exemptions on the rare occasions when its
2 employees did respond to The Times' requests.

3 62. The County has claimed that it can delay – if not avoid – compliance
4 with SB 1421 because it is a “major unfunded mandate” from the Legislature. See
5 [https://www.latimes.com/california/story/2019-12-02/families-sue-sheriffs-](https://www.latimes.com/california/story/2019-12-02/families-sue-sheriffs-department-shooting-records)
6 [department-shooting-records](https://www.latimes.com/california/story/2019-12-02/families-sue-sheriffs-department-shooting-records). But the people of California enacted a constitutional
7 amendment in 2014 making clear that the CPRA is not optional and that all local
8 government agencies – including the Sheriff's Department – have to comply with its
9 disclosure obligations. See Cal. Const. Art. 1 § 3(b)(7). As former State Senator Mark
10 Leno, the sponsor of the constitutional amendment, stated, “The state should not have
11 to provide a fiscal incentive to local government so that they comply with these
12 important transparency laws.” See [https://www.latimes.com/politics/la-xpm-2013-](https://www.latimes.com/politics/la-xpm-2013-jun-21-la-me-pc-california-jerry-brown-public-records-act-20130621-story.html)
13 [jun-21-la-me-pc-california-jerry-brown-public-records-act-20130621-story.html](https://www.latimes.com/politics/la-xpm-2013-jun-21-la-me-pc-california-jerry-brown-public-records-act-20130621-story.html).

14 63. The Legislature has deemed access to public records a fundamental and
15 necessary right. To that end, Government Code section 6250 states:

16 In enacting this chapter, the Legislature, mindful of the right of
17 individuals to privacy, finds and declares that access to information
18 concerning the conduct of the people's business is a fundamental
and necessary right of every person in this state.

19 64. The People of California have elevated the right to open government to
20 one protected by their State Constitution. The California Constitution, Article 1, Section
21 3, Paragraphs (a) - (b) state:

22 The people have the right to instruct their representatives, petition
23 government for redress of grievances, and assemble freely to consult
for the common good.

24 The people have the right of access to information concerning the
25 conduct of the people's business, and, therefore, the meetings of public
26 bodies and the writings of public officials and agencies shall be open to
public scrutiny.

27 A statute, court rule, or other authority, including those in effect on the
28 effective date of this subdivision, shall be broadly construed if it
furtheres the people's right of access, and narrowly construed if it limits
the right of access.

1 65. The County’s improper withholding of the specified public records records
2 has impaired Petitioner’s ability to gain information necessary to report on the activities
3 of the County, in violation of its rights pursuant to the California Constitution, Article I,
4 Section 3, and the California Public Records Act.

5 66. Government Code section 6258 provides: “Any person may institute
6 proceedings for injunctive or declarative relief or writ of mandate in any court of
7 competent jurisdiction to enforce his or her right to inspect or to receive a copy of any
8 public record or class of public records under this chapter.”

9 67. Code of Civil Procedure section 1060 provides:
10

11 Any person interested ... may, in cases of actual controversy relating to
12 the legal rights and duties of the respective parties, bring an original
13 action or cross-complaint in the superior court for a declaration of his
14 or her rights and duties in the premises ... either alone or with other
relief ... The declaration may be had before there has been any breach
of the obligation in respect to which said declaration is sought.

15 68. An actual controversy exists between the parties regarding whether the
16 County failed to respond in the time mandated by the CPRA to Petitioner’s CPRA
17 requests and whether the County obstructed, delayed, and denied Petitioner’s access to
18 inspection and copying of the public records.

19 69. Petitioner has exhausted any available administrative remedies.
20 Petitioner has requested copies of disclosable public records from the County and have
21 sought to inspect the responsive public records, but the County has refused to timely
22 respond or provide for inspection of those public records. The only plain, speedy, and
23 adequate remedy left to Petitioner is the relief provided by Government Code section
24 6258.

25 70. The County has a ministerial duty to perform according to the laws of
26 State of California, including the CPRA.

27 71. The County has a present legal duty and present ability to perform its
28 ministerial duties, as required by the CPRA.

1 72. The County has failed to perform its ministerial duties as required by the
2 CPRA.

3 73. Petitioner has an interest in having the laws executed and public duties
4 enforced and, therefore, have a beneficial interest in the outcome of the proceedings.

5 74. Petitioner has a clear, present, and legal right to the County's
6 performance of its ministerial duties, as required by the CPRA.

7 75. Through this action, Petitioner seeks no greater relief than would be
8 afforded to any other member of the public.

9 76. Therefore, this Court should find that the County violated the CPRA by
10 obstructing access to the disclosable public records requested by Petitioner, and order
11 the County to immediately respond to Petitioner's requests and provide for immediate
12 inspection and/or copying of all responsive records.

13 **WHEREFORE, PETITIONER PRAYS AS FOLLOWS:**

14 1. This Court issue a peremptory writ of mandate, without a hearing or
15 further notice, directing the County to disclose the improperly withheld records or, in
16 the alternative, an order to show cause why these public records should not be
17 disclosed.

18 2. This Court issue a peremptory writ of mandate, without a hearing or
19 further notice, directing the County to immediately respond to Petitioner's unfulfilled
20 requests and provide for immediate inspection of all responsive records; or, in the
21 alternative, an order to show cause why these public records should not be released.

22 3. This Court issue a peremptory writ of mandate and/or injunctive relief
23 preventing the County from delaying its response to CPRA requests where it does not
24 meet the circumstances set out in Government Code section 6253(c) and from
25 improperly delaying inspection to public records.

26 4. This Court issue a declaratory judgment that the public records requested
27 by Petitioner are disclosable public records and that the County violated the CPRA by
28 (1) failing to timely respond to Petitioner's CPRA requests and (2) improperly

1 obstructing and denying the inspection and copying of public records responsive to
2 Petitioner's CPRA requests.

3 5. This Court set "times for responsive pleadings and for hearings in these
4 proceedings ... with the object of securing a decision as to these matters at the earliest
5 possible time," as provided in Government Code section 6258.

6 6. This Court enter an order allowing Petitioner to recover attorneys' fees
7 and costs incurred in this action pursuant to Government Code section 6259 and/or
8 Code of Civil Procedure section 1021.5; and,

9 7. This Court award such further relief as is just and proper.

10
11 DATED: June 30, 2020

LAW OFFICES OF KELLY AVILES
KELLY A. AVILES

12
13 LOS ANGELES TIMES COMMUNICATIONS LLC
JEFF GLASSER

14
15
16 By:  _____

Kelly Aviles

Attorneys for Petitioner

17
18 LOS ANGELES TIMES COMMUNICATIONS LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION
(C.C.P. §§ 446 and 2015.5)

I, Shelby Grad, am a Deputy Managing Editor of The Los Angeles Times, which is published by LOS ANGELES TIMES COMMUNICATIONS LLC, Petitioner in the above-entitled action or proceeding. I have read the foregoing **VERIFIED PETITION FOR WRIT OF MANDATE AND DECLARATORY RELIEF FOR VIOLATIONS OF THE CALIFORNIA PUBLIC RECORDS ACT WITH EXHIBITS A THROUGH DD** and know the contents thereof, and I certify that the same is true and correct of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters I believe them to be true.

This Verification was executed on June 30, 2020, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Shelby Grad
Shelby Grad

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- A. SB 1421 Legislative Digest
- B. January 1, 2019 CPRA Request for Letters of Discipline from 2014-2019
- C. Sample Letter of Discipline Issued by LASD in 2013
- D. January 1, 2019 CPRA Request for Electronic SB 1421 Records
- E. January 1, 2019 CPRA Request for Brady List Materials
- F. January 1, 2019 CPRA Request for SB 1421 for 325 Named Sheriff's Department Employees
- G. January 10, 2019 LASD Extension Letter Regarding Letters of Discipline and Electronic Records
- H. March 8, 2019 Letter from Jeff Glasser to LASD Regarding Delays
- I. March 8, 2019 LASD Denial of Request for Letters of Discipline and Electronic Records
- J. March 12, 2019 LASD Denial of Request for Brady List Materials
- K. March 29, 2019 Letter from Jeff Glasser to LASD Challenging Denials
- L. April 8, 2019 Correspondence Between LASD and The Times Regarding Rolling Production of Named Employees
- M. July 9, 2019 Response from LASD Regarding Various Named Officers
- N. September 17, 2019 Response from LASD Regarding Various Named Officers
- O. February 6, 2020 Email from LASD Claiming it Was Processing Requests for Specific Deputies
- P. April 23, 2020 Inquiry from LASD Asking if Pending CPRA Requests Remain a Priority and The Times Response
- Q. April 9, 2019 Request for Information Regarding Investigation and Discipline of LASD Employees Martinez and Parker
- R. April 12, 2019 LASD Denial of Request and Related Follow up Correspondence
- S. April 30, 2019 Letter from Jeff Glasser to County Counsel Mary Wickham Challenging Denial of April 9 Request

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- T. October 3, 2019 CPRA Request for Promotions, the Sheriff's Schedule, In-Custody Deaths, and Public Records Requests Made to LASD.
- U. April 9, 2020 LASD Correspondence Claiming It Was Gathering Records Responsive to the October 3, 2019 CPRA Request
- V. October 7, 2019 Request for SB 1421 records for Deputies Carrie Esmeralda Robles-Placencia and Vincent Moran
- W. October 11, 2019 Request for SB 1421 for Deputy Fernando Quintero
- X. October 11, 2019 Request for Internal Audits
- Y. January 9, 2020 Request for Information Relating to Scott Budnick
- Z. April 22, 2020 LASD Correspondence Claiming It Was Gathering Records Responsive to the January 9, 2020 CPRA Request
- AA. February 11, 2020 Request for Promotions
- BB. February 26, 2020 Request for Information Related to Kobe Bryant Crash
- CC. February 26, 2020 Request for Time Sheets
- DD. March 12, 2020 LASD Denial of February 26, 2020 Request for Time Sheets

Exhibit A

Senate Bill No. 1421

CHAPTER 988

An act to amend Sections 832.7 and 832.8 of the Penal Code, relating to peace officer records.

[Approved by Governor September 30, 2018. Filed with
Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1421, Skinner. Peace officers: release of records.

The California Public Records Act requires a state or local agency, as defined, to make public records available for inspection, subject to certain exceptions. Existing law requires any peace officer or custodial officer personnel records, as defined, and any records maintained by any state or local agency relating to complaints against peace officers and custodial officers, or any information obtained from these records, to be confidential and prohibits the disclosure of those records in any criminal or civil proceeding, except by discovery. Existing law describes exceptions to this requirement for investigations or proceedings concerning the conduct of peace officers or custodial officers, and for an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

This bill would require, notwithstanding any other law, certain peace officer or custodial officer personnel records and records relating to specified incidents, complaints, and investigations involving peace officers and custodial officers to be made available for public inspection pursuant to the California Public Records Act. The bill would define the scope of disclosable records. The bill would require records disclosed pursuant to this provision to be redacted only to remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace officers and custodial officers, to preserve the anonymity of complainants and witnesses, or to protect confidential medical, financial, or other information in which disclosure would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct by peace officers and custodial officers, or where there is a specific, particularized reason to believe that disclosure would pose a significant danger to the physical safety of the peace officer, custodial officer, or others. Additionally the bill would authorize redaction where, on the facts of the particular case, the public interest served by nondisclosure clearly outweighs the public interest served by disclosure. The bill would allow the delay of disclosure, as specified, for records relating to an open investigation or court proceeding, subject to certain limitations.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Peace officers help to provide one of our state's most fundamental government services. To empower peace officers to fulfill their mission, the people of California vest them with extraordinary authority — the powers to detain, search, arrest, and use deadly force. Our society depends on peace officers' faithful exercise of that authority. Misuse of that authority can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, as well as significant public unrest.

(b) The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) (1) Notwithstanding subdivision (a), subdivision (f) of Section 6254 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by any state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Chapter 3.5

(commencing with Section 6250) of Division 7 of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, “sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, “member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

(2) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer’s action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

(3) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(4) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B) or (C) of paragraph (1), unless it relates to a sustained finding against that officer. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a sustained finding against another officer that is subject to release pursuant to subparagraph (B) or (C) of paragraph (1).

(5) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of complainants and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(6) Notwithstanding paragraph (5), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information.

(7) An agency may withhold a record of an incident described in subparagraph (A) of paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the use of force occurred or until the district attorney determines whether to file criminal charges related to the use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure

of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about use of serious force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 6258 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule thereto, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in subparagraph (A) of paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the use of force, or allegation of use of force, by a person authorized to initiate an investigation, or 30 days after the close of any criminal investigation related to the peace officer or custodial officer's use of force, whichever is later.

(8) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or his or her agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 3. Section 832.8 of the Penal Code is amended to read:

832.8. As used in Section 832.7, the following words or phrases have the following meanings:

(a) "Personnel records" means any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

(1) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information.

(2) Medical history.

(3) Election of employee benefits.

(4) Employee advancement, appraisal, or discipline.

(5) Complaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she perceived, and pertaining to the manner in which he or she performed his or her duties.

(6) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

(b) “Sustained” means a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Sections 3304 and 3304.5 of the Government Code, that the actions of the peace officer or custodial officer were found to violate law or department policy.

(c) “Unfounded” means that an investigation clearly establishes that the allegation is not true.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which amends Section 832.7 of the Penal Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

The public has a strong, compelling interest in law enforcement transparency because it is essential to having a just and democratic society.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

Exhibit B

Subject: Public records request -- letters of discipline all
Date: Tuesday, January 1, 2019 at 9:01:10 AM Pacific Standard Time
From: Lau, Maya <Maya.Lau@latimes.com>
To: Discovery Unit PRA Requests <DiscoveryUnitPRARequests@lasd.onmicrosoft.com>
CC: Leiva, Katherine P. <kpleiva@lasd.org>
Attachments: image003.jpg, PRA.Sheriff.Records.1.1.19a.doc

Hi there,

Please see attached a public records request, the text of which is the same as the below. Could you confirm you got this?

Thank you.

Maya

Los Angeles Times

453 S. Spring St. Ste. 308
Los Angeles, CA 90013

Lt. Chad Smeltzer
Los Angeles County Sheriff's Department
Discovery Unit
Via Email: prarequests@lasd.org

Jan. 1, 2019

Re: Public records request – letters of discipline

Dear Lt. Smeltzer, or his designee:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), I am asking to review records in the possession of your agency. Specifically, I would like to review:

- Any and all **letters of discipline** for current and former sworn officers employed by your agency relating to reports, investigations, or findings from:
 - Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
 - Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime; or

officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

By Letters of Discipline, I am referring to any documents sent to peace officers that notify them of the discipline being imposed against them. The documents may also include the severity of the discipline; the policies and procedures violated; the basic facts of the case, the officer's work history and whether the officer contested the discipline.

Please respond to this request promptly.

As you probably know, the following legal rules apply to this request.

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made "promptly available." No provision of the CPRA, including the response periods noted below, "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records."

Deadlines: Government Code Section 6253 (c)

You are required "promptly" and in no case more than 10 calendar days from the date of this request, to determine, and inform me in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or
- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth "the reasons for the extension and the date on which a determination is expected to be dispatched." If you determine that any of the records I have requested are disclosable, your written notice must "state the estimated date and time when the records will be made available."

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act "shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information I have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of my request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information I have requested, please respond to me in writing, via email, citing the specific portion of the law

that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don't hesitate to contact me if you have any questions about my request. I can be reached at (213) 221-5754 and maya.lau@latimes.com.

Sincerely,

Maya Lau | Los Angeles Times Staff Writer

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

Exhibit C



Gary D. Bean, Sheriff

County of Los Angeles
Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



January 4, 2013

RECEIVED

JAN 23 2013

yes
Deputy William Cordero, #405352

EX-RELATION

Dear Deputy Cordero:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of fifteen (15) days.

An investigation under IAB File Number 2305823, conducted by Internal Affairs Bureau, coupled with your own statements has established the following:

1. That, in violation of Manual of Policy and Procedures (MPP) Sections 3-01/050.10, Performance to Standards; and/or 3-01/030.10, Obedience to Laws, Regulations and Orders (specifically pertaining to Miscellaneous Line Procedures, 5-09/220.50, Foot Pursuits), on or about January 29, 2011, while on duty, you were involved in an unauthorized foot pursuit of a suspect and/or failed to initiate a radio broadcast of the foot pursuit as required by Department policy.
2. That, in violation of Manual of Policy and Procedures (MPP) Sections 3-01/050.10, Performance to Standards; and/or 3-01/090.15, Unauthorized Person in County Vehicle, on or about January 29, 2011, while on duty, you failed to follow Department policy by allowing a civilian to ride in your patrol vehicle without the proper authorization. The Ride-Along did not complete the required Ride-Along waiver form prior to participating in a patrol ride with you.

01/03/13

A Tradition of Service Since 1850

LASD 001335

3. That in violation of Manual of Policy and Procedures (MPP) Sections 3-01/050.10, Performance to Standards; and/or 3-01/100.35, False Information in Records, on or about January 29, 2011, while on duty, you failed to perform to standards established for your position when you authored an inaccurate crime report and/or failed to document the presence of a Ride-Along who witnessed a crime.
4. That in violation of Manual of Policy and Procedures (MPP) Section 3-01/030.05, General Behavior, on or about January 29, 2011, while on duty, you wrote an inaccurate report thereby bringing discredit and embarrassment upon yourself and the Los Angeles County Sheriff's Department.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

Failure to respond to this Letter of Intent within ten (10) business days will be considered a waiver of your right to grieve and will result in the imposition of this discipline indicated herein.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Maggie Dixon, of Internal Affairs Bureau, at (323) 890-5314, and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Original Signed

Douglas A. Fetteroll, A/Captain
Commander, Avalon Station

LASD 001336

Exhibit D

Subject: [MARKETING] Request for electronic discipline records
Date: Monday, December 31, 2018 at 11:59:18 PM Pacific Standard Time
From: Ben Poston and Maya Lau <ben.poston@latimes.com>
To: Discovery Unit PRA Requests <DiscoveryUnitPRAREquests@lasd.onmicrosoft.com>

Jan. 1, 2019

To Whom It May Concern:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), we are asking for electronic records in the possession of your agency. Specifically:

Information for all current and former sworn officers relating to:

- Any incident involving the discharge of a firearm at a person by a peace officer or custodial officer;
- Any incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
- Any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
- Any incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Specifically, we would like the electronic records to include the following fields:

First, last and middle name of officer; employee or badge number; most recent

rank; rank at the time of discipline; date hired; current employment status (active, retired, etc); current salary; current total compensation; date of separation from the agency; work location (station, beat or division); policy violation type, date of policy violation; discipline type (suspension, reprimand, termination);suspension length in days; whether the discipline was contested or appealed; result of the appeal.

We ask that this data be provided in a machine-readable format such as a Microsoft Excel file, a text file or a Microsoft Access file.

We also request a copy of the record layout of the database and a data dictionary to help interpret the information in the database.

Please respond to this request promptly.

As you probably know, the following legal rules apply to this request:

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made “promptly available.” No provision of the CPRA, including the response periods noted below, “shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”

Deadlines: Government Code Section 6253 (c)

You are required “promptly” and in no case more than 10 calendar days from the date of this request, to determine, and inform us in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify us in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or

- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth “the reasons for the extension and the date on which a determination is expected to be dispatched.” If you determine that any of the records we have requested are disclosable, your written notice must “state the estimated date and time when the records will be made available.”

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information we have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of our request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information we have requested, please respond to us in writing, via email, citing the specific portion of the law that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don’t hesitate to contact us if you have any questions about our request. Ben Poston can be reached at (213) 237-2205 or ben.poston@latimes.com and Maya Lau can be reached at 213-221-5754 or maya.lau@latimes.com.

Sincerely,

Ben Poston and Maya Lau | Los Angeles Times Staff Writers

This email was sent to Prarequests@lasd.org
[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)
LA Times · 2300 E. Imperial Highway · El Segundo, CA 90245 · USA

Exhibit E

Subject: Public records request -- Brady letters
Date: Tuesday, January 1, 2019 at 9:01:27 AM Pacific Standard Time
From: Lau, Maya <Maya.Lau@latimes.com>
To: Discovery Unit PRA Requests <DiscoveryUnitPRARequests@lasd.onmicrosoft.com>
CC: Leiva, Katherine P. <kpleiva@lasd.org>
Attachments: image003.jpg, PRA.LASD.BradyLetters.1.1.19.docx

Hi there,

Please see attached a public records request, the text of which is the same as the below. Could you confirm you got this?

Thank you.

Maya

Los Angeles Times

453 S. Spring St. Ste. 308
Los Angeles, CA 90013

Lt. Chad Smeltzer
Los Angeles County Sheriff's Department
Discovery Unit
Via Email: prarequests@lasd.org

Jan. 1, 2019

Re: Public records request -- Brady letters

Dear Lt. Smeltzer, or his designee:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), I am asking to review records in the possession of your agency. Specifically, I would like to review:

- Any and all letters sent on or around Oct. 14, 2016 by former Assistant Sheriff Todd Rogers to deputies notifying them that potential *Brady vs. Maryland* material had been identified in their personnel files. Please include copies of each letter that was sent, not a sample letter.
- Any and all letters received by Capt. Gregory Nelson, sent by Los Angeles County Sheriff's deputies or their representatives, in response to Rogers' Oct. 2016 letter about *Brady* material
- Any and all letters sent by the Los Angeles County Sheriff's Department to deputies, after Oct. 24, 2016, including printouts of the deputies' Personnel Performance Indexes (PPIs)
- Any and all lists of deputies with potential *Brady* material in their personnel files – sometimes called a "Brady list" – compiled in any form by the Los Angeles County Sheriff's Department

Please respond to this request promptly.

As you probably know, the following legal rules apply to this request.

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made “promptly available.” No provision of the CPRA, including the response periods noted below, “shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”

Deadlines: Government Code Section 6253 (c)

You are required “promptly” and in no case more than 10 calendar days from the date of this request, to determine, and inform me in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or
- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth “the reasons for the extension and the date on which a determination is expected to be dispatched.” If you determine that any of the records I have requested are disclosable, your written notice must “state the estimated date and time when the records will be made available.”

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information I have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of my request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information I have requested, please respond to me in writing, via email, citing the specific portion of the law that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don’t hesitate to contact me if you have any questions about my request. I can be reached at (213) 221-5754 and maya.lau@latimes.com.

Sincerely,

Maya Lau | Los Angeles Times Staff Writer

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

Exhibit F

Los Angeles Times

453 S. Spring St. Ste. 308
Los Angeles, CA 90013

Lt. Chad Smeltzer
Los Angeles County Sheriff's Department
Discovery Unit
Via Email: prarequests@lasd.org

Jan. 1, 2019

Re: Public records request – letters of discipline, named individuals

Dear Lt. Smeltzer, or his designee:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), I am asking to review records in the possession of your agency. Specifically, I would like to review:

- For the following current and former Los Angeles County Sheriff's deputies, any and all **letters of discipline** relating to reports, investigations, or findings of:
 - Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
 - Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.
- **Alexandro (a.k.a. Alex) Villanueva #246296**
- **Ray Leyva**
- **Robert Olmsted**
- **Tim Murakami**
- **LaJuana Haselrig**
- **Eliezer Vera**
- **James Hellmold**
- **John S. Benedict**
- **Caren Carl Mandoyan**
- **James P. McDonnell**
- **Jacques Anthony La Berge**
- **Bobby Denham**
- **Edwardo Rivero**
- **Alicia Ault**
- **Paul Tanaka**
- **Leroy Baca**

- **Richard Westin**
- **Todd Rogers**
- **Jody Sharp**
- **Christy A. Guyovich**
- **Joseph E. Dempsey**
- **Sergio Aloma #263553**
- **Christopher Blasnek #220850**
- **Christopher Cahhal #246300**
- **Agustin Del Valle #235077**
- **Scott Johnson #155628**
- **Carlos Marquez #268098**
- **Christopher Reed #260198**
- **Anthony Rivera #238846**
- **Andrew Rosso #221088**
- **April Tardy #428406**
- **Joseph M. Gooden**
- **Kelley S. Fraser**
- **Eric Parra**
- **Stephen Johnson**
- **Maria Gutierrez**
- **Jaime Juarez**
- **John C. Stedman**
- **Alicia Ault**
- **Giancarlo Scotti**
- **Neil David Kimball**
- **Adam Halloran # 525753**
- **Michael McPheeters #247594**
- **John Leitelt #466200**
- **Mike Vann #517171**
- **Dan Peacock #273476**
- **Jeremy Joseph Fennell**
- **Marc Antrim**
- **Samuel Aldama**
- **Mizrain Orrego**
- **Ron Hernandez**
- **Josh Clark**
- **Carlos Arellano**
- **Brian Moriguchi**
- **Renard Ables**
- **Crystal Abrego**
- **Jeffrey Acton**
- **Donald Alexander**
- **Derrick Alfred**
- **Allen, Marco**
- **Alvarez, Gabriela**
- **Ament, Joseph**
- **Anderson, Ronald**
- **Anguiano, Jesus**
- **Apolinar, Daniel**
- **Armes, Andrew**

- **Ascolese, Michael**
- **Avila, David**
- **Avila, Otoniel**
- **Ayala, Sussie**
- **Bailey, Dale**
- **Banuelos, Ernesto**
- **Barnett, John**
- **Benitez, Patricia**
- **Benning, Robert**
- **Berg, Michael**
- **Bernasconi, Raymond E.**
- **Bishop, Cort**
- **Boothe, Kevin**
- **Borrego, Arturo**
- **Boyer, Steven**
- **Bravo III, Frank**
- **Brock, Michael**
- **Burgos, Shanelle**
- **Burks, Kyle**
- **Burton, John**
- **Callahan, Eric**
- **Callahan, Gilbert**
- **Campbell, David**
- **Candelario, Remberto L.**
- **Canela, Brian**
- **Canfield, Richard**
- **Caouette, Michael**
- **Carr, Gregory**
- **Carter, Thomas**
- **Castillo Ruiz, Rafael**
- **Cecere, Andrea**
- **Chaffin Jr., William**
- **Chamness, Christian**
- **Chey, Renna**
- **Clayborn, Arthur**
- **Coates, Jeffrey**
- **Cocke, Richard**
- **Collier, Damon**
- **Collinsworth, Keith**
- **Conner, Robert**
- **Contreras, Angela**
- **Cordero, William**
- **Courduff, Christophe**
- **Crosswhite, Jason**
- **Crow, Greg**
- **Currie, Dean**
- **Curry, Andre**
- **Curry, Richard**
- **Dailey, Kenneth**
- **Davis, Gary**

- Dawley, Jerome
- De La Garza, Robert
- Debets, Johnny
- Debs, Lisa
- Delaney, Anthony
- Denkinger, Bela
- Diggs, Lawrence
- Dowling, Casey Christopher
- Drake, Thomas
- Duffy, Vance
- Duran, Daniel
- Duran, Louis
- Duxbury, Kevin
- Eddins, Lance
- Edwards, Jerome
- Ellis, Richard
- Enriquez, Alyssa
- Enriquez, Baldomero
- Erena, Robert
- Esquibel, Ricardo
- Fernandez, Max
- Flores, Eduardo
- Flores, Julian
- Forney, Randall
- Gamez, Francisco
- Gamez, Ramon
- Garcia, Jorge
- Garcia, Roel
- Garza, Manuel
- Gonzalez, Angela
- Gonzalez, Daniel
- Gonzalez, Jose
- Gordon, Joel
- Graves, Gabrielle
- Greenberg, Lane D.
- Grubb, James
- Guerrero-Gonzalez, Pedro
- Guerrero, Guillermo
- Guevara, David
- Gurr, Richard
- Hale, Eldon
- Hanley, Paul
- Hartshorne, Brandon
- Healy, Cornelius
- Heredia, Francisco
- Hernandez, David A
- Hernandez, Luis
- Hernandez, Romelia
- Higuera, Frank
- Holm, John

- **Horsley, Michael**
- **Howard, Baron**
- **Hurst, Brian**
- **Idlebird, Terence**
- **Jackson, Jermaine**
- **Jacobson, David**
- **Jensen, Jarrod**
- **Jensen, Thomas M.**
- **Jimenes, Jesus**
- **Jimenez, Susana**
- **Jimenez, Timothy**
- **Johnson, David**
- **Johnson, Roosevelt**
- **Jones, Clifford**
- **Jordan, Thomas**
- **Jouzi, David**
- **Jurado, Gilbert**
- **Kennison, Ronald**
- **Klement Jr., Timothy**
- **Kluth, David**
- **Knudson, Robert**
- **Larios, Antonio**
- **Lear, Davis**
- **Leavins, Stephen**
- **Lee, Brian**
- **Lee, John**
- **Leyba Jr., Robert R.**
- **Lindsay, Robert**
- **Loquet, Rene**
- **Loureiro, Armando**
- **Love, Brandon**
- **Luna, Philip**
- **Lutz, Richard**
- **Macias, Armando**
- **Macias, Orlando**
- **Macias, Ruben E**
- **Macinnis, Stephen C.**
- **Maddalena, Richard S.**
- **Magallanes, George**
- **Magdaleno, Enrique**
- **Malki, Martha**
- **Maloney, Shane**
- **Manning, Robert**
- **Marella, Steven**
- **Martinez, Edmundo**
- **Maus, Scott**
- **McDaniel, Charles**
- **McDonagh, Eric**
- **McDonagh, Gerlene**
- **Mead, Larry**

- **Mercado, Martin**
- **Meza, Jorge**
- **Modica, Michael**
- **Moore, Jeffrey L.**
- **Moore, Leon**
- **Morris, Daniel**
- **Mosley, Otis**
- **Motts, David**
- **Muhammad, Kevin**
- **Munoz, Fabian**
- **Murgatroyd, Ramon**
- **Nagler, Richard**
- **Navarro, Andres**
- **Nichol, Robert**
- **Nuckols, Charles**
- **Nuno, Hector**
- **Oganesyan, Armond**
- **Oliver, Marquette**
- **Ortiz, Tony**
- **Ovalle, Jose M.**
- **Owens, Timothy**
- **Pak, Sung**
- **Palm, William**
- **Paredes, Gerardo**
- **Parks, Joseph**
- **Pate, Jimmie**
- **Pellicano, Michael**
- **Pena, Enrique**
- **Pena, Javier**
- **Perez, Arthur**
- **Perez, John**
- **Perez, Maricruz**
- **Perez, Richard**
- **Perez, Steven**
- **Peterson, James**
- **Pomposo, David**
- **Ponce, Kimberly**
- **Prentice, John**
- **Prieto, Mariano**
- **Quiroga, John E**
- **Quiroz, Steve**
- **Racho, Jose F**
- **Rafter, Michael H**
- **Ramirez, Alejandro C**
- **Ramirez, Antonio**
- **Rebueno, Antonio**
- **Reddish, David**
- **Reed, Robert A**
- **Reyes, Alfred M**
- **Richards, Brian J**

- Rickell, Keith F
- Riggin, Jeffery L
- Risiglione, Robert
- Roachford, Donaldo F
- Roberts, Michelle
- Robledo Jr., Jose A
- Rodarte, Mario J
- Rodriguez, Abran
- Rodriguez, Angel Aurelio
- Rodriguez, Charles G
- Rodriguez, Ernesto D
- Rojas, Adriana
- Rubalcaba, Richard J.
- Ruedas, Ralph A
- Ruffin, Veronica A
- Ruiz, Rafael C
- Salazar, Virginia A.
- Salles, Mark
- Sanchez, Guillermo
- Sanchez, John
- Santino, Deanna
- Santos, Carlos
- Schaap, Michael
- Shaw, Robert
- Shreves, Jeffrey
- Skeels, Dennis
- Smith III, Robert
- Smith, Carl G
- Smith, David
- Smyth, Seon
- Spelatz, Jeffrey
- Starks, Jerome
- Stephen, Joseph H
- Stephens, Mark Russell
- Strawn, Richard C. Curtis
- Strickland, Michael Allen
- Sullivan, Kevin
- Sutton, Carlos A
- Sweeney, Wayne
- Tafoya, Alex A.
- Tauilili, Peivi
- Thatcher, Michael #223404
- Thomas, Arthur R.
- Thomas, Bruce David
- Thompson, Darin
- Thompson, Donald D.
- Thornton Jr., James C.
- Torres, Erica A.
- Tubbs, Robert
- Urrutia, Larry J.

- **Valentine, David E**
- **Valenzuela Jr., Jesus**
- **Vallozzi, Alexander**
- **Van Houten, Joshua**
- **Vasquez, David B**
- **Verdugo, Eduardo M.**
- **Walden, Yancy**
- **Walker, Rudolph**
- **Walth, Michael J.**
- **Wargo, John**
- **Washington, William J.**
- **Wealer, Steven**
- **Webb, Ray**
- **White, John W.**
- **Wolf, Rene**
- **Yegavian, Bedros R**
- **All of the officials listed on the attached LASD organization chart, to the extent their names are not already listed above.**
- **All of the deputies listed on any department list of officers with potential Brady material (a.k.a. evidence of moral turpitude) in their personnel files, to the extent their names are not already listed above.**
- **All of the deputies listed on any department list of officers who have been involved in 3 or more shootings or 3 or more uses of serious force, to the extent their names are not already listed above.**

By Letters of Discipline, I am referring to any documents sent to peace officers that notify them of the discipline being imposed against them. The documents may also include the severity of the discipline; the policies and procedures violated; the basic facts of the case, the officer's work history and whether the officer contested the discipline.

Please respond to this request promptly.

As you probably know, the following legal rules apply to this request.

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made "promptly available." No provision of the CPRA, including the response periods noted below, "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records."

Deadlines: Government Code Section 6253 (c)

You are required "promptly" and in no case more than 10 calendar days from the date of this request, to determine, and inform me in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or

- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth “the reasons for the extension and the date on which a determination is expected to be dispatched.” If you determine that any of the records I have requested are disclosable, your written notice must “state the estimated date and time when the records will be made available.”

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information I have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of my request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information I have requested, please respond to me in writing, via email, citing the specific portion of the law that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don’t hesitate to contact me if you have any questions about my request. I can be reached at (213) 221-5754 and maya.lau@latimes.com.

Sincerely,

Maya Lau | Los Angeles Times Staff Writer

Exhibit G



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



January 10, 2019

Ben Poston
Maya Lau
ben.poston@latimes.com
Maya.Lau@latimes.com

Dear Mr. Poston and Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated January 1, 2019, and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on December 31, 2018.

In your request, you are seeking the following:

"Information for all current and former sworn officers relating to:"

- "Any incident involving the discharge of a firearm at a person by a peace officer or custodial officer;"
- "Any incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;"
- Any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;"
- "Any incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence."

"Specifically, we would like the electronic records to include the following fields:"

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

- "First, last and middle name of officer; employee or badge number; most recent rank; rank at the time of discipline; date hired; current employment status (active, retired, etc); current salary; current total compensation; date of separation from the agency; work location (station, beat or division); policy violation type, date of policy violation; discipline type (suspension, reprimand, termination); suspension length in days; whether the discipline was contested or appealed; result of the appeal."

Although the Sheriff's Department is obligated to respond within 10 days of receipt of the request, this time limit is subject to an extension of up to fourteen (14) days under the following circumstances as defined in Government Code §6253(c)(1):

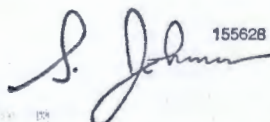
The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

In addition, please note that we may redact or withhold records if there are any exempt matters impacting the privacy rights of individuals (California Constitution, Article I, Section 1, and Government Code Sections 6254(k) and 6255(a)). Other exempt matters will include those protected by the attorney-client, official information and deliberative process privileges, pending litigation exemption, personnel exemption, or other matters otherwise protected from disclosure by law or where the particular facts and circumstances warrant nondisclosure of the information (Government Code sections 6254(b), (c), (k), and 6255(a)).

If you have any questions, please contact Lieutenant Smeltzer of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in black ink, appearing to read "S. Johnson", with the number "155628" written in small print to the right of the signature.

Scott E. Johnson, Captain
Risk Management Bureau



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



January 10, 2019

Ben Poston
Maya Lau
ben.poston@latimes.com
Maya.Lau@latimes.com

Dear Mr. Poston and Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated January 1, 2019, and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on December 31, 2018.

In your request, you are seeking the following:

- “Letters of discipline from Jan. 1, 2014, through Jan. 1, 2019, for current and former sworn officers employed by your agency relating to reports, investigations, or findings from:”
 - “Any incident involving the discharge of a firearm at a person by a peace officer or custodial officer;”
 - “Any incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;”
 - “Any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;”
 - “Any incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.”

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

Although the Sheriff's Department is obligated to respond within 10 days of receipt of the request, this time limit is subject to an extension of up to fourteen (14) days under the following circumstances as defined in Government Code §6253(c)(1):

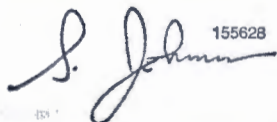
The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

In addition, please note that we may redact or withhold records if there are any exempt matters impacting the privacy rights of individuals (California Constitution, Article I, Section 1, and Government Code Sections 6254(k) and 6255(a)). Other exempt matters will include those protected by the attorney-client, official information and deliberative process privileges, pending litigation exemption, personnel exemption, or other matters otherwise protected from disclosure by law or where the particular facts and circumstances warrant nondisclosure of the information (Government Code sections 6254(b), (c), (k), and 6255(a)).

If you have any questions, please contact Lieutenant Smeltzer of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF



Scott E. Johnson, Captain
Risk Management Bureau

Exhibit H

Los Angeles Times

2300 E. Imperial Highway
El Segundo, CA 90245
213-237-5000
jeff.glasser@latimes.com

March 8, 2019

Jeff Glasser
General Counsel

VIA EMAIL AND US MAIL

Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
Hall of Justice
211 W. Temple Street
Los Angeles, CA 90012
avillan@lasd.org

Lieutenant Chad Smeltzer
Risk Management Bureau
Los Angeles County Sheriff's Department
4900 S. Eastern Ave. #102
Commerce, CA 90040
cesmeltz@lasd.org

Dear Sheriff Villanueva and Lieut. Smeltzer:

I represent the Los Angeles Times and reporters Maya Lau and Ben Poston ("The Times"). The Times made California Public Records Act requests to the Los Angeles County Sheriff's Department ("LASD") for certain SB 1421 records January 1 and 7, 2019, including asking for letters of discipline, *Brady v. Maryland* letters, and records pertaining to the discipline of Caren Carl Mandoyan. LASD has had almost ten weeks to process the records, and yet LASD has not disclosed a single record to The Times.

LASD can no longer invoke the litigations brought by unions to block disclosure of the requested records. Despite the failure of LASD to defend public access to these important records, the courts have rejected the contentions of the Association of Los Angeles Deputy Sheriffs and the Professional Peace Officers Association. As you are aware, the California Supreme Court denied review and a request for a stay in the ALADS lawsuit, and PPOA dismissed its lawsuit.

LASD's delays violate the CPRA. Under the CPRA, agencies must respond within 10 days to the sender of a request and inform the requester whether the records

will be disclosed or withheld pursuant to a specific exemption. State law also gives agencies the ability to request an extension of that deadline by no more than 14 days only in "unusual circumstances," which are strictly limited under the law. Government Code Section 6253(b) requires a public agency to make public records "promptly available" to a requester such as The Times. And Government Code Section 6253(d) says, "Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records."

These statutory provisions are mandatory under the CPRA. *Marken*, 202 Cal. App. 4th at 1268 n.14 (2012) (expressing serious concern about whether a 40-day delay in disclosure of public records complied with the CPRA). In 2013, the Los Angeles Superior Court issued a declaratory judgment against the Los Angeles Memorial Coliseum Commission, finding that its repeated failures to disclose to The Times responsive records in a prompt manner constituted "unreasonable delays" that violated the CPRA. The Times and Californians Aware recovered more than \$400,000 for the unreasonable delays and wrongful withholdings.

Here, LASD is well beyond the 10-day period for response and the 14-day extension for unusual circumstances. LASD's continued delays in disclosing SB 1421 records are obstructing public access to key records reflecting on shootings and how the agency dealt with police misconduct. The Times and the public have a right to inspect these records containing highly newsworthy information. If LASD continues to fail to provide the required prompt access to the requested information, and The Times is forced to obtain an order compelling LASD to live up to its obligations under the CPRA, then LASD will be responsible for all of The Times' fees and costs. *Filarsky v. Superior Court*, 28 Cal. 4th 419, 431 (2002) (noting that CPRA's attorney fee "provision contemplates that the public agency always will pay any costs and attorney fees should the plaintiff prevail"); *Los Angeles Times Communications LLC v. Alameda County Trans. Auth.*, 88 Cal. App. 4th 1381, 1390 (2001) (prevailing party must be awarded fees under Government Code Section 6259(d)).

Please give me a call (213-237-7077) or email me at jeff.glasser@latimes.com to discuss these issues further.

Sincerely,



Jeff Glasser
General Counsel
Los Angeles Times

cc: Geoffrey Sheldon
Kelly Aviles
Shelby Grad
Jack Leonard
Maya Lau
Ben Poston

Exhibit I



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 8, 2019

Ben Poston
Maya Lau
ben.poston@latimes.com
Maya.Lau@latimes.com

Dear Mr. Poston and Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated January 1, 2019, and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on December 31, 2018.

In your request, you are seeking the following:

- Letters of discipline from Jan. 1, 2014, through Jan. 1, 2019, for current and former sworn officers employed by your agency relating to reports, investigations, or findings from:
 - Any incident involving the discharge of a firearm at a person by a peace officer or custodial officer;
 - Any incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
 - Any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
 - Any incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

Response: Unfortunately, we are unable to assist you with your request as it is too broad in scope. The Public Records Act, Government Code §6253(b), requires that a request for a copy of records reasonably describe the identifiable record or records. If you would please provide us with more detailed information such as: the name of the deputy that you want records for, we will be happy to assist you

If you have any questions, please contact Lieutenant Smeltzer of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in black ink that reads "Kimberly L. Unland". There is a small red mark above the "y" in "Unland".

Kimberly L. Unland, Captain
Risk Management Bureau



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 8, 2019

Ben Poston
Maya Lau
ben.poston@latimes.com
Maya.Lau@latimes.com

Dear Mr. Poston and Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated January 1, 2019, and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on December 31, 2018.

In your request, you are seeking the following:

"Information for all current and former sworn officers relating to:"

- "Any incident involving the discharge of a firearm at a person by a peace officer or custodial officer;"
- "Any incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;"
- Any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;"
- "Any incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence."

"Specifically, we would like the electronic records to include the following fields:"

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

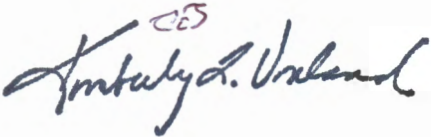
- "First, last and middle name of officer; employee or badge number; most recent rank; rank at the time of discipline; date hired; current employment status (active, retired, etc); current salary; current total compensation; date of separation from the agency; work location (station, beat or division); policy violation type, date of policy violation; discipline type (suspension, reprimand, termination); suspension length in days; whether the discipline was contested or appealed; result of the appeal."

Response: Unfortunately, we are unable to assist you with your request as it is too broad in scope. The Public Records Act, Government Code §6253(b), requires that a request for a copy of records reasonably describe the identifiable record or records. If you would please provide us with more detailed information such as: the name of the deputy that you want records for, we will be happy to assist you

If you have any questions, please contact Lieutenant Smeltzer of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF



Kimberly L. Unland, Captain
Risk Management Bureau

Exhibit J



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 12, 2019

Maya Lau
Los Angeles Times
Editorial/Metro – 3rd Floor
202 West First Street
Los Angeles, CA 90012
Maya.Lau@latimes.com

Dear Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on January 1, 2019.

In your request, you are seeking the following:

1. "Any and all letters sent on or around Oct. 14, 2016 by former Assistant Sheriff Todd Rogers to deputies notifying them that potential *Brady vs. Maryland* material had been identified in their personnel files. Please include copies of each letter that was sent, not a sample letter."
2. "Any and all letters received by Capt. Gregory Nelson, sent by Los Angeles County Sheriff's deputies or their representatives, in response to Rogers' Oct. 2016 letter about *Brady* material"
3. "Any and all letters sent by the Los Angeles County Sheriff's Department to deputies, after Oct. 24, 2016, including printouts of the deputies' Personnel Performance Indexes (PPIs)"
4. "Any and all lists of deputies with potential *Brady* material in their personnel files – sometimes called a "Brady list" – compiled in any form by the Los Angeles County Sheriff's Department"

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

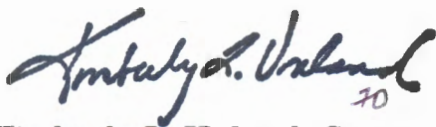
A Tradition of Service
— Since 1850 —

Response: The responsive records are not being released to you because they are exempt from disclosure under several authorities, including, but not limited to the following: California Constitution art.I, section 1; Government Code sections 6254 (b), (c), (f), (k), 6255, Evidence Code 1043, Penal Code sections 832.7 and 832.8, and by court order (Los Angeles Superior Court Case No. BS 166063).

If you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in black ink that reads "Kimberly L. Unland" with a small "70" written below the name.

Kimberly L. Unland, Captain
Risk Management Bureau

Exhibit K

Los Angeles Times

2300 E. Imperial Highway
El Segundo, CA 90245
213-237-5000
jeff.glasser@latimes.com

March 29, 2019

Jeff Glasser
General Counsel

VIA EMAIL AND US MAIL

Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
Hall of Justice
211 W. Temple Street
Los Angeles, CA 90012
avillan@lasd.org

Lieutenant Alise Norman
Risk Management Bureau
Los Angeles County Sheriff's Department
4900 S. Eastern Ave. #102
Commerce, CA 90040
anorman@lasd.org

Dear Sheriff Villanueva and Lieut. Norman:

I represent the Los Angeles Times and reporters Maya Lau and Ben Poston ("The Times"). The Los Angeles County Sheriff's Department (the "County") failed to address my letter of March 8, 2019, and instead sent a form response claiming that The Times did not describe identifiable SB 1421 records or that The Times' requests for these records are overbroad. Either claim is meritless – and contradictory to prior communications with Times reporters when the County claimed that it was working to process the requested records pertaining to serious uses of force or discharges of firearms by Sheriff's deputies, sustained findings of sexual assault involving Sheriff's deputies, and/or discipline of Sheriff's deputies for misconduct such as dishonesty or falsifying or concealing evidence.

No other public agency has claimed that California Public Records Act ("CPRA") requests for letters of discipline or the specified electronic records made disclosable by SB 1421 do not describe identifiable public records. The claim does not pass the barest of scrutiny – it is well known, for example, that the County has a Personnel Performance Index ("PPI") database that tracks Sheriff's deputies and officials who are disciplined. Those records are within SB 1421, and the County must disclose them. Among its

requests, The Times asked for SB 1421 records pertaining to a single deputy, Caren Carl Mandoyan, who was terminated after being disciplined and reinstated this year. Despite no court order preventing disclosure, the County Sheriff's Department has failed to produce any records pertaining to Mandoyan, even though such records obviously exist – The Times this week obtained records on Mandoyan from the County Civil Service Commission. See <https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-video-20190327-story.html>. The County's claims about letters of discipline are also untrue. We know the County Sheriff's Department maintains letters of discipline because The Times has published prior letters of intent to discipline deputies. See <http://documents.latimes.com/andrea-cecere-letter-discipline/>; <http://documents.latimes.com/william-cordero-letter-discipline/>; <http://documents.latimes.com/jeffrey-l-moore-letter-intent-discipline/>.

As to the County's claims that the requests are overbroad, the County would have to demonstrate that the public interest in nondisclosure on the basis of the breadth of records clearly outweighs the public interest in disclosure. See Gov't Code § 6255. The County cannot do so here. As many courts have recognized, the Public Records Act imposes a tangible burden on government agencies to produce records. The Legislature was aware of this case law when it enacted SB 1421, opening to the public records regarding investigations of police shootings, officer dishonesty and discipline. Balanced against any burden that the County may face is the robust public interest in disclosure of police records on misconduct and lethal shootings. The California Supreme Court has found an overwhelming public interest in records reflecting on the activities of peace officers. That interest obviously exists here, where the public deserves to understand how the County investigated these shootings and allegations of misdeeds by those entrusted with protecting us.

If the County was going to deny The Times' records requests, then the Association of Los Angeles Deputy Sheriffs never should have been allowed to bring a lawsuit seeking to enjoin disclosure of records that the County never intended to disclose. In any event, if the County persists with this gamesmanship in preventing the public and The Times from inspecting SB 1421 records, and The Times is forced to include this behavior in a lawsuit, The Times will be entitled to recover all of its reasonable attorneys' fees and costs in holding the County to account for its serial violations of the CPRA.¹ See Gov't Code § 6259.

¹ The County repeatedly has refused to comply with CPRA requests made by The Times. In 2016, the County tried to charge The Times almost \$7,000 for Times reporters to inspect emails sent, forwarded or received by the Sheriff's Department command staff containing racist or derogatory language. In 2017, the County Sheriff's Department refused to provide the official government email addresses and jobs held by its employees. The County also refused to produce information about the statuses of homicide cases, including the Sheriff's Department case numbers, homicide dates, times, and locations, the victim's ages, sex, and names, the names, dates of birth, sex, and races of any persons arrested. The County previously had produced similar information to another news organization. The County also refused to provide any

The Times' Requests And The County's Responses.

On January 1, 2019, Ben Poston and Maya Lau of The Times made CPRA requests for letters of discipline from January 1, 2014 through January 1, 2019, for current and former sworn officers employed by the County Sheriff's Department relating to the categories of information made public by SB 1421: any incident involving discharge of a firearm at a person by an officer; any incident in which use of force by an officer against a person resulted in death or great bodily injury; any incident in which an agency made a sustained finding that an officer engaged in sexual assault involving a member of the public; any incident in which any agency made a sustained finding of dishonesty directly relating to the reporting, investigation or prosecution of a crime, or directly relating to the reporting or investigation of misconduct, including findings of perjury, false statements, filing false reports, falsifying or concealing evidence. Mr. Poston and Ms. Lau of The Times made clear they were "referring to any documents sent to peace officers that notify them of the discipline being imposed against them." The documents may also include the severity of the discipline; the policies and procedures violated; the basic facts of the case; the officer's work history; and whether the officer contested the discipline, the reporters noted.

That same day, Ms. Lau and Mr. Poston of The Times requested electronic records in the possession of the County Sheriff's Department for the same categories of information outlined above that the Legislature made public by enacting SB 1421. They asked that the responsive electronic records include the following fields: "First, last and middle name of officer; employee or badge number; most recent rank; rank at the time of discipline; date hired; current employment status (active, retired, etc.); current salary; current total compensation; date of separation from the agency; work location (station, beat or division); policy violation type, date of policy violation; discipline type (suspension, reprimand, termination); suspension length in days; whether the discipline was contested or appealed; result of the appeal."

On the last day possible, January 10, 2019, the County granted itself an additional fourteen days for responding to these requests, with no explanation or effort

records about sexual misconduct and/or harassment claims lodged against non-sworn employees of the County District Attorney's Office, even though for more than 40 years California law has required disclosure of well-founded allegations of misconduct or where a public agency has imposed discipline. *E.g.*, *American Federation of State, County and Municipal Employees v. Regents of the Univ. of Calif.*, 80 Cal.App.3d 913, 914, 918 (1978); *Bakersfield City School Dist. v. Superior Court*, 118 Cal.App.4th 1041, 1047 (2004); *Marken v. Santa Monica-Malibu Unified School Dist.*, 202 Cal.App.4th 1250, 1268 (2012). These many refusals by the County have spawned several other pending litigations in which the County is spending large sums of money trying to deny The Times – and the public – access to vital information.

to meet the “unusual circumstances” standard set forth in Government Code Section 6253(c). Fifteen days later on January 25, 2019, past the maximum allowable time for response, the County sent emails claiming that it could not provide the records because the Association of Los Angeles Deputy Sheriffs had obtained a temporary restraining order. *See Association for Los Angeles Deputy Sheriffs v. County of Los Angeles, et al.*, Los Angeles Superior Court Case No. 19STCP00166. The County’s delays – enabling the union to file the reverse-CPRA lawsuit that the County is barred from filing under *Filarsky v. Superior Court*, 28 Cal. 4th 219 (2002) – are the subject of litigation by The Times and Southern California Public Radio. *See Los Angeles Times Communications LLC, et al., v. County of Los Angeles*, Los Angeles Superior Court Case No. 19STCP00118.

The Association for Los Angeles Deputy Sheriffs ended up losing in the trial court, and the Court of Appeal and California Supreme Court refused to issue stays stopping disclosure of the records requested by The Times. After these events, the County claimed it could not produce any records because of another case filed by the Professional Peace Officers Association to obstruct disclosure of the records requested by The Times. *See Professional Peace Officers Association v. County of Los Angeles, et al.*, LASC Case No. 19STCP00267. Once The Times successfully negotiated dismissal of the *Professional Peace Officers Association* case, and the County could no longer hide behind any pending litigation brought by third parties, the County then outright denied The Times’ requests, claiming on March 8, 2019 that the requests were “too broad in scope” or that The Times failed to make requests that “reasonably describe the identifiable record or records.”²

² The Times also requested the SB 1421 records for Mandoyan on January 8, 2019, and the County pursued the same delay tactics – granting a 14-day extension and then invoking the litigation brought by the unions. The County Sheriff’s Department still has not provided the SB 1421 records for Mandoyan, even though they cannot claim burden as to a single deputy and despite the fact that the Civil Service Commission has released SB 1421 records as to him. *See* <https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-video-20190327-story.html>; <https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-tattoo-20190328-story.html>. The Times also made requests for information related to the Brady List on January 1, 2019, including letters sent by former Assistant Sheriff Todd Rogers to deputies informing them that *Brady* information had been identified in their personnel files; letters received by Capt. Greg Nelson in response to Rogers’ letters; letters containing printouts of deputies’ PPIs; and any lists of deputies with potential *Brady* material in their files. On March 12, 2019, the County denied these requests, claiming that the records “are exempt from disclosure under several authorities, including, but not limited to the following: California Constitution art. I, section 1; Government Code sections 6254 (b), (c), (f), (k), 6255, Evidence Code 1043, Penal Code sections 832.7 and 832.8, and by court order (Los Angeles Superior Court Case No. BS 166063).”

The Times Made Requests For Identifiable Records.

The Times' requests described identifiable records. The requests detailed the information that The Times was seeking, which was the information made available under SB 1421.

Courts have not countenanced similar denial claims to the ones made by the County here, finding that "[f]eigned confusion ... is not grounds for denial." *California First Amendment Coalition v. Superior Court*, 67 Cal. App. 4th 159, 166-67 (1998). The Court of Appeal explained:

Unquestionably, public records must be described clearly enough to permit the agency to determine whether writings of the type described in the request are under its control. [The CPRA] compels an agency to provide a copy of non-exempt records upon a request 'which reasonably describes an identifiable record, or information produced therefrom...' However, the requirement of clarity must be tempered by the reality that a requester, having no access to agency files, may be unable to precisely identify the documents sought. Thus, writings may be described by their content. The agency must then determine whether it has such writing under its control and the applicability of any exemption. ***An agency is thus obligated to search for records based on criteria set forth in the search request.***

Id. (emphasis added).

The County, therefore, having full access to the files, is required to conduct "a search for records based on criteria set forth in the search request." *See id.* As in *California First Amendment Coalition*, 67 Cal. App. 4th at 166, the County must search for the records and information sought in the requests and has no excuse for failing to do so.

The County's claim in its March 8 letter that The Times' requests do not "reasonably describe the identifiable record or records" also is demonstrably untrue. For example, The Times asked for all letters of discipline from January 1, 2014 to January 1, 2019 for current and former deputies and officials related to the information made disclosable by SB 1421. These requests identified records that The Times has strong reason to believe exist, as The Times has published letters of discipline in the past sent to deputies by the County Sheriff's Department. *See* <http://documents.latimes.com/andrea-cecere-letter-discipline/>; <http://documents.latimes.com/william-cordero-letter-discipline/>; <http://documents.latimes.com/jeffrey-l-moore-letter-intent-discipline/>.

Likewise, The Times described identifiable records when it requested electronic records from January 1, 2014 to January 1, 2019 for current and former deputies and officials related to the information made disclosable by SB 1421. The County Sheriff's

Department maintains a Personnel Performance Index ("PPI") system that tracks uses of force and/or discipline of deputies, including a description of the basis for the discipline (e.g., dishonesty, improper tactics, falsifying or concealing evidence). Those are identifiable electronic records that the County must produce under SB 1421, as are the underlying records detailing the uses of force or conduct that led to the imposition of discipline. Further indication that the records are identifiable and exist comes from The Times' reporting on the Brady List, which shows that the County Sheriff's Department has maintained a list of deputies with histories of misconduct. See <https://www.latimes.com/local/la-me-sheriff-brady-list-20171208-htmllstory.html>. The records reflecting uses of force or misconduct of those individuals on the County Sheriff Department's Brady List fall squarely within The Times' requests for the information made disclosable by SB 1421.

The CPRA does not allow for the gamesmanship practiced to date by the County. To the contrary, Section 6253.1 of the CPRA requires that the County assist the Requester by taking all of the following steps:

- (1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
- (2) Describe the information technology and physical location in which the records exist.
- (3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

Here, the County has done none of those things or even explained why it cannot locate the responsive records. For all these reasons, the County's claims that The Times' requests do not describe identifiable records are baseless.

The County Cannot Establish That The Burden Of Producing SB 1421 Records Clearly Outweighs The Public Interest In Disclosure Of Records Reflecting Uses Of Force And/Or Misconduct By Deputies.

The County's claim that The Times' requests are overbroad does not provide a valid reason to deny them.

Breadth is not an exemption in the CPRA. While burden may be a factor under the balancing test set forth in Government Code Section 6255, to invoke Section 6255, the County would be required to "justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." The County has not

attempted to meet this stringent test, nor could it given the information sought in the requests.

As the court stated in *Cal State Univ., Fresno Ass'n v. Superior Court*, 90 Cal. App. 4th 810, 831 (2001), "[t]he burden of proof is on the proponent of nondisclosure, who must demonstrate a clear overbalance on the side of confidentiality." See also *San Gabriel Tribune v. Superior Court*, 143 Cal. App. 3d 762, 773 (1983) ("the burden of showing that non-disclosure is justified is on the agency seeking to withhold the requested record"). To satisfy this burden, the agency cannot rely on "speculative ... concerns." *Connell v. Superior Court*, 56 Cal. App. 4th 601, 612 (1997). As the California Supreme Court reaffirmed in 2014, a public agency cannot meet its burden with speculative and "vague" evidence. *Long Beach Police Officers Association v. City of Long Beach*, 59 Cal. 4th 59, 75 (2014). Instead, the agency must present "evidence" demonstrating the compelling need for secrecy. *New York Times v. Superior Court*, 218 Cal. App. 3d 1579, 1584 (1990). See also *CBS v. Superior Court*, 91 Cal. App. 4th 892, 908 (2001).

On the other side of the balance, "[i]f the records sought pertain to the conduct of the people's business, there is public interest in disclosure." *Citizens for a Better Environment v. Dep't of Food & Agric.*, 171 Cal. App. 3d 704, 715 (1985); *Connell*, 56 Cal. App. 4th at 616. In particular, the California Supreme Court has recognized that public access to government records helps "to expose corruption, incompetence, inefficiency, prejudice, and favoritism." *International Federation of Professional & Technical Eng., Local 21, AFL-CIO v. Superior Court* ("*Int'l Federation*"), 42 Cal. 4th 319, 328-329, 333 (2007). The Court also has credited the public's "legitimate interest" in the activities and conduct of law enforcement, calling the public's interest "substantial." *Commission on Peace Officers Standards and Training v. Superior Court*, 42 Cal. 4th 278, 297-300 (2007) ("*POST*"). As the Court stated in requiring production of lists of names of peace officers, including Sheriff's deputies, "[l]aw enforcement officers carry upon their shoulders the cloak of authority to enforce the laws of the state. In order to maintain trust in its police department, the public must be kept fully informed of the activities of its peace officers." *Id.* at 297 (quoting *New York Times v. Superior Court*, 52 Cal. App. 4th 97, 104-105 (1997)). Similarly, as one court held, "[i]t is indisputable that law enforcement is a primary function of local government and that the public has a ... great[] interest in the qualifications and conduct of law enforcement officers ... especially ... at an 'on the street' level." *Gomes v. Fried*, 136 Cal. App. 3d 924, 933 (1982). See also *City of Los Angeles v. Superior Court*, 41 Cal. App. 4th 1083 1091 (1996) (public interest would be "better served" by disclosure of information relating to excessive force claims in the use of police dogs by the Los Angeles police than by concealment of that information).

With regard to establishing a public interest in nondisclosure, California courts have imposed a high standard for establishing that a request was so overbroad that it did not require an agency to provide the requested records. "Records requests ... inevitably impose some burden on government agencies. An agency is obligated to comply so long as the record can be located with reasonable effort," the court explained

in *California First Amendment Coalition*, 67 Cal. App. 4th at 166, citing *State Bd. of Equalization v. Superior Court*, 10 Cal.App.4th 1177, 1186 (1992). The law is clear that an “agency may be forced to bear a tangible burden in complying with the” CPRA. *Connell*, 56 Cal. App. 4th at 615. “Nothing less will suffice ... if the underlying legislative policy of the PRA favoring disclosure is to be implemented faithfully. If the burden becomes too onerous, relief must be sought from the Legislature.” *Northern Cal. Police Practices Project v. Craig*, 90 Cal. App. 3d 116, 124 (1979). Consequently, courts have rejected attempts by public agencies to evade the requirements of the CPRA by complaining that compliance is too burdensome. *E.g.*, *County of Santa Clara v. Superior Court*, 170 Cal. App. 4th 1301, 1327 (2009) (giving “little weight to the financial concerns” about cost of compliance; “[t]here is nothing in the Public Records Act to suggest that a records request must impose no burden on the government agency”) (original emphasis); *State Bd. of Equalization*, 10 Cal. App. 4th at 1190 (rejecting agency’s complaints about “staff inconvenience and expense” of compliance).

Here, the County Sheriff’s Department’s evident distaste for the new law, SB 1421, does not make The Times’ requests overbroad. Letters of Discipline published by The Times previously are three pages long. Therefore, it would be hardly onerous or overly burdensome for the County to produce five years of such letters in response to The Times’ requests. *See, e.g.*, <http://documents.latimes.com/andrea-cecere-letter-discipline/>; <http://documents.latimes.com/william-cordero-letter-discipline/>; <http://documents.latimes.com/jeffrey-l-moore-letter-intent-discipline/>. Similarly, the County can query the PPI system for responsive records on use of force and/or discipline in minutes, if not seconds. The County cannot withhold those records by claiming burden, either. The Legislature was aware of the burden on police agencies in having to search for underlying responsive records reflecting discipline and/or uses of force and still enacted SB 1421 requiring that agencies disclose them. The County, like other public agencies, must live up to its obligations and produce the requested records to The Times.³

Even assuming *arguendo* the County could demonstrate that the requests involved some burden, the County cannot show that any such burden clearly outweighs the manifest public interest in access to records on uses of force by police and/or discipline for misconduct such as dishonesty, sexual abuse or the like. California courts repeatedly have recognized the overwhelming public interest in the behavior and actions of law enforcement. As the Court stated, a law enforcement officer “possesses both the authority and the ability to exercise force. Misuse of [this] authority can result in significant deprivation of constitutional rights and personal freedoms, not to mention bodily injury and financial loss.” *POST*, 42 Cal. 4th at 300. Given the extraordinary

³ Other police agencies are not claiming that they do not have to produce any records because SB 1421 is too broad. Instead, they are producing information – including other agencies within the County, such as the Civil Service Commission, which produced records on the investigation into Mandoyan. *See* <https://www.latimes.com/local/lanow/la-me-sheriff-mandoyan-video-20190327-story.html>.

authority with which they are entrusted, the need for transparency, accountability and public access to information is particularly acute when the information sought involves the conduct of police officers. *Pasadena Police Officers Assn. v. Sup. Ct.*, 240 Cal.App.4th 268, 283 (2015).

The Legislature itself acknowledged the tremendous public interest in records about shootings, uses of force, and/or discipline for misconduct. The Legislature stated in SB 1421, "The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety." See SB 1421 § 1(b). Given this language, the County cannot show that any burden in responding to The Times' requests for SB 1421 information clearly outweighs the acknowledged public interest in inspecting these records on police misconduct and/or uses of force.⁴

Conclusion

SB 1421 was enacted specifically to allow access to the very information sought in The Times' CPRA Requests. The Legislature passed SB 1421 to lift the cloud of secrecy that has so long obscured issues of serious police misconduct, officer-involved shootings, and other uses of force by law enforcement officers in California. The County's continued obstruction and delays and its refusal to disclose these important records violates both the CPRA and the express intent of SB 1421.

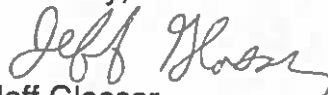
Therefore, if by 5 p.m. on Wednesday, April 3, 2019, the County does not rescind its denials and agree to provide access to these important records without further delay, The Times will have no choice but to compel the County in Los Angeles Superior Court to produce the wrongly withheld SB 1421 records.

///
///
///

⁴ The County's claim that the records The Times has requested relating to the Brady List are exempt from disclosure is similarly without merit. SB 1421 mandates the disclosure of all records related to four specific categories of information relating to sexual assault, dishonesty, or uses of force, notwithstanding any other law. Therefore, no law can prohibit the disclosure of these records, and the Legislature has made available under SB 1421 any of the requested records that fall within these categories. While the County has not provided a copy of the court order it claims prevents disclosure of these records, the case the County relies on was filed and decided well before SB 1421 was enacted. Therefore, any order in that case cannot prohibit the disclosure of records that the Legislature expressly made disclosable after January 1, 2019.

Please give me a call (213-237-7077) or email me at jeff.glasser@latimes.com to discuss these issues further.

Sincerely,



Jeff Glasser
General Counsel
Los Angeles Times

cc: Mark Ridley-Thomas
Sheila Kuehl
Hilda Solis
Janice Hahn
Kathryn Barger
Norman Pearlstine
Scott Kraft
Shelby Grad
Jack Leonard
Richard Martin
Maya Lau
Ben Poston
Geoffrey Sheldon
Kelly Aviles

Exhibit L

From: Lau, Maya [<mailto:Maya.Lau@latimes.com>]
Sent: Monday, April 8, 2019 3:53 PM
To: Johnson, Scott E. <SEJohnso@lasd.org>
Subject: Followup on our call today, re your letter dated 4/5/19

Hi Cmdr. Johnson,

Thanks so much for talking with me on the phone today. Just so that it's in writing, here are the names I just discussed with you that are the priorities among the list of named individuals I already sent.

- **Alexandro (a.k.a. Alex or Alejandro) Villanueva #246296**
- **Robert Olmsted**
- **Tim Murakami**
- **LaJuana Haselrig**
- **Eliezer Vera**
- **Lawrence Del Mese**
- **Pat Jordan**
- **Robin Limon**
- **Maria Gutierrez**
- **Daniel Morris #436075**

In your letter dated Apr. 5, 2019, you said you'd begin releasing the records on a rolling basis, so I'd like you to start with these first. Let me know when you'd like the next batch of priority names.

Thank you so much for your help,
Maya
213-221-5754

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

Exhibit M



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



July 9, 2019

Maya Lau
Los Angeles Times
Editorial/Metro – 3rd Floor
202 West First Street
Los Angeles, CA 90012
Maya.Lau@latimes.com

Dear Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department Discovery Unit on January 1, 2019.

In your request, you are seeking “for the following current and former Los Angeles County Sheriff's deputies, any and all **letters of discipline** relating to reports, investigations, or findings of:

- Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
- Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.”

On April 16, 2019, you amended your request of approximately 300 named personnel to include the priority names indicated below and agreed to receive

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

the remaining records pursuant to your request on an incremental basis:

1. Alexandro (a.k.a. Alex or Alejandro) Villanueva,
2. Robert Olmsted,
3. Tim Murakami,
4. LaJuana Haselrig,
5. Eliezer Vera,
6. Lawrence Del Mese,
7. Pat Jordan,
8. Robin Limon,
9. Maria Gutierrez,
10. Daniel Morris,
11. Giancarlo Scotti.

Response to Request #1, #2, #3, #4, #5 #7, #8, and #9: There are no records responsive to your request.

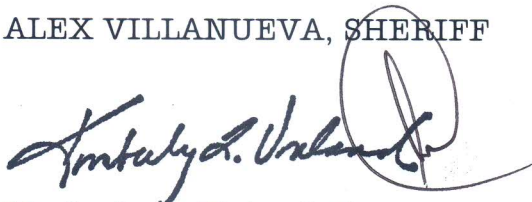
Response to Request #6, and #10: Attached are LASD's responsive records regarding your request for records pursuant to the California Public Records Act (*Government Code* section 6250, et al.).

Response to Request #11: The records you seek are part of an ongoing and active criminal investigation and are, therefore, exempt from disclosure under *Government Code* section 6254(f); *County of Orange v. Superior Court* (2000) 79 Cal.App.4th 759, 764 ("Evidence gathered by police as part of an ongoing criminal investigation is by its nature confidential. This notion finds expression in both case and statutory law."); see also *Williams v. Superior Court* (1993) 5 Cal.4th 337, 361-62; *Rackauckas v. Superior Court* (2002) 104 Cal.App.4th 169.

Should you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in black ink, appearing to read "Kimberly L. Unland", written over a circular stamp or seal.

Kimberly L. Unland, Captain
Risk Management Bureau

Exhibit N



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



September 17, 2019

Maya Lau
Los Angeles Times
453 S. Spring St., Ste. 308
Los Angeles, CA 90013
Maya.Lau@latimes.com

Dear Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department Discovery Unit on January 1, 2019.

In your request, you are seeking "for the following current and former Los Angeles County Sheriff's deputies, any and all **letters of discipline** relating to reports, investigations, or findings of:

- Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
- Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence."

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —

Per your telephonic and email conversations with Commander Scott Johnson on April 8, 2019 and April 16, 2019, respectively, you amended your request of approximately 300 named personnel, the LASD organization chart you provided, deputies with potential Brady material, and any deputies with three or more shootings or three or more serious uses of force. During these conversations with Commander Johnson, you requested that 11 Department personnel be prioritized. On July 9, 2019, we provided a response as to the 11 named Department personnel on your priority list.

We will continue to provide non-exempt responsive records to you on a rolling basis. Below are the named Department personnel with the last name beginning with the letter "A":

- Ables, Renard
- Abrego, Crystal
- Acton, Jeffrey
- Adragna, Faye
- Aldama, Samuel
- Alexander, Donald
- Alfred, Derrick
- Allen, Marco
- Allende, Victor
- Aloma, Sergio #263553
- Alvarez, Gabriela
- Ament, Joseph
- Anderson, Ronald
- Anguiano, Jesus
- Antrim, Marc
- Apolinar, Daniel
- Arellano, Carlos
- Armalin, Rodrick
- Armes, Andrew
- Ascolese, Michael
- Asmus, Warren
- Ault, Alicia
- Avila, David
- Avila, Otoniel
- Ayala, Sussie

Response: Attached are LASD's responsive records regarding your request for records pursuant to the California Public Records Act (Gov. Code, §§ 6250, et al.). We are unable to confirm or deny the existence of any responsive records

concerning Armes, Andrew and certain personnel pursuant to Government Code section 6255(a). For all other named LASD personnel with the last name beginning with the letter "A", there are no records responsive to your request.

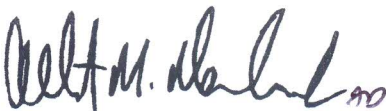
Please note that with regards to "all deputies listed on any department list of officers who have been involved in 3 or more shootings or 3 or more uses of serious force," the Department does not keep information in the manner requested. However, in an effort to assist you, we were able to search for deputy personnel with three or more shootings and those responsive documents have been included with your request.

Also, please be advised that your request pertaining to "all of the deputies listed on any department list of officers with potential Brady material," these records are not being released to you because they are exempt from disclosure under several authorities, including, but not limited to the following: California Constitution, article I, section 1; Government Code sections 6254 (a), (b), (c), (f), (k), and 6255(a); Evidence Code sections 1040, 1043, and 1045, Penal Code sections 832.7 and 832.8; *Pitchess v. Superior Court* (1974) 11 Cal.3d 531; *Copley Press v. Superior Court* (2006) 39 Cal.4th 1272; and the recent California Supreme Court decision in *Association for Los Angeles Deputy Sheriffs v. Superior Court* (Aug. 26, 2019, S243855) ___ P.3d ___ [2019 WL 4009133].

Should you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF



Albert M. Maldonado, Captain
Risk Management Bureau

Exhibit O

From: SB1421 Request Group <SB1421@lasd.org>
Sent: Thursday, February 6, 2020 6:07 AM
To: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>
Subject: Los Angeles County Sheriff's Department SB-1421 Request ID: 5269

EXTERNAL SOURCE

Request ID: 5269
Request Target: JOUZI, DAVID 7-25-19

Dear Maya Lau ,

We are writing to provide you an update on the status of your pending SB-1421 related California Public Records Act request. As you may be aware, SB-1421, which amended the California Penal Code to allow for certain previously confidential peace officer personnel records to be released to the public, took effect on January 1, 2019. Since that time the Department has received thousands of SB-1421 related public records requests. Moreover, in early 2019, SB 1421 was challenged in court, which issued stays that prohibited the Department from releasing records until they were lifted.

This letter is to advise you that the Department is still processing your request, which includes determining if there are any responsive records, locating those records, and applying legally mandated redactions to the records. Although the Department has responded to approximately 25% of the pending requests, there still remains a backlog. To address the backlog, last year the Department quadrupled the number of personnel assigned to process SB-1421 related requests and has invested in deploying technology to streamline its processes. Because of these improvements, we have now assigned your request the above-captioned Request ID number to better track your request.

The Department is committed to being transparent with the communities it serves. Should you have any specific questions, please contact us at SB1421@lasd.org and reference Request ID: 5269.

We thank you for your continued patience.

SB-1421 Request Processing Unit

Phone: (323) 307-8361

Email: SB1421@lasd.org

Business Hours: Monday thru Friday 9am – 3pm

Exhibit P

From: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>
Sent: Thursday, April 23, 2020 6:47 PM
To: Norman, Alise <ANorman@lasd.org>
Subject: Re: LA Times PRA requests

Hi Lt, yes we got Morris, thank you. Yes they are still a priority.
Alene

--

Alene Tchekmedyian
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

From: Norman, Alise <ANorman@lasd.org>
Sent: Thursday, April 23, 2020 6:35 PM
To: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>
Subject: RE: LA Times PRA requests

EXTERNAL SOURCE

Good evening Ms. Tchekmedyian,

As previously identified as a priority by Maya Lau, the entire file for Daniel Morris was mailed on February 25, 2020, see attached. Unfortunately, due to the voluminous documents requested, we are unable to always email responsive documents. The Discovery Unit is continuing to complete a variety of requested PRA and SB1421 requests submitted by LA Times in the prioritized order stated below:

1. *Morris' entire file* **LASD response February 25, 2020;**
2. *The remainder of the 11 priority names I gave you (this may be complete now?)* **LASD response July 9, 2019;**
3. *The remainder of the 335 names I gave you*
4. *Any other pending PRA requests*

Please let us know if the remaining PRA and SB1421 requests remain a priority.

Thank you,

Alise Norman, Lieutenant
Risk Management Bureau

4900 S. Eastern Avenue, Suite 102
Commerce CA 90040
(323) 890-5000

From: Tchekmedyian, Alene [<mailto:Alene.Tchekmedyian@latimes.com>]
Sent: Wednesday, April 22, 2020 4:33 PM
To: Norman, Alise <ANorman@lasd.org>
Subject: Re: LA Times PRA requests

Hi Lt. Norman, can you notify me by email about any of these requests being fulfilled? I am working from home so I am not getting mail. I'll figure out how to get it if I know something has arrived.

Thank you
Alene

--

Alene Tchekmedyian
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

From: Norman, Alise <ANorman@lasd.org>
Sent: Tuesday, October 15, 2019 6:11 PM
To: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>
Cc: Johnson, Scott E. <SEJohnso@lasd.org>
Subject: RE: LA Times PRA requests

EXTERNAL SOURCE

Good evening Ms. Tchekmedyian,

I attempted to reach you via telephone and left a voice. I am also following up at the request of Commander Scott Johnson. Currently, LASD Discovery Unit has received and accepted more than 361 Public Records Act and Senate Bill 1421 requests from the L.A. Times during 2019. Based on the last request from Maya Lau, she requested the following priorities:

1. Morris' entire file
2. The remainder of the 11 priority names I gave you (this may be complete now?)
3. The remainder of the 335 names I gave you
4. Any other pending PRA requests

Please let me know if the above requests remain a priority?

Thank you,

Alise Norman, Lieutenant
4900 S. Eastern Avenue
Commerce, CA 90040
(323) 890-5000

From: Tchekmedyian, Alene [<mailto:Alene.Tchekmedyian@latimes.com>]
Sent: Tuesday, October 15, 2019 2:56 PM
To: Norman, Alise <ANorman@lasd.org>
Subject: LA Times PRA requests

Hi Lt. Norman, hope you're well. I'm a reporter with the LA Times replacing Maya Lau in covering the Sheriff's Department for the paper. Checking in because I sent in a few PRA requests in recent weeks but had not heard anything back even though the deadline to respond has passed for some of them. Could you help me figure out the status of them? Thank you,
Alene

--

Alene Tchekmedyian
Reporter
Los Angeles Times
(213) 237-3138
(714) 928-9311

Exhibit Q

Los Angeles Times

453 S. Spring St. Ste. 308
Los Angeles, CA 90013

Lt. Alise Norman
Los Angeles County Sheriff's Department
Discovery Unit
Via Email: prarequests@lasd.org

April 9, 2019

Re: Public records request – Danilo Martinez

Dear Lt. Norman, or her designee:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), I am asking to review records in the possession of your agency. Specifically, I would like to review:

- For **LASD Employee Danilo Martinez #535779**, any and all letters of discipline and any and all case files (inc. multimedia, videos, photos, audio, etc.), reports, investigations, or findings from:
 - Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
 - Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Please respond to this request promptly. Please provide the records via email, to the extent possible.

As you probably know, the following legal rules apply to this request.

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made “promptly available.” No provision of the CPRA, including the response periods noted below, “shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”

Deadlines: Government Code Section 6253 (c)

You are required “promptly” and in no case more than 10 calendar days from the date of this request, to determine, and inform me in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or
- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth “the reasons for the extension and the date on which a determination is expected to be dispatched.” If you determine that any of the records I have requested are disclosable, your written notice must “state the estimated date and time when the records will be made available.”

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information I have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of my request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information I have requested, please respond to me in writing, via email, citing the specific portion of the law that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don’t hesitate to contact me if you have any questions about my request. I can be reached at (213) 221-5754 and maya.lau@latimes.com.

Sincerely,

Maya Lau | Los Angeles Times Staff Writer

Los Angeles Times

453 S. Spring St. Ste. 308
Los Angeles, CA 90013

Lt. Alise Norman
Los Angeles County Sheriff's Department
Discovery Unit
Via Email: prarequests@lasd.org

April 9, 2019

Re: Public records request – David Parker

Dear Lt. Norman, or her designee:

Pursuant to the California Public Records Act, Section 6250 et seq. of the Government Code and the California state Constitution, as amended by Proposition 59, and all other applicable laws, including Penal Code Section 832.7(b), I am asking to review records in the possession of your agency. Specifically, I would like to review:

- For **LASD Custody Asst. David Parker**, any and all letters of discipline and any and all case files (inc. multimedia, videos, photos, audio, etc.), reports, investigations, or findings from:
 - Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
 - Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
 - Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Please respond to this request promptly. Please provide the records via email, to the extent possible.

As you probably know, the following legal rules apply to this request.

Prompt Disclosure: Government Code Section 6253 (b), (d)

Records not exempt from disclosure are to be made “promptly available.” No provision of the CPRA, including the response periods noted below, “shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”

Deadlines: Government Code Section 6253 (c)

You are required “promptly” and in no case more than 10 calendar days from the date of this request, to determine, and inform me in writing, whether you are going to decline all or part of the request, and the law(s) that you are relying on, unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

- to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
- for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or
- to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

Your notice must set forth “the reasons for the extension and the date on which a determination is expected to be dispatched.” If you determine that any of the records I have requested are disclosable, your written notice must “state the estimated date and time when the records will be made available.”

Constitutional Rule of Interpretation: Article I, Section 3 (b)

The California Constitution requires that the Public Records Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable.

To the extent that a portion of the information I have requested is exempt by express provisions of law, the public records act additionally requires segregation and deletion of that material in order that the remainder of the information may be provided in satisfaction of my request.

If you determine that an express provision of law exists to exempt from disclosure all or a portion of the information I have requested, please respond to me in writing, via email, citing the specific portion of the law that allows for the exemption. In addition, the act requires government agencies to “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

Please don’t hesitate to contact me if you have any questions about my request. I can be reached at (213) 221-5754 and maya.lau@latimes.com.

Sincerely,

Maya Lau | Los Angeles Times Staff Writer

Exhibit R



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



April 12, 2019

Maya Lau
Maya.Lau@latimes.com

Dear Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on April 9, 2019.

In your request, you are seeking the following:

"For **LASD Employee Danilo Martinez #535779**, any and all letters of discipline and any and all case files (inc. multimedia, videos, photos, audio, etc.), reports, investigations, or findings from."

- "Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;"
- "Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;"
- "Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;"
- "Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence."

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

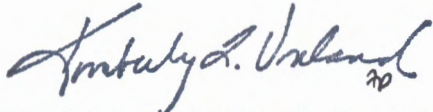
A Tradition of Service
— Since 1850 —

Response: Unfortunately, we are unable to assist you with your request. Danilo Martinez was never employed as a peace officer by the LASD. Therefore, LASD has no records responsive to your request.

If you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

Handwritten signature of Kimberly L. Unland in cursive script.

Kimberly L. Unland, Captain
Risk Management Bureau



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



April 12, 2019

Maya Lau
Maya.Lau@latimes.com

Dear Ms. Lau:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on April 9, 2019.

In your request, you are seeking the following:

"For **LASD Custody Asst. David Parker**, any and all letters of discipline and any and all case files (inc. multimedia, videos, photos, audio, etc.), reports, investigations, or findings from:"

- Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;
- Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public;
- Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency of dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

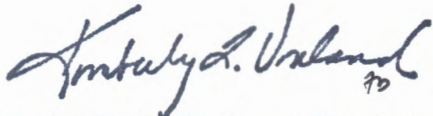
A Tradition of Service
— Since 1850 —

Response: Unfortunately, we are unable to assist you with your request. Custody Assistant David Parker was never employed as a peace officer by the LASD. Therefore, LASD has no records responsive to your request.

If you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

A handwritten signature in black ink that reads "Kimberly L. Unland" with a small "70" written below the name.

Kimberly L. Unland, Captain
Risk Management Bureau

Subject: RE: PRA Request - Martinez
Date: Monday, April 15, 2019 at 4:10:52 PM Mountain Daylight Time
From: Lau, Maya
To: Unland, Kimberly L., Minguillan, Lallie E., Norman, Alise, Diggs, Floryence L.
Attachments: image001.jpg

Hi Capt. Unland,

Thanks. Where specifically does it say what the definition of a "custodial officer" is?

Custody assistants are not sworn peace officers, correct? Nowhere in my request does it say I'm only asking for records under SB 1421. Given that custody assistants are not sworn, I don't believe there are the same protections on their personnel files as there are on peace officers. (I've been given access to custody assistant files in the past)

Could you send me any letters of imposition against Danilo Martinez?

Thank you,
Maya

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

From: Unland, Kimberly L. [mailto:KLUnland@lasd.org]
Sent: Monday, April 15, 2019 2:59 PM
To: Lau, Maya; Minguillan, Lallie E.; Norman, Alise; Diggs, Floryence L.
Subject: RE: PRA Request - Martinez

EXTERNAL SOURCE

Hello Maya,

Danilo Martinez is a custody assistant. To fall under SB 1421, LASD personnel need to be a sworn peace officer. Since a custody assistant is not a sworn officer, then Custody Assistant Danilo Martinez does not fall under SB 1421. A "custody assistant" is not the same as a "custodial officer" as stated in the SB 1421 language.

Thank you!

Kim

Kimberly L. Unland, Captain
Risk Management Bureau
4900 S. Eastern Avenue
Commerce, CA 90040

(323) 890-5381 office
(213) 332-3320 cell

From: Unland, Kimberly L.
Sent: Friday, April 12, 2019 4:41 PM
To: Lau, Maya <Maya.Lau@latimes.com>; Minguillan, Lallie E. <lemingui@lasd.org>; Norman, Alise <ANorman@lasd.org>; Diggs, Floryence L. <fldiggs@lasd.org>
Subject: RE: PRA Request - Martinez

Hello!

I will inquire with our PRA team and let you know the beginning of next week.

Enjoy your weekend.

Kim

From: Lau, Maya [<mailto:Maya.Lau@latimes.com>]
Sent: Friday, April 12, 2019 4:30 PM
To: Minguillan, Lallie E. <lemingui@lasd.org>; Unland, Kimberly L. <KLUnland@lasd.org>; Norman, Alise <ANorman@lasd.org>
Subject: RE: PRA Request - Martinez

Hi Capt. Unland,

Was Danilo Martinez ever a custody assistant for LASD? If so, wouldn't that apply under my request?

Thank you.

Maya

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

From: Minguillan, Lallie E. [<mailto:lemingui@lasd.org>]
Sent: Friday, April 12, 2019 4:08 PM
To: Lau, Maya
Subject: PRA Request - Martinez

EXTERNAL SOURCE

Attached is LASD's response regarding your request for records pursuant to the California Public Records Act.

Please respond to this e-mail confirming that you received this.

Thank you,



Subject: RE: PRA Request - Martinez
Date: Monday, April 15, 2019 at 4:10:52 PM Mountain Daylight Time
From: Lau, Maya
To: Unland, Kimberly L., Minguillan, Lallie E., Norman, Alise, Diggs, Floryence L.
Attachments: image001.jpg

Hi Capt. Unland,

Thanks. Where specifically does it say what the definition of a “custodial officer” is?

Custody assistants are not sworn peace officers, correct? Nowhere in my request does it say I’m only asking for records under SB 1421. Given that custody assistants are not sworn, I don’t believe there are the same protections on their personnel files as there are on peace officers. (I’ve been given access to custody assistant files in the past)

Could you send me any letters of imposition against Danilo Martinez?

Thank you,
Maya

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

From: Unland, Kimberly L. [mailto:KLUnland@lasd.org]
Sent: Monday, April 15, 2019 2:59 PM
To: Lau, Maya; Minguillan, Lallie E.; Norman, Alise; Diggs, Floryence L.
Subject: RE: PRA Request - Martinez

EXTERNAL SOURCE

Hello Maya,

Danilo Martinez is a custody assistant. To fall under SB 1421, LASD personnel need to be a sworn peace officer. Since a custody assistant is not a sworn officer, then Custody Assistant Danilo Martinez does not fall under SB 1421. A “custody assistant” is not the same as a “custodial officer” as stated in the SB 1421 language.

Thank you!

Kim

Kimberly L. Unland, Captain
Risk Management Bureau
4900 S. Eastern Avenue
Commerce, CA 90040

(323) 890-5381 office
(213) 332-3320 cell

From: Unland, Kimberly L.
Sent: Friday, April 12, 2019 4:41 PM
To: Lau, Maya <Maya.Lau@latimes.com>; Minguillan, Lallie E. <lemingui@lasd.org>; Norman, Alise <ANorman@lasd.org>; Diggs, Floryence L. <fldiggs@lasd.org>
Subject: RE: PRA Request - Martinez

Hello!

I will inquire with our PRA team and let you know the beginning of next week.

Enjoy your weekend.

Kim

From: Lau, Maya [<mailto:Maya.Lau@latimes.com>]
Sent: Friday, April 12, 2019 4:30 PM
To: Minguillan, Lallie E. <lemingui@lasd.org>; Unland, Kimberly L. <KLUnland@lasd.org>; Norman, Alise <ANorman@lasd.org>
Subject: RE: PRA Request - Martinez

Hi Capt. Unland,

Was Danilo Martinez ever a custody assistant for LASD? If so, wouldn't that apply under my request?

Thank you.

Maya

Maya Lau
Staff Writer
Los Angeles Times
Maya.Lau@latimes.com
@mayalau

From: Minguillan, Lallie E. [<mailto:lemingui@lasd.org>]
Sent: Friday, April 12, 2019 4:08 PM
To: Lau, Maya
Subject: PRA Request - Martinez

EXTERNAL SOURCE

Attached is LASD's response regarding your request for records pursuant to the California Public Records Act.

Please respond to this e-mail confirming that you received this.

Thank you,



Exhibit S

Los Angeles Times

April 30, 2019

2300 E. Imperial Highway
El Segundo, CA 90245
(213) 237-7077
jeff.glasser@latimes.com

Jeff Glasser
General Counsel

Via Email & U.S. Mail

Sheriff Alex Villanueva
Los Angeles County Sheriff's Department
Hall of Justice
211 W. Temple Street
Los Angeles, CA 90012
avillan@lasd.org

Mary Wickham
County Counsel
Los Angeles County
500 W. Temple Street
Suite 648
Los Angeles, CA 90012
mwickham@counsel.lacounty.gov

Dear Sheriff Villanueva and County Counsel Wickham:

I represent the Los Angeles Times and reporter Maya Lau ("The Times"). As the Los Angeles County Sheriff's Department (the "County") is well aware, the County has been required **for more than 40 years** to disclose records reflecting misconduct by non-sworn public employees where the allegations against them are true or well founded, or discipline is imposed. *E.g., American Federation of State, County and Municipal Employees v. Regents of the University of California*, 80 Cal. App. 3d 913, 918 (1978).¹ This long-standing rule requires public agencies to produce records reflecting the complaint, the discipline, and the information upon which it was based. *Id.*

The County's Sheriff's Department once again appears to be flouting California law as part of refusing to disclose the disciplinary records for employees such as David Parker and Danilo Martinez. The County employs Parker and

¹ *Accord Marken v. Santa Monica-Malibu Unified School Dist.*, 202 Cal. App. 4th 1250, 1268 (2012); *BRV, Inc. v. Superior Court*, 143 Cal. App. 4th 742, 759 (2006); *Bakersfield City Sch. Dist. v. Superior Court*, 118 Cal. App. 4th 1041, 1047 (2004).

Martinez despite prior imposition of discipline or well-founded accusations of misconduct against them. Under the controlling case law, the County must disclose to The Times records reflecting the complaints, underlying facts, and the outcomes of any investigation involving Parker and/or Martinez where the allegations were true or well-founded, or discipline was imposed. As custody assistants, Parker and Martinez are entrusted with helping to ensure the safe administration of the jails and inmate care, which only heightens the public interest in access to records reflecting on any well-founded allegations of misconduct or discipline imposed by the County against them.

Should the County continue to deny The Times and the public access to the records, and The Times be forced to file another lawsuit compelling the County to live up to its obligations under the California Public Records Act, The Times will recover its attorneys' fees and costs for the County's continued intransigence and repeated improper withholding of public records. See Gov't Code § 6259.

The Times' Requests And The County's Responses.

On April 9, 2019, Ms. Lau of The Times made CPRA requests for letters of discipline and underlying case files, reports, investigations or findings involving LASD Employees Danilo Martinez and David Parker.

On April 12, Capt. Kimberly Unland responded, claiming the County had no responsive records to either CPRA request because neither one was employed as a peace officer.

On April 12, 15 and 16, the parties exchanged emails, and Ms. Lau of The Times made clear that if the County was taking the position that Martinez and Parker were custody assistants and not sworn peace officers, then the Pitchess statutes had no application, and the records reflecting discipline or well-founded allegations of misconduct have to be disclosed. Ms. Lau stated that she had been given access to disciplinary records of custody assistants in the past.

On April 26, Captain Unland responded, "Upon further review, the Department will not release the requested personnel records for its custody assistants based on Government Code sections 6254(c) and 6255(a)."

The Times reiterates that it is requesting all records of any well-founded allegations of misconduct or discipline imposed on Martinez or Parker. The County must produce the underlying records reflecting the complaints, underlying facts, and the outcomes of any investigation involving Parker and/or Martinez where allegations were well-founded, or discipline was imposed. The Times is also requesting the dates of hire for Martinez and Parker.

The CPRA Mandates Broad Disclosures Of Public Records.

The CPRA is based on the premise that “access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.” Gov't Code § 6250. In 2004, the voters of California elevated the CPRA to the California Constitution. Article I, § 3(b) of the California Constitution mandates that “[t]he people have the right of access to information concerning the conduct of the people's business,” and guarantees that “writings of public officials and agencies shall be open to public scrutiny.” In recognition of that right, the Constitution orders that any statute “that furthers the people's right of access” – such as the CPRA – “shall be broadly construed,” while any statute “that limits the right of access” must be “narrowly construed.” *Id.* See also *City of San Jose v. Superior Court*, 2 Cal. 5th 608, 617 (2017) (recognizing that the “standard approach to statutory interpretation is augmented by a constitutional imperative”).

The California Supreme Court has explained that “[g]iven the strong public policy of the people's right to information concerning the people's business (Gov't Code § 6250), and the constitutional mandate to construe statutes limiting the right of access narrowly (Cal. Const., art. I, § 3, subd. (b)(2)), ‘all public records are subject to disclosure unless the Legislature has expressly provided to the contrary.’” *Sierra Club v. Superior Court*, 57 Cal. 4th 157, 166 (2013) (emphasis in original). *Accord ACLU v. Superior Court*, 3 Cal. 5th 1032, 1039 (2017) (recognizing “[t]he state Constitution implemented this right of access with the general directive” to narrowly construe exemptions from disclosure). An agency seeking to withhold records from disclosure bears the burden of demonstrating that records are exempt from disclosure. *Int'l Federation Of Prof. & Tech. Engineers Local 21 v. Superior Court*, 42 Cal. 4th 319, 337 (“*Int'l Federation*”); *Cal State Univ., Fresno Ass'n v. Superior Court*, 90 Cal. App. 4th 810, 831(2001) (“[t]he burden of proof is on the proponent of nondisclosure, who must demonstrate a clear overbalance on the side of confidentiality”); *New York Times Co. v. Superior Court*, 218 Cal.App.3d 1579, 1584 (1990); *Braun v. City of Taft*, 154 Cal.App.3d 332, 345 (1984).

Importantly, “public records” are defined broadly under the CPRA. As Section 6252 makes clear, the CPRA applies to any record “containing information relating to the conduct of the public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.” See Gov't Code § 6252(g) (“Writing’ means ... transmitting by electronic mail ... and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.”). Courts long have recognized that the CPRA “is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument

as it is developed.” *San Gabriel Tribune v. Superior Court*, 143 Cal. App. 3d 762, 774 (1983). In *San Gabriel Tribune*, the court observed that the definition of public record encompasses everything except for documents reflecting “purely personal information unrelated to the conduct of the people’s business,” such as a public official’s grocery “shopping list.” *Id. Accord Sander v. State Bar of Calif.*, 58 Cal. 4th 300, 323 (2013) (noting the CPRA “establishes a presumptive right of access to any record created or maintained by a public agency that relates in any way to the business of the public agency ...”).

Here, the records sought by The Times are “public records” within the meaning of the CPRA. Accordingly, the County may withhold these records only if it can satisfy its burden of establishing an exemption from disclosure. As explained below, no such exemption applies.

The Privacy Exemption Does Not Apply To The Records Requested Here of True Or Well-Founded Allegations Against Sheriff’s Department Employees.

The County invokes Government Code § 6254(c) to withhold the requested records, but that Section exempts from disclosure only “[p]ersonnel, medical, or similar files, *the disclosure of which would constitute an unwarranted invasion of personal privacy.*” (Emphasis added.) The final clause of subsection (c) is critical; as courts have recognized, this exemption protects only highly personal information contained in government files, and even then, only if its disclosure would amount to an *unwarranted* invasion of privacy. *San Gabriel Tribune*, 143 Cal. App. 3d at 777 (emphasis supplied). Thus, courts have held that Section 6254(c) shields only “sensitive personal information which individuals must submit to government.” *Register Div. of Freedom Newspapers, Inc. v. County of Orange*, 158 Cal. App. 3d 893, 905 (1984), or records of a highly intimate nature, such as marital status or family disputes. *Braun*, 154 Cal. App. 3d at 343-344. Even when that predicate is established, the court still must engage in a balancing of interests to determine if the agency is justified in withholding the record.²

² In *Braun*, 154 Cal. App. 3d at 345, the court explained that “the weighing process under section 6254, subdivision (c) to determine whether disclosure would constitute an unwarranted invasion of privacy requires consideration of almost exactly the same elements that should be considered under section 6255.” After determining that the records at issue in that case “are not exempt under section 6254, subdivision (c) because they do not constitute an unwarranted invasion of privacy,” the court concluded that “it follows that the public interest asserted by [the] City under section 6255” – privacy – “would not clearly outweigh the public interest served by disclosure.” *Accord CBS v. Block*, 42 Cal. 3d 646, 656 (1986) (“[t]he weighing process mandated by Evidence Code section 1040 [as applied to the CPRA through Government Code § 6254(k)] requires review of the same elements that must be considered under section 6255”); *Cal. State Univ., Fresno Ass’n*, 90

This balancing test imposes a heavy burden on a public agency trying to defeat public access. Courts have made clear that “the burden of showing that non-disclosure is justified is on the agency seeking to withhold the requested record[.]” *San Gabriel Tribune*, 143 Cal. App. 3d at 773; *accord ACLU v. Superior Court*, 3 Cal. 5th 1032, 1043 (2018) (stating that “burden of proof [is] on the proponent of nondisclosure to demonstrate a clear overbalance on the side of confidentiality”). To satisfy this burden, the agency cannot rely on “speculative ... concerns.” *Connell v. Superior Court*, 56 Cal. App. 4th 601, 612 (1997). Instead, the agency must present “evidence” demonstrating a compelling need for secrecy that “clearly outweighs” the public interest in disclosure. *New York Times Co.*, 218 Cal. App. 3d at 1579; *see also Long Beach Police Officers Ass’n v. City of Long Beach*, 59 Cal. 4th 59, 75 (2014) (CPRA requires evidence to withhold public records, not vague generalities); *CBS v. Superior Court*, 91 Cal. App. 4th 892, 908 (2001).

Under a well-established body of law going back to before the establishment of the CPRA, the public has a right of access to government employee disciplinary records when the “charges are found true, or discipline is imposed.” *AFSCME*, 80 Cal. App. 3d at 914, 918”; *accord Marken*, 202 Cal. App. 4th at 1268; *BRV, Inc.*, 143 Cal. App. 4th at 759); *Bakersfield City Sch. Dist.*, 118 Cal. App. 4th at 1047. In such cases, “the strong public policy against disclosure vanishes,” and “a member of the public is entitled to information about the complaint, the discipline, and the ‘information upon which it was based.’” *AFSCME*, 80 Cal. App. 3d at 918 (quoting *Chronicle Publ’g Co*, 54 Cal. 2d at 575). California courts have found that “disclosure of a complaint against a public employee is justified if the complaint is of a substantial nature and there is reasonable cause to believe the complaint or charge of misconduct is well founded.” *Bakersfield City School Dist.*, 118 Cal. App. 4th at 1044, 1046. The court held that “neither the imposition of discipline nor a finding that the charge is true is a prerequisite to disclosure....” *Id.*

The standard mandating disclosure when “discipline is imposed” or allegations are well-founded had its genesis in the pre-CPRA case *Chronicle Publishing*, where the court examined California State Bar procedures, in which “complaints are confidential unless they result in disciplinary action taken against the attorney.” 54 Cal.2d at 567. The court in 1960 deemed this system a “safety valve” that allows for complaints but maintains confidentiality where charges are “completely without foundation.” *Id.* at 567. However, for the charges that actually lead to discipline, the Court held that “strong public policy” requires disclosure of both publicly and privately issued sanctions. *Id.* at 572, 574. The court focused on the veracity of the charges, not the severity, in developing the disclosure rules. Relying on imposition of discipline weeds out “unfounded” charges and allegations

Cal. App. 4th at 832 (because court addressed agency’s Section 6255 exemption, it need not separately address agency’s privacy arguments).

“without foundation.” However, when discipline is imposed or charges are well founded, the public interest supports disclosure of allegations of even less serious misconduct, which furthers the purpose of our access laws to provide “access to information concerning the conduct of the people’s business.” Gov’t Code § 6250.

In the 1978 case, *AFSCME*, the court sought to reconcile the “the people’s right to information” with the right to privacy provided by the state Constitution. 80 Cal. App. 3d at 914. When it comes to the disclosure of public employees’ disciplinary records, the Court held that the balance of interests weighs against disclosure when the charges are “trivial or groundless,” but “where the charges are found true, or discipline is imposed, the strong public policy against disclosure vanishes.” *Id.* at 918. The court thus ordered disclosure of an audit report detailing claims of financial irregularities by a University of California, San Francisco employee against two superiors. “[W]here there is reasonable cause to believe the complaint to be well founded, the right of public access to related public records exists,” the court concluded. *Id.*

The 2004 case, *Bakersfield City School Dist.*, involved a school official accused of sexual type conduct and threats of violence. The Court held that *AFSCME*’s language that the public right to know outweighs employee privacy when the charges are found true does not impose an actual truth requirement as a prerequisite to disclosure. 118 Cal. App. 4th at 1046. Instead, the “strong policy for disclosure of true charges” is satisfied if courts examine the records “to determine whether they reveal sufficient indicia of reliability to support a reasonable conclusion that the complaint was well founded.” *Id.* at 1046-47. The court underscored the importance of veracity rather than severity in *Bakersfield City School Dist.* Even when an agency has not imposed discipline, the court stated, “where complaints of a public employee’s wrongdoing and resulting disciplinary investigation reveal allegations of a substantial nature, as distinct from baseless or trivial, and there is reasonable cause to believe the complaint is well founded, public employee privacy must give way to the public’s right to know.” 118 Cal. App. 4th at 1046.³

Two years later, in *BRV, Inc. v. Superior Court*, 143 Cal. App. 4th 742, 758-759 (2006), the court required disclosure of records reflecting an investigation of a high-level official, a superintendent of schools. The court stated: “Without doubt, the public has a significant interest in the professional competence and conduct of a school district superintendent and high school principal.” *Id.* The superintendent’s

³ The court defined “substantial” to mean not “baseless or trivial,” which tracks the dictionary definition of “real; actual; true; not imaginary.” Webster’s New World Dictionary (1984). Similarly, “baseless” is defined as “having no basis in fact; unfounded,” while “trivial” is defined as “trifling,” which is a synonym for “frivolous.” *Id.*; see also Black’s Law Dictionary (Second Pocket Edition 2001). The case law and the dictionaries agree that a “substantial” allegation is one that is not false or frivolous, not one that is severe.

status as a high-level public official lessened his expectation of privacy, the court stated. *Id.* Even as to charges against a top official that may be unreliable, “the public’s interest in understanding why [the official] was exonerated and how the [agency] treated the accusations outweighs [the official’s] interest in keeping the allegations confidential,” the court concluded. The court explained that “members of the public were greatly concerned about the behavior of the city’s only high school superintendent and his governing elected board in responding to their complaints. Indeed, from the public’s viewpoint, the District appeared to have entered into a ‘sweetheart deal’ to buy out the superintendent from his employment without having to respond to the public accusations of misconduct. The public’s interest in judging how the elected board treated this situation far outweighed the Board’s or Morris’s interest in keeping the matter quiet.” *Id.*

In the 2013 *Marken* case, a teacher disciplined by a school district for sexual harassment tried and failed to overturn the California doctrine requiring disclosure of disciplinary cases where discipline is imposed, or charges are well founded or true. The court stated that “although disclosure is mandated if there has been a true finding by the agency, even without such a finding, if the information in the agency’s files is reliable, and, based on that information, the court can determine the complaint is well founded and substantial, it must be disclosed.” 202 Cal. App. 4th at 1275. The school’s disciplining of the teacher for violating sexual harassment policy was sufficient, even if the teacher characterized the discipline as a minor reprimand. “Marken occupies a position of trust and responsibility as a classroom teacher, and the public has a legitimate interest in knowing whether and how the District enforces its sexual harassment policy,” the court stated. *Id.* at 1275-1276.

*Chronicle Publ. Co., AFSCME, Bakersfield, BRV, Inc., and Marken*⁴ establish firmly that the public has a right to access disciplinary records of non-sworn County employees and officials where the charges are well founded or true, or discipline is imposed. These cases reflect the diminished expectation of privacy that public employees can expect when disciplined or when an inquiry is substantiated. Here, any privacy interests in records reflecting discipline or well-founded charges against the County employees cannot clearly outweigh the public’s profound interest in verifying how the County adjudicated and resolved the misconduct allegations against Parker or Martinez. *See Connell*, 56 Cal. App. 4th at 617 (rejecting public official’s argument that one should accept her word that “she is performing her task properly ... is akin to asking that we allow her ‘to exercise absolute discretion, shielded from public accountability’ in the operations of her office.... However, **the public interest demands the ability to verify.**”) (emphasis added); *CBS v. Block*, 42 Cal.3d 646, 651-652 (1986) (“In order to verify accountability, individuals must

⁴ These cases apply to *all* public employees of the County subject to discipline or well-founded allegations of misconduct. *See AFSCME*, 80 Cal. App. 3d at 917 (low-level employee represented by a union); *Marken*, 202 Cal. App. 4th at 1275-1276 (teacher).

have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process.”).

Here, the custody assistants occupy positions of trust and authority in the Sheriff’s Department. They help to maintain order and security in custody detention, station jail, or a court lockup facility. They supervise recreational and work activities of inmates, monitor inmate movements and control exit and entry to detention facilities, and participate in the classification process. See http://agency.governmentjobs.com/lacounty/job_bulletin.cfm?jobID=1181980. Their important roles in our courts and detention system favor transparency concerning well-founded allegations of misconduct or discipline imposed by the County. The County Sheriff Department’s employment of the two custody assistants despite previous imposition of discipline or well-founded allegations of misconduct against them only magnifies the public interest in access to these records. The public has a right to know the bases of the prior claims against Parker or Martinez, the processes followed by the County in adjudicating them, and the resulting punishments or other resolutions.

The Times Will Recover Fees From The County If Forced To File Another Lawsuit.

If the County continues to withhold the requested records, and The Times is required to obtain a court order compelling their disclosure, The Times will recover its attorneys’ fees and costs under Government Code § 6259. See *Filarsky v. Superior Court*, 28 Cal. 4th 419, 431 (2002) (noting that the CPRA’s attorney-fee “provision contemplates that the public agency *always will pay any costs and attorney fees should the plaintiff prevail*”) (emphasis added); *Los Angeles Times Communications LLC v. Alameda Corridor Transp. Auth.*, 88 Cal. App. 4th 1381, 1390 (2001) (prevailing party must be awarded fees under Section 6259(d)).

If you would like to discuss this matter, please do not hesitate to call me at (213) 237-7077 or email me at jeff.glasser@latimes.com.

Very truly yours,



Jeff Glasser
General Counsel
Los Angeles Times

cc: Kimberly Unland (klunland@lasd.org)
Scott Johnson (sejohnso@lasd.org)
Kelly Aviles
Shelby Grad
Carla Rivera
Richard Martin

Jack Leonard
Maya Lau
Ben Poston

Exhibit T

Subject: LA Times PRA request

Date: Thursday, October 3, 2019 at 3:07:58 PM Pacific Daylight Time

From: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>

To: Discovery Unit PRA Requests <DiscoveryUnitPRARRequests@lasd.org>

Hi, this is a Public Records Act request for the following information:

- An Excel spreadsheet of all promotions within LASD to the rank of captain and above since December 1, 2018, including name, prior rank and assignment and current rank and assignment
- Sheriff Villanueva's daily schedule since he took office
- An Excel spreadsheet of in-custody jail deaths since Jan 1, 2009, including the categories: name, facility, date, cause of death
- All public records requests sent to LASD from 12-1-18 to present/PRA log or spreadsheets kept by LASD to track requests, including the requestor, request, date received and status of the request

Please acknowledge receipt of this request. Thank you,

Alene

--

Alene Tchekmedyian

Reporter

Los Angeles Times

o: (213) 237-3138

c: (714) 928-9311

Exhibit U

From: Discovery Unit PRA Requests <DiscoveryUnitPRARequests@lasd.org>
Sent: Thursday, April 9, 2020 8:10 PM
To: Tchekmedyan, Alene <Alene.Tchekmedyan@latimes.com>
Subject: RE: PRA Request #19-1693

EXTERNAL SOURCE

Alene Tchekmedyan
alene.tchekmedyan@latimes.com

Dear Ms. Tchekmedyan:

We have attached your Public Records request to this email in order to better reference **#19-1693** below.

We are continuing to gather records to review. Once we have determined what records are responsive to your request, we will review them to determine if some of the records are exempt from disclosure. Not having reviewed all of the records, we cannot specify all the applicable authorities upon which records would be withheld or redactions would be required. The authorities may include, but are not limited to, the following: *California Constitution*, article I, section 1; matters protected by the attorney-client, official information, and deliberative process privileges; matters relating to pending litigation, personnel matters, investigations, or where the particular facts and circumstances warrant nondisclosure of the information. (Government Code §§ 6254 (a), (b), (c), (f), (k), and 6255(a).)

If you no longer require documentation related to your original request, please let us know by emailing us the word “**cancel**” along with your reference number to discoveryunitprarequests@lasd.org. **Reference number: 19-1693.**

Otherwise, we are hoping to complete the acquisition and review process in the near future. When the process is completed, we will advise you as to the availability of the non-exempt records.

If you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Thank you,



Exhibit V

From: Tchekmedyan, Alene
Sent: Monday, October 7, 2019 2:03 PM
To: prarequests@lasd.org <prarequests@lasd.org>
Subject: LA Times CPRA request

Hi, this is a Public Records Act request for any and all of the disciplinary records for Deputies Carrie Esmeralda Robles-Placencia and Vincent Moran available under SB 1421. I am making this request as a journalist and I believe the release of this information would enhance the public's understanding of the justice system. Please acknowledge receipt of this request. Thank you,
Alene

--
Alene Tchekmedyan
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

Exhibit W

From: Tchekmedyan, Alene
Sent: Thursday, October 10, 2019 3:33 PM
To: 'prarequests@lasd.org' <prarequests@lasd.org>
Subject: LA Times PRA request

Hi, this is a Public Records Act request for any and all disciplinary records of Dep. Fernando Quintero, serial number 516569. I am making this request as a journalist and I believe the release of this information would enhance the public's understanding of the justice system.

Please acknowledge receipt of this request. Thank you,
Alene

--

Alene Tchekmedyan
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

Exhibit X

From: Tchekmedyan, Alene
Sent: Friday, October 11, 2019 1:37 PM
To: 'prarequests@lasd.org' <prarequests@lasd.org>
Subject: LA Times CPRA

Hi, this is a Public Records Act request for all of the internal audits conducted within LASD since Dec. 1, 2018.
Thank you,
Alene

--
Alene Tchekmedyan
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

Exhibit Y

Subject: LA Times CPRA

Date: Thursday, January 9, 2020 at 12:19:31 PM Pacific Standard Time

From: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>

To: Discovery Unit PRA Requests <DiscoveryUnitPRARRequests@lasd.org>

Hi,

This is a public records act request for the following information:

- All LASD/Probation Dept. emails and records returned as a result of a Jan. 25 2019 search warrant prepared by Sgt. Richard Biddle (warrant number: 82189)
- All records returned as a result of an April 3 2019 search warrant prepared by Sgt. Richard Biddle for Scott Budnick's Google account info (warrant number: 84191)
- Any and all reports or memos or documents or communications concerning Scott Budnick being banned from/not allowed into LA County jails, from Dec. 1 2018 to the date this request is fulfilled
- Any and all emails sent to or received by Alex Villanueva that contain any of the following words: "Scott" "Scott Budnick" "Budnick" "Anti Recidivism Coalition" or "ARC," from Dec. 1 2018 to the date this request is fulfilled
- Emails sent to or received by Alex Villanueva from the following email addresses: scottarcla@gmail.com and comm.private@gmail.com, from Dec. 1 2018 to the date this request is fulfilled

Thank you,

Alene

--

Alene Tchekmedyian

Reporter

Los Angeles Times

o: (213) 237-3138

c: (714) 928-9311

Exhibit Z

From: Discovery Unit PRA Requests <DiscoveryUnitPRARequests@lasd.org>
Sent: Wednesday, April 22, 2020 3:06 PM
To: Tchekmedyian, Alene <Alene.Tchekmedyian@latimes.com>
Subject: RE: LA Times CPRA

EXTERNAL SOURCE

Dear Ms. Tchekmedyian:

We are continuing to gather records to review. Once we have determined what records are responsive to your request, we will review them to determine if some of the records are exempt from disclosure. Not having reviewed all of the records, we cannot specify all the applicable authorities upon which records would be withheld or redactions would be required. The authorities may include, but are not limited to, the following: *California Constitution*, article I, section 1; matters protected by the attorney-client, official information, and deliberative process privileges; matters relating to pending litigation, personnel matters, investigations, or where the particular facts and circumstances warrant nondisclosure of the information. (Government Code §§ 6254 (a), (b), (c), (f), (k), and 6255(a).)

If you no longer require documentation related to your original request, please let us know by emailing us the word “**cancel**” along with your reference number to discoveryunitprarequests@lasd.org. **Reference number:** 20-30.

Otherwise, we are hoping to complete the acquisition and review process in the near future. When the process is completed, we will advise you as to the availability of the non-exempt records.

If you have any questions, please contact Lieutenant Morsi of the Discovery Unit at (323) 890-5000.

Thank you,



From: Tchekmedyian, Alene [<mailto:Alene.Tchekmedyian@latimes.com>]
Sent: Thursday, January 9, 2020 12:20 PM
To: Discovery Unit PRA Requests <DiscoveryUnitPRARequests@lasd.onmicrosoft.com>
Subject: LA Times CPRA

Hi,

This is a public records act request for the following information:

- All LASD/Probation Dept. emails and records returned as a result of a Jan. 25 2019 search warrant prepared by Sgt. Richard Biddle (warrant number: 82189)

- All records returned as a result of an April 3 2019 search warrant prepared by Sgt. Richard Biddle for Scott Budnick's Google account info (warrant number: 84191)
- Any and all reports or memos or documents or communications concerning Scott Budnick being banned from/not allowed into LA County jails, from Dec. 1 2018 to the date this request is fulfilled
- Any and all emails sent to or received by Alex Villanueva that contain any of the following words: "Scott" "Scott Budnick" "Budnick" "Anti Recidivism Coalition" or "ARC," from Dec. 1 2018 to the date this request is fulfilled
- Emails sent to or received by Alex Villanueva from the following email addresses: scottarcla@gmail.com and comm.private@gmail.com, from Dec. 1 2018 to the date this request is fulfilled

Thank you,
Alene

--

Alene Tchekmedyan
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

Exhibit AA

From: Tchekmedyian, Alene
Sent: Tuesday, February 11, 2020 3:18 PM
To: prarequests@lasd.org <prarequests@lasd.org>
Subject: LA Times CPRA

Hi, this is a Public Records Act request.

The sheriff mentioned at a recent presser that of 276 promotions to sergeant and above, 41% employees are Latino, 36% white, 18% female and 15% African American and 4.5% Asian.

I'm requesting a further breakdown of these numbers. I'm requesting a spreadsheet of promotions to sergeant and above from the day the sheriff took office, Dec. 3, 2018, to the date this request is fulfilled. The list should include: name, prior rank/assignment, current rank/assignment, ethnicity and gender.

I am requesting the same spreadsheet for new deputy hires from Dec. 3, 2018 to the date this request is fulfilled. That spreadsheet should also include date of hire.

Thank you,
Alene Tchekmedyian

Exhibit BB

From: Tchekmedyian, Alene
Sent: Wednesday, February 26, 2020 9:24 PM
To: prarequests@lasd.org <prarequests@lasd.org>
Subject: LA Times CPRA

This is a Public Records Act request for the following information:

- Any and all communications -- including but not limited to text messages, emails, reports, complaints, memos and voicemails -- that reference the taking and/or sharing of Kobe Bryant helicopter crash photos by Sheriff's Department employees. These emails would have been sent or received by employees assigned to the Lost Hills station, including trainees and reserves, and/or any members of the LASD command staff, including Sheriff Villanueva, and possibly others. The search should include communications sent or received between Jan. 26, 2020 and the date this request is fulfilled. The search could include, but would not be limited to, the following terms: "photos," "photo," "pictures," "picture," "images," "image," "crash," "Kobe," "helicopter." We ask that you search all files and baskets, including those for deleted items and drafts, and all drives. Please include all attachments with the emails you produce. We ask that any electronic records be produced in their original electronic form.
- A record of all calls to the internal affairs bureau from Jan. 26, 2020 to Feb. 25, 2020
- Recordings of all voice messages left with the internal affairs bureau from Jan. 26, 2020 to Feb. 25, 2020
- A list of Sheriff's Department personnel who responded to the Kobe Bryant helicopter crash

Because this concerns a timely matter of significant public interest, we ask that records be produced as soon as they are located, including in piecemeal form, as the search for more records continues. Please let us know as soon as possible if there is anything we can do to speed production of the records.

Thank you,
Alene

--

Alene Tchekmedyian
Reporter
Los Angeles Times
o: (213) 237-3138
c: (714) 928-9311

Exhibit CC

From: Tchekmedyian, Alene

Sent: Wednesday, February 26, 2020 1:03 PM

To: kloquet@auditor.lacounty.gov <kloquet@auditor.lacounty.gov>

Subject: LA Times CPRA

Hi Karen, this is a Public Records Act request for the daily time sheet of every Sheriff's Department employee who worked at the Lost Hills Station on Jan. 26, 2020. Thank you,
Alene

--

Alene Tchekmedyian

Reporter

Los Angeles Times

o: (213) 237-3138

c: (714) 928-9311

Exhibit DD



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ALEX VILLANUEVA, SHERIFF



March 12, 2020

Alene Tchekmedyian
LA Times
Alene.Tchekmedyian.com

Dear Ms. Tchekmedyian:

This letter is in response to your request for records under the California Public Records Act dated and received by the Los Angeles County Sheriff's Department (LASD) Discovery Unit on March 9, 2020.

In your request, you are seeking the following:

"Daily time sheet of every Sheriff's Department employee who worked at the Lost Hills Station on Jan. 26, 2020."

Response: Unfortunately, we are unable to assist you with your request. The records are considered part of an employee's personnel records. These records are confidential and protected by Penal Code §§ 832.7 and 832.8 and are exempt from disclosure under the California Public Records Act under Government Code § 6254(c). The records requested are also exempt from disclosure under the California Constitution, article 1, section 1 and Government Code section 6255(a).

If you have any questions, please contact Lieutenant Norman of the Discovery Unit at (323) 890-5000.

Sincerely,

ALEX VILLANUEVA, SHERIFF

Albert M. Maldonado, Captain
Risk Management Bureau

211 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

A Tradition of Service
— Since 1850 —