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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF ALAMEDA

17 DARWIN BONDGRAHAM; and  
18 ALI WINSTON,  
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Case No. RG20071657

**RETURN TO WRIT**

Judge: Hon. Judge Frank Roesch  
Dept.: 17

CITY OF OAKLAND; OAKLAND POLICE  
DEPARTMENT; and SUSAN MANHEIMER, in  
her official capacity,

Respondents.

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1 I. INTRODUCTION

2 Respondents have substantially complied with this Court’s order and Writ, issued  
3 April 7 and 14, 2021. The Writ required Respondents to produce within a six-month period  
4 following its issuance all disclosable documents responsive to the 31 Public Records Act  
5 Requests (PRRs) filed by Petitioners with the Oakland Police Department and City of  
6 Oakland. This Court ordered Respondents to report back to it via this Return seven months  
7 after the service of the Writ.

8 Respondents have produced approximately 95% of the disclosable documents and  
9 audio-video files responsive to Petitioners’ PRRs. Although Petitioners group them into 31  
10 submissions to the City, Petitioners’ requests encompass approximately 100 separate and  
11 distinct requests, each requiring its own search, analysis, review, and production process.  
12 The City’s responses to 86 of those requests are complete. As to the rest, the remaining  
13 records amount to a small fraction of the records produced to date. Those remaining records  
14 generally involve extenuating circumstances, such as difficulty converting archaic media  
15 files, that have delayed the review process. Respondents expect to produce all such  
16 remaining records in the next few weeks.

17 To come to this level of compliance required an extraordinary amount of work. In all,  
18 Respondents have spent nearly 5,000 hours of in-house and outside attorney and staff time  
19 and the equivalent of more than one million dollars in public expenditures since the Court’s  
20 order granting the writ petition. The over-eight-thousand documents and 280 hours of  
21 audio-video Respondents have produced tells only a fraction of the tale.

22 Each of Petitioners’ 100 requests required layers of searching, document processing,  
23 and analyzing even to get to an initial determination of whether a case included disclosable  
24 records. Because the Oakland Police Department retains records going back decades,  
25 Respondents scoured storage logs, searched offsite warehouses, and pulled from in-house  
26 electronic filing systems managed by different custodians. Respondents scanned countless

1 boxes of paper, converted audiocassettes, and screen-recorded archaic video formats in real  
2 time. Respondents cross-referenced additional documents to make disclosability  
3 determinations and supplemented searches when more information surfaced. Respondents  
4 redacted with a careful eye to detail, often by two reviewers.

5 The results Respondents have achieved, and the extraordinary steps taken in pursuit  
6 of that task, amount to substantial compliance with the Court’s Writ. California courts take  
7 an individualized approach to evaluating compliance with court orders and ask not just the  
8 degree of completion, but also whether a party has done all it reasonably could with the  
9 resources it could marshal. The Public Records Act itself requires public entities take only  
10 reasonable efforts, accounting for the administrative burden and costs of disclosure.  
11 Respondents have made beyond reasonable efforts. Respondents have almost—not entirely,  
12 but nearly—completed their response to Petitioners’ requests. By any account, Respondents  
13 have substantially discharged their duties under the Writ and under California law.

14 I. RESPONDENTS HAVE PRODUCED 95% OF RESPONSIVE, DISCLOSABLE  
15 DOCUMENTS.

16 Respondents have produced the vast majority of disclosable records responsive to  
17 Petitioners’ 31 PRRs. As explained more fully below (see section II, *infra*) and in the  
18 Declaration of Veronica Harris (“Harris Dec.”) at ¶ 10, the 31 PRRs were complex, compound  
19 requests that contained approximately 100 discrete requests for case files spanning decades  
20 of Oakland Police Department (OPD) records.<sup>1</sup> Respondents have completed production for  
21 86 of the 100 requests after conducting a diligent search for responsive records. (*Id.* at ¶ 46.)

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24 <sup>1</sup> 100 reflects a conservative approximation of the number of distinct requests. (Harris  
25 Dec. ¶ 10.) Because that number is approximate and production is ongoing, the completion  
26 status is an estimate reflecting Respondents’ analysis as of the date of this filing. (*Id.*) Though  
27 many of the PRRs are fully complete, they have not been “closed out” on NextRequest  
28 because redaction challenges are ongoing and because Respondents focused their resources  
on producing the greatest number of records directly to Petitioners.

1 Of the approximately 14 remaining requests, Respondents have produced at least  
2 some records for every request for which they have uncovered disclosable records. (Harris  
3 Dec. ¶ 47.) For some, Respondents have produced the majority of the disclosable records.  
4 (*Id.*) Taking the substantial progress on these requests together with the 86 complete  
5 requests, Respondents estimate they have produced approximately 95% of the responsive  
6 disclosable documents in response to the 31 PRRs. (*Id.*)

7 To get to 95% completion, Respondents have produced more than 8,600 separate  
8 documents, totaling nearly 50,000 pages.<sup>2</sup> (Declaration of Erin Bernstein (Bernstein Dec.) ¶ 9.)  
9 That includes records from, among other sources, OPD's Internal Affairs Division, Criminal  
10 Investigations Division, current and legacy force review boards, citizens' review boards, and  
11 City Attorney arbitration and internal appeal files. Respondents have also produced over 280  
12 hours of audio and video files, all of which had to be played through at least once, and often  
13 multiple times. (*Id.*) Altogether, Respondents' productions amounted to nearly 100 Gigabytes  
14 of information. (*Id.*) And yet, as explained below (*infra* at IIA, B), the volume of records  
15 produced is only a small reflection of the amount of work required to respond to Petitioners'  
16 requests.

17 As to the estimated 5% of disclosable records remaining, Respondents expect to  
18 complete those productions in the next few weeks. In most instances, those records were  
19 delayed due to extenuating circumstances, particularly with respect to requests for  
20 documents more than a decade (and sometimes more than two decades) old stored offsite  
21 and in archaic formats. Some audio and video files have been delayed due to technological  
22 issues. (Harris Dec. ¶ 25-28, 48.) Some files could not be located in initial searches, but more

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25 <sup>2</sup> As required by the Writ, Respondents effected these productions every two weeks.  
26 Some of this production has been completed in the last month, past the six-month mark.  
27 Much of the production from this period includes files that were extraordinarily difficult to  
28 locate from offsite storage and process for review.

1 recent efforts, including contacting additional custodians and searching additional locations,  
2 were successful. (*Id.* at ¶ 21, 48.) Respondents have had to repeatedly engage in new searches  
3 for documents as more files are reviewed and redacted, and a small fraction of those recently  
4 acquired records are still in the queue. (*Id.* ¶ 21, 48-49.) Respondents are diligently working  
5 to complete those last tasks.

6 II. RESPONDENTS' EFFORTS TO COMPLY WITH THE WRIT WERE  
7 EXTRAORDINARY

8 Compliance with the Writ was a monumental task. The PRRs were complex,  
9 compound requests that actually contained dozens upon dozens of individual requests  
10 spanning decades of Oakland Police Department records. OPD keeps records much longer  
11 than many other police departments, including records from cases dating back to the last  
12 century. Even the PRRs related to more recent cases often included an embedded request for  
13 an officer personnel file that required a historical search. And so, to locate potentially  
14 responsive records, Respondents routinely searched not only electronic storage and onsite  
15 physical document repositories, but also scoured offsite storage for physical files.  
16 Respondents spent approximately 4,800 attorney and paralegal hours searching for,  
17 processing, reviewing and redacting these documents, resulting in the expenditure of over a  
18 million dollars of public funds in the compliance effort. These efforts clearly go beyond the  
19 reasonable search and production required by the Public Records Act, and constitute good  
20 faith, substantial compliance with this Court's order.

21 A. SEARCHING FOR AND IDENTIFYING POTENTIALLY DISCLOSABLE RECORDS  
22 REQUIRED EXTENSIVE COORDINATION, ANALYSIS, TECHNOLOGY, AND TIME

23 While there are only 31 PRR numbers at issue in the Writ, they include approximately  
24 100 distinct requests, many with their own embedded layers. (Harris Decl. ¶ 10.) For  
25 example, Petitioners characterize PRR No. 19-40, which relates to the Jerry Amaro case, as  
26 one records request. (See, e.g., Verified Petition for Writ of Mandate, ¶ 58 (characterizing  
27 Amaro request as a single request); see also *id.* at Exh. 24.) The full request is as follows:

1 Please provide me with complete copies of all OPD internal affairs cases  
2 and all OPD Criminal Investigation Division cases of the death of Jerry  
3 Amaro. Mr. Amaro died on April 21, 2000 and the investigations of his  
4 death and the conduct of police officers spanned from 2000 to 2011.  
5 Additionally, please provide the following specific records:

- 6 1. The entire OPD Internal Affairs case files examining the  
7 death of Jerry Amaro and the subsequent criminal  
8 investigation of Mr. Amaro's death. The entire OPD Criminal  
9 Investigation Division case file regarding the death of Jerry  
10 Amaro.
- 11 2. The entire OPD Internal Affairs case file 00-063, concerning  
12 Oakland Police Officer Edward Poulson' conduct in the  
13 incident(s) that led to Jerry Amaro's death and other matters.
- 14 3. The entire OPD Internal Affairs case file from 2010 which re-  
15 examined the incident(s) which led to the death of Jerry  
16 Amaro, and subsequent conduct by OPD officers in the  
17 investigation of Amaro's death. I believe this IA case is  
18 numbered 10-1491. This IA case is disclosable because it  
19 examined allegations of untruthfulness by police officers and  
20 was directly connected to a case of use of force by police  
21 which resulted in the death of Mr. Amaro.
- 22 4. The March 23, 2000 arrest report of Jerry Amaro.
- 23 5. Records of any and all witness statements and interviews and  
24 other communications obtained by OPD Criminal  
25 Investigation Division investigators regarding the incident(s)  
26 which led to the death of Jerry Amaro [sic], including, but  
27 not limited to, statements provided by the doctors and nurses  
28 who treated Mr. Amaro, Mr. Amaro's family members,  
including Geraldine Montoya and Stephanie Montoya, and  
Laureen White, the woman who witnessed Mr. Amaro's  
arrest.
6. Any and all non-exempt portions of Oakland Police Officer  
Gus Galindo's personnel file, including any sustained  
incidents of dishonesty, sexual assault, and all records of uses  
of force resulting in great bodily injury, and all discharges of  
a firearm at a person.
7. Any and all non-exempt portions of Oakland Police Officer  
Edward Poulson's personnel file, including any sustained  
incidents of dishonesty, sexual assault, and all records of uses  
of force resulting in great bodily injury, and all discharges of  
a firearm at a person.
8. Any and all non-exempt portions of Oakland Police Officer  
Roland Holmgren's personnel file, including any sustained  
incidents of dishonesty, sexual assault, and all records of uses  
of force resulting in great bodily injury, and all discharges of  
a firearm at a person.
9. Any and all non-exempt portions of Oakland Police Officer  
Steven Nowak's personnel file, including any sustained



1 incidents of dishonesty, sexual assault, and all records of uses  
2 of force resulting in great bodily injury, and all discharges of  
3 a firearm at a person.

4 10. Any and all non-exempt portions of Oakland Police Officer  
5 Mark Battle’s personnel file, including any sustained  
6 incidents of dishonesty, sexual assault, and all records of uses  
7 of force resulting in great bodily injury, and all discharges of  
8 a firearm at a person.

9 11. Any and all non-exempt portions of Oakland Police Officer  
10 Eric Karsseboom’s personnel file, including any sustained  
11 incidents of dishonesty, sexual assault, and all records of uses  
12 of force resulting in great bodily injury, and all discharges of  
13 a firearm at a person.

14 12. Any and all non-exempt portions of Oakland Police Officer  
15 Marcell Patterson’s personnel file, including any sustained  
16 incidents of dishonesty, sexual assault, and all records of uses  
17 of force resulting in great bodily injury, and all discharges of  
18 a firearm at a person.

19 13. Any and all non-exempt portions of Oakland Police Officer  
20 Clifford Bunn’s personnel file, including any sustained  
21 incidents of dishonesty, sexual assault, and all records of uses  
22 of force resulting in great bodily injury, and all discharges of  
23 a firearm at a person.

24 14. Any and all copies of Federal Bureau of Investigation records  
25 in possession of the city and police department which  
26 address the Amaro case, including, but not limited to copies  
27 of investigations conducted by the FBI, and letters sent by the  
28 FBI to any City of Oakland official.

As the request shows, the Amaro PRR—and the many others like it—is not one request, but more than a dozen. Almost all of those dozen requests are in turn requests for multiple incidents or cases, such as the requests for every disclosable incident in eight individual officers’ files. There are 57 such requests for the entire disclosable personnel file of a particular employee contained in the 31 PRRs. (Harris Dec. at ¶ 10-13.)

Before redaction and production on any one of the individual requests could begin, Respondents underwent an extraordinarily onerous yet invisible process of searching for and identifying disclosable records. Take the requests for all disclosable personnel records for individual employees. For every such request, Respondents collected and reviewed the employee’s Complaint Index Report, which catalogs complaints against the employee dating back to at least 2000. (*Id.* at ¶ 14, 18-19.) In many instances, the information in the Complaint

1 Index Report alone was insufficient to determine whether an incident was disclosable: The  
2 Complaint Index Report does not always indicate, for example, whether a use of force case  
3 involved injury rising to the level of great bodily injury. In such cases, Respondents  
4 collected, reviewed, and analyzed additional reports and information, again just to reach the  
5 threshold determination whether an incident was disclosable. In all, Respondents reviewed  
6 information for *more than 300 incidents* to respond to Petitioners' 31 Public Records Requests.  
7 (*Id.* at ¶ 15.)

8 Collecting records to analyze is a complicated task on its own. There is no single  
9 records liaison with access to every file. The Police Department's Internal Affairs  
10 Department is a primary record custodian, but others, including the Department's Force  
11 Unit, Records Unit, and Criminal Investigations Division, as well as the Citizen's Police  
12 Review Agency (formerly, the Community Police Review Board), were also contacted as  
13 appropriate. (Harris Dec. ¶ 22.) In addition, where an incident resulted in a disclosable  
14 sustained finding, Respondents searched the City's Employee Relations Department and  
15 City Attorney's Office's files for records relating to internal grievance and arbitration  
16 processes. (Harris Dec. ¶ 23.) Because Petitioners have requested records going back  
17 decades, many files relevant to their requests were kept in paper (not electronic) format. (*Id.*  
18 at ¶ 18-20.) Some of those records were onsite at the Oakland Police Department, but many  
19 were stored at various offsite facilities. Offsite retrieval required coordination for search and  
20 delivery—a task made more challenging during the pandemic. (*Id.*)

21 Once retrieved, records were processed for review. Paper records were manually  
22 scanned for conversion to electronic formats. (Harris Dec. ¶ 25.) Even for files already in  
23 digital format, additional processing was often required to troubleshoot non-conforming  
24 formats, errors, and file integrity concerns. (*Id.*) Non-electronic records required more  
25 complex processing. Respondents contracted with a vendor to convert numerous VHS and  
26 audio cassette tapes. (*Id.* at ¶ 25-26.) Other video files were stored in a file format unique to a

1 long-obsolete proprietary software. (*Id.*) For these files, Respondents determined, after  
2 significant trial and error, that the only viable method of converting the files was to acquire a  
3 version of the old software to play the video and to then capture the screen and audio output  
4 in real time. (*Id.* at ¶ 26-27.) More than 20 video files of up to 4.5 hours in length each  
5 required such manual conversion. (*Id.*)

6 B. REVIEWING, REDACTING, AND PRODUCING RECORDS REQUIRED LAYERS OF  
7 CAREFUL ANALYSIS

8 Once documents were processed for review, an attorney or paralegal reviewed them.  
9 Where files were determined to be disclosable in part, reviewers redacted them in a multi-  
10 stage process. Often, reviewers needed to read the entire file in order to understand what  
11 portions of documents needed to be redacted. (Harris Dec. ¶ 32.) Reviewers then marked  
12 redactions, adding the statutory basis for each redaction. This stage of the process required  
13 meticulous attention to detail to protect the confidentiality of witnesses, including  
14 confidential informants; to protect sensitive personal information; and to ensure that non-  
15 disclosable personnel information was withheld in compliance with the California Penal  
16 Code. (*Id.* at ¶ 31-32.) To ensure accuracy, Respondents required that certain highly sensitive  
17 documents were reviewed twice before redactions were finalized. (*Id.* at ¶ 32.)

18 Once redacted, documents were re-saved in redacted format and uploaded for  
19 production. Because of the size of Respondents' productions, a significant number of hours  
20 were spent creating space on hard drives, uploading documents to the cloud, and checking  
21 the integrity of files before they were produced. (Bernstein Dec.) at ¶ 3.)

22 Yet more hours were expended readying and uploading attorneys-eyes-only versions  
23 of documents and responding to redaction challenges. (Bernstein Dec. at ¶ 4.) Respondents  
24 have located and uploaded nearly 2000 files to an electronic reading room. (*Id.* at ¶ 5.)  
25 Because Petitioners challenged the redactions on nearly every document produced for at  
26 least the first several months of production, Respondents have drafted nearly one hundred

1 single-spaced pages in defense of their redactions. (*Id.* at ¶ 4.) Defending these challenges—  
2 which the Court has indicated were almost entirely without merit—drew significant  
3 resources away from Respondents’ production efforts. (*Id.*)

4 C. RESPONDENTS HAVE EXPENDED OVER ONE MILLION DOLLARS OF PUBLIC  
5 RESOURCES ON COMPLIANCE WITH THE WRIT

6 Respondents, through the City Attorney’s Office and the Oakland Police Department,  
7 have expended roughly 5,000 hours of in-house and contract attorney time and spent over  
8 one million dollars of public resources in their efforts to comply with the writ.

9 Respondents’ compliance efforts were led by the Senior Deputy City Attorney  
10 specializing in SB 1421. Despite her numerous other pressing duties, she spent over 500  
11 hours since the Court’s April 7 order attending to production of the requests at issue in this  
12 case. (Harris Dec. at ¶ 36.) In addition, the Office of the City Attorney requested and  
13 obtained a new Deputy City Attorney and a new paralegal position from the City Council  
14 during the budget process. (*Id.* at ¶ 37-38.) The paralegal began working on compliance in  
15 early April and has spent over 900 hours on compliance. (*Id.* at ¶ 37.) The attorney joined the  
16 Office of the City Attorney in August 2021, and has spent over 320 hours in that short time  
17 dedicated solely to SB 1421 compliance. (*Id.* at ¶ 40-41.) The City has also dedicated a  
18 litigation paralegal to spend a majority of her time—over 470 hours—on compliance with the  
19 writ since April 2021. (*Id.* at ¶ 38). In total, the City Attorney’s in-house attorneys and staff  
20 have spent approximately 2200 hours on Writ compliance over the past seven months.<sup>3</sup>

21 The City Attorney’s Office also engaged external resources to ensure compliance with  
22 the Writ. Bradley Bernstein Sands LLP has expended nearly 1,100 hours of attorney time on  
23 analysis, redaction, and production of documents. (Bernstein Dec. at ¶ 6.) The City also

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24  
25 <sup>3</sup> This total number of hours does not include the many hours spent prior to the  
26 issuance of the Writ in producing documents responsive to Petitioners’ requests or to other  
27 SB 1421 requests.

1 retained several contract counsel. (Harris Dec. at ¶ 39.) As of this filing, those counsel have  
2 spent more than 1,500 hours redacting and producing documents for this case. (*Id.*)

3 In other words, over the past seven months alone, Respondents have worked more  
4 than 4,800 hours on compliance with the writ.<sup>4</sup> In monetary terms, this translates to just over  
5 one million dollars. This includes approximately \$ 346,340 in contract and outside counsel  
6 time as well as approximately \$682,000 in City Attorney in-house attorney and paralegal  
7 time, plus over \$12,500 in costs and other expenses. (Harris Dec. at ¶ 43-45; Bernstein Dec. at  
8 ¶ 7.) That figure does not include the \$200,000 contract attorney expenditure and in-house  
9 counsel time spent prior to the issuance of the Writ in responding to Petitioners' 31 PRRs.  
10 (Declaration of Veronica Harris in Support of Respondents' Opposition to Motion for  
11 Peremptory Writ, filed March 22, 2021 at ¶ 15-17.)

12 III. RESPONDENTS HAVE SUBSTANTIALLY COMPLIED WITH THIS COURT'S  
13 WRIT

14 In producing 95% of disclosable documents, Respondents have substantially complied  
15 with the Writ. Respondents are diligently working to complete the final pieces of their  
16 production and commit to completing all remaining tasks in short order.

17 California law creates a framework for courts to evaluate compliance with their  
18 orders. The law contemplates not only the degree of completeness (and whether any  
19 deviations are substantial), but also the extent of the party's efforts, the size and difficulty of  
20 the task, and whether the party has achieved substantial compliance with the order itself.  
21 Thus, in evaluating compliance with the Writ, the Court can and should consider the  
22 enormity of the ordered production, as well as Respondents' diligence and good faith efforts  
23 to comply. A return that reports full compliance but for a few outstanding tasks should not

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25  
26 <sup>4</sup> This hourly calculation does not include staff time (or overtime) by Oakland Police  
Department personnel spent assisting counsel for Respondents in searching for potentially  
responsive documents both on- and off-site.

1 be found deficient where the remaining tasks were more onerous than anticipated and  
2 exceeded the Respondents' capacity despite utilizing every reasonably available resource.

3 California law and common sense dictate that, where a party to an equitable action  
4 makes every effort to comply—here, spending a million dollars and nearly 5,000 hours on  
5 such efforts in seven months—and achieves *nearly* 100% compliance, the party should be  
6 considered in substantial compliance. “Where there is compliance as to all matters of  
7 substance[,] technical deviations are not to be given the stature of noncompliance. [ ]  
8 Substance prevails over form.” (*Baker v. Italian Maple Holdings, LLC* (2017) 13 Cal.App.5th  
9 1152, 1167, quoting *Malek v. Blue Cross of California* (2004) 121 Cal.App.4th 44, 72; see also  
10 *Nutter v. Superior Court* (1960) 183 Cal.App.2d 72, 75 [impossibility of performance is a  
11 defense to a party's failure to fully comply with a court order].) Similarly, federal law  
12 recognizes that “a few technical violations” do not vitiate compliance with a court order  
13 where a party has taken “every reasonable effort to comply.” (*In re Dual-Deck Video Cassette*  
14 *Recorder Antitrust Litigation* (9th Cir. 1993) 10 F.3d 693, 695; see also *General Signal Corp. v.*  
15 *Donallco, Inc.* (9th Cir. 1986) 787 F.2d 1376, 1378–79.)

16 California precedent has long held that trial courts should take an individualized  
17 approach to evaluating compliance with a court order. In *Sutro Heights Land Co. v. Merced Irr.*  
18 *Dist.* (1931) 211 Cal. 670, the California Supreme Court explained that courts should not  
19 consider a public entity's performance of a statutory duty actionably deficient, even where  
20 the public entity “has not succeeded in discharging this duty to its fullest extent,” if the  
21 entity “has done all that could be reasonably required of it with the money available for that  
22 purpose, and which the resources of the [entity] will permit.” (*Id.* at p. 704.)

23 In cases evaluating a public entity's compliance with an order under the Public  
24 Records Act, there is further reason to take resource considerations into account. Under the  
25 Public Records Act, consideration of administrative burden is baked into the statute: The  
26 statute is awash in references to the agency's “reasonable” efforts. (See, e.g., Government

1 Code § 6253(a) [agency must produce “reasonably segregable” portions of record];  
2 § 6253.1(a) [agency must assist requestor “to the extent reasonable under the  
3 circumstances”].) Courts have accordingly held that agencies must take only “reasonable  
4 effort” to search for and identify documents. (*City of San Jose v. Super. Ct.* (2017) 2 Cal.5th 608,  
5 627.) “Reasonable efforts do not require that agencies undertake extraordinarily extensive or  
6 intrusive searches.” (*Ibid.*) Once an agency has identified records, “section 6255[] does permit  
7 courts to consider context-specific burdens associated with particular requests in deciding  
8 whether and how an agency must respond.” (*National Lawyers Guild, San Francisco Bay Area*  
9 *Chapter v. City of Hayward* (2020) 9 Cal.5th 488, 501; see also *id.* at pp. 507-8 [the Public  
10 Records Act does not require governments to provide documents where requests “place  
11 undue burdens on an agency”]; *American Civil Liberties Union Foundation v. Deukmejian* (1982)  
12 32 Cal.3d 440, 453 [“Section 6255 speaks broadly of the ‘public interest,’ a phrase which  
13 encompasses public concern with the cost and efficiency of government”].) In other words, at  
14 all stages of the search and production process, the Public Records Act contemplates that the  
15 government need not do more than what is reasonable in light of the burden and cost  
16 associated with the request.

17 Respondents have nevertheless undertaken extraordinary efforts. It goes beyond  
18 reasonable efforts, for example, to acquire archaic proprietary software to play many dozens  
19 of hours of video while recording the screen and audio in real time, just to process decades-  
20 old video files responsive to sub-requests of sub-requests. It goes beyond “reasonable  
21 efforts” to conduct supplemental searches for old paper documents after inquiries with  
22 custodians and offsite searches in the most logical locations turned up empty. But  
23 Respondents have embraced these burdens in the interest of transparency and good faith, at  
24 considerable expense. As a consequence, Respondents have a small fraction of the work still  
25 to complete. But that should not defeat a finding of substantial compliance where, as here,  
26 the task was enormous and Respondents’ efforts extraordinary.

1 IV. CONCLUSION

2 For the foregoing reasons, Respondents submit they have substantially complied with  
3 the Writ of Mandamus.

4  
5 Dated: November 16, 2021  
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