

Item #12 - M2019-07 Mediation Summary



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Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: September 23, 2021
RE: *In the Matter of the Police Department (Case No. M2019-07); Mediation Summary*

I. INTRODUCTION

On May 10, 2019, the Commission received a request for mediation alleging that the Oakland Police Department failed to disclose records in response to three public records request made by the Requester on September 18, 2018, January 28, 2019, and February 28, 2019. On May 24, 2019, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department stated that they released all responsive documents per the requests, Staff closed the mediation without further action.

II. SUMMARY OF LAW

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

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.³ A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.⁴

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

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

² Government Code § 6253(b).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

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III. SUMMARY OF FACTS

On September 18, 2018, the Police Department received, via email, the following public records request (No. 18-3079):

Please release the body camera videos from the June 6, 2015, standoff at Lake Park Avenue and Lakeshore Avenue from the following officers:
Officer Karl Templeman
Officer Daniel Cornejo-Valdivia
Please let me know if you have any questions.
PDRD 15-029934

On January 28, 2019, the Police Department received, via email, the following public records request (No. 19-470):

Please provide the police department's incident report for each time an Oakland Police Department officer has fired his or her service weapon at a dog or other animal since Jan. 1, 2016. If some aspects of the reports are exempt from disclosure, please redact what is necessary and provide the report, or release all disclosable information as specified in California Government Code 6254(f).

Please also provide the names of all officers who have fired on an animal, the date and location of the incident, and whether the animal or any person was wounded by the gunfire since Jan. 1, 2009.

I would like any records as they become available. Let me know if you have any questions.

On February 28, 2019, the Police Department received, via email, the following public records request (No. 19-1058):

Please provide all documents relevant to any internal affairs investigations into officers David McLaughlin or Ryan McLaughlin where either officer used force that resulted in death or serious bodily injury or that resulted in sustained findings of dishonesty or sexual misconduct.

Please let me know if you have any questions.

On April 8, 2019, the Police Department changed the due date for public records request 19-1058 stating:

We are gathering and reviewing all records and will produce any responsive documents on a rolling basis, subject to applicable exemptions.

On May 3, 2019, the Police Department provided the Requester with a link to another unrelated public records request in response to request 19-1058 stating:

Please see email link below for newly released responsive documents
<https://oaklandca.nextrequest.com/requests/19-1146#>

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On May 10, 2019, the Commission received a mediation request seeking the following:

Habitual non-responsiveness to public records requests. Requests are ignored for months and inquiries about status are either ignored or responded to with boilerplate extension language.

On May 22, 2019, the Police Department released five responsive documents related to public records request 18-3079. Subsequently, the Police Department closed the request stating:

We released all of the requested documents.

On May 23, 2019, Staff reached out to the Requester to verify receipt and completeness of the documents provided in response to public records request 18-3079. The Requester replied:

It is unfortunate that what was released was not more clearly communicated, but it does appear that OPD complied.

On May 24, 2019, Staff initiated its mediation program and notified the Police Department of the mediation request for the outstanding public records requests.

On October 7, 2019, the Police Department closed public records request 19-1058 stating:

The City has reviewed its records, including internal affairs records and use of force records, of David McLaughlin and Ryan McLaughlin and determined that the requested records do not exist.

On August 6, 2020, the Police Department released two responsive documents related to public records requests 19-470. The Requester was also notified that there would be additional responsive results within the next few days.

On August 10, 2020, the Police Department released one additional document related to public records request 19-470.

On July 13, 2021, the Police Department released one final responsive document related to public records request 19-470. Subsequently, the Police Department closed the request stating:

We released all responsive documents held by OPD.

On August 18, 2021, Staff followed up with the Requester regarding their public records requests to inquire if they had received all the responsive documents and informed them that their mediation request would be closed. Staff did not receive a response from the Requestor.

IV. RECOMMENDATION

Because the Police Department indicated that they provided all responsive records for the public records requests, Staff closed the mediation without further action.