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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 COUNTY OF SAN DIEGO

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21 AMERICAN CIVIL LIBERTIES UNION OF  
SOUTHERN CALIFORNIA,

22 *Plaintiff and Petitioner,*

23 vs.

24 CHULA VISTA POLICE DEPARTMENT,

25 *Defendant and Respondent.*  
26

Case No.

**VERIFIED COMPLAINT AND PETITION  
FOR WRIT OF MANDATE**

[Gov. Code, §§ 7920.000, *et seq.*; Code Civ.  
Proc., § 1085]

1 INTRODUCTION

2 1. Plaintiff and Petitioner American Civil Liberties Union of Southern California  
3 (“ACLU”) brings this suit to enforce the California Public Records Act (“PRA”), Government  
4 Code section 7920.000 *et seq.*, against the Chula Vista Police Department (“the Department”)  
5 because the Department has disregarded its obligations under the PRA by largely refusing to  
6 provide public access to its records related to deadly uses of force by police officers and other  
7 police incidents of significant public interest.

8 2. In 2018, California’s Legislature passed Senate Bill (“SB”) 1421, which amended  
9 Penal Code section 832.7 (governing peace officer or custodial officer personnel records) to  
10 dramatically expand the public’s right to access and inspect records relating to police misconduct  
11 and use of force. In 2021, the Legislature passed SB 16 and further expanded the categories of  
12 records available to the public and clarified police agencies’ duties in responding to requests for  
13 records.

14 3. On or about January 1, 2019, the ACLU submitted a PRA request to the  
15 Department (“Original PRA Request”) for certain records in the four categories that SB 1421  
16 provides “shall be made available for public inspection” pursuant to the PRA, that is, documents  
17 relating to administrative investigations of: (1) uses of force that resulted in death or great bodily  
18 injury, (2) discharges of firearms at a person, (3) sustained findings of dishonesty in the reporting,  
19 investigation, or prosecution of a crime or misconduct by another, and (4) sustained findings of  
20 sexual assault involving a member of the public. (**Exhibit A**; Pen. Code, § 832.7, subd. (b)(1).)  
21 This Original PRA Request was limited to decisional documents, as opposed to all records relating  
22 to the underlying incidents.

23 4. In response to the ACLU’s Original PRA Request, the Department produced  
24 documents for a *single* incident and asserted that the Department had no other responsive records.  
25 (**Exhibit B**.) The ACLU later learned through its own research of publicly available information  
26 that the Department had failed to produce responsive records for numerous incidents, including  
27 sixteen officer-involved shooting incidents; a sustained finding of dishonesty; an in-custody death  
28

1 that occurred during the process of arrest; and an incident in which police use of force resulted in  
2 great bodily injury.

3         5.         The ACLU submitted a renewed request for the missing records on July 14, 2023  
4 (“Renewed PRA Request;” collectively with the Original PRA Request, “Requests”). (**Exhibit**  
5 **C.**) After extensive outreach by the ACLU and continued resistance from the Department, the  
6 Department finally conceded that it must produce records for nineteen responsive incidents that it  
7 previously improperly withheld. Notwithstanding this concession, the Department still has  
8 refused to comply with its obligations under the relevant law.

9         6.         *First*, the Department has largely refused to produce responsive records related to a  
10 fatal use of force by its officers against Jason Watts in 2018. The only record the Department  
11 produced regarding Jason Watts is a press board report that does not address Mr. Watts’ in-  
12 custody death. The Department has argued that further records regarding this incident are not  
13 disclosable under SB 1421. But the Department’s interpretation of SB 1421’s disclosure  
14 requirements is indefensibly narrow under the plain terms of the statute and completely contrary to  
15 the statute’s intent.

16         7.         Publicly available information indicates that records regarding Mr. Watts’ death  
17 must be disclosed under SB 1421 as it involved a police use of force that resulted in death or great  
18 bodily injury. On the night of October 12, 2018, Mr. Watts was unarmed and was experiencing an  
19 episode of severe psychological distress. (**Exhibit D ¶¶ 1, 22–23.**) Chula Vista P.D. officers tased  
20 Mr. Watts with four separate tasers, pepper-sprayed him, and beat him with a baton, which all  
21 caused Mr. Watts to severely vomit. (**Exhibit D ¶ 23; Exhibit E at p. 1.**) Officers then physically  
22 restrained Mr. Watts by placing his full body in a maximum restraint “WRAP” device, and they  
23 also placed a device known as a “spit bag” or “spit sock” over his mouth and nose, which  
24 restricted his breathing. (**Exhibit D ¶ 23; Exhibit E at pp. 2, 7.**) Below is an image of a “WRAP”  
25 device from maker Safe Restraints, Inc.’s website. Mr. Watts died less than twelve hours after the  
26 Chula Vista P.D. officers used serious force against him. (**Exhibit D ¶¶ 28–29; Exhibit E at pp.**  
27 **1–2.**) The public has a right to know the details of this fatal incident and the Department’s  
28 decision-making regarding the appropriateness of the officers’ conduct.



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8. *Second*, where the Department has actually produced responsive records, it has done so only after making numerous improper redactions, including lengthy block redactions and redactions of entire witness statements. The Department has also failed to produce a complete set of responsive records for one incident, withholding several documents the law requires that it disclose.

9. *Third*, the Department’s inadequate productions follow unjustified delay and, for further responsive records that the Department has not outright refused to produce, the delay unjustifiably and illegally continues. The Department produced a limited number of responsive records within SB 16’s 45-day production deadline for the incidents identified by the ACLU, but requested an extension of time to collect and produce further responsive records. This initial limited set of records contained little information and included no decisional documents. To date, the Department has failed to produce the remaining responsive records regarding thirteen of the nineteen responsive incidents identified in the ACLU’s Renewed PRA Request. Rather than adhere to SB 16’s 45-day production deadline, the Department has proposed producing on a timeline that would take almost eight months to complete. This refusal to timely produce records violates both the express requirements of SB 16 and the PRA’s general requirement that agencies “promptly” produce responsive records and do not interfere with access to public records. (See Gov. Code, § 7922.500; Pen. Code, § 832.7, subd. (b)(11); Gov. Code, § 7922.530, subd. (a).)

1           10.     *Fourth*, on information and belief, the Department has not conducted a reasonable  
2 and diligent search for all responsive records. ““An agency is . . . obliged to search for records  
3 based on criteria set forth in the search request.”” (*Community Youth Athletic Center v. City of*  
4 *Nat. City* (2013) 220 Cal.App.4th 1385, 1425, citation omitted.) An agency fails to fulfill its  
5 obligations under the PRA where it is not “sufficiently proactive or diligent in making a  
6 reasonable effort to identify and locate” the requested records. (*Id.* at p. 1430.) Moreover, while  
7 courts recognize that “[r]ecords requests . . . inevitably impose some burden on government  
8 agencies[,] [a]n agency is obliged to comply so long as the record can be located with reasonable  
9 effort.” (*Cal. First Amendment Coalition v. Super. Ct.* (1998) 67 Cal.App.4th 159, 166.) The  
10 large number of incidents for which publicly available information shows that any records are  
11 missing is evidence of the Department’s failure to conduct a reasonable search for records.  
12 Further, the ACLU is informed and believes that there are additional responsive records that the  
13 Department has failed to produce.

14           11.     Because of the Department’s demonstrated disregard for its obligations under the  
15 PRA during the over five years since the ACLU submitted its Original PRA Request, Petitioner  
16 asks this Court to issue a writ of mandate compelling the Department to comply with its  
17 obligations under the PRA, SB 1421, and SB 16 and fully respond to the Requests, as well as  
18 declaratory and injunctive relief to the same effect.

#### **PARTIES**

19           12.     Plaintiff and Petitioner AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN  
20 CALIFORNIA (“ACLU”) is a non-profit corporation that defends the fundamental rights outlined  
21 in the United States Constitution, the Bill of Rights, and the California Constitution. The ACLU is  
22 also committed to principles of transparency and accountability and seeks to ensure, in accordance  
23 with applicable law, the public’s right to access information about the conduct of its government  
24 officials. The ACLU is a member of the public with the right to enforce its requests for records  
25 under Government Code sections 7920.515, 7920.520, 7923.000, and 7923.005. The ACLU  
26 sought from the Department disclosure of public records in its possession related to investigations  
27 and discipline of peace officers.  
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1           19.     A public agency must “promptly” make publicly available for inspection or provide  
2 a copy of any record that it prepared, owns, uses, or retains—unless the record is subject to the  
3 PRA’s limited exemptions to disclosure. (Gov. Code, § 7922.530, subd. (a).) If an agency  
4 determines that a request should be denied, it must justify its denial in writing. (Gov. Code,  
5 § 7922.540, subd. (a).) An agency may not “delay or obstruct the inspection or copying of public  
6 records” under the PRA. (Gov. Code, § 7922.500.)

7           20.     The California Constitution provides an additional, independent right of access to  
8 government records: “The people have the right of access to information concerning the conduct  
9 of the people’s business, and, therefore, the meetings of public bodies and the writings of public  
10 officials and agencies shall be open to public scrutiny.” (Cal. Const. art. 1, § 3, subd. (b)(1).)  
11 “Pursuant to the California Constitution, the [P]RA must be ‘broadly construed’ because its  
12 statutory scheme ‘furthers the people’s right of access.’ (Cal. Const., art. 1, § 3, subd. (b)(2).)”  
13 (*Becerra v. Super. Ct.* (2020) 44 Cal.App.5th 897, 913.)

14           21.     Despite this fundamental commitment to transparency in government, California  
15 was—for decades—“one of the most secretive states in the nation in terms of openness when it  
16 comes to officer misconduct and uses of force.” (*Becerra*, supra, at p. 920, citation omitted.)  
17 Before the enactment of SB 1421, certain peace officer personnel records were confidential and  
18 non-disclosable under the PRA. Courts previously interpreted this exemption broadly to bar  
19 disclosure of any records regarding how officers had been disciplined (or not), including records  
20 of investigations into misconduct.

21           22.     The Legislature fundamentally transformed this regime of secrecy in 2018 with the  
22 enactment of SB 1421, which requires agencies to disclose, under the PRA, records related to  
23 police uses of force and misconduct. By passing SB 1421, “the Legislature sought to afford the  
24 public ‘the right to know all about serious police misconduct,’ to stop concealing incidents where  
25 an officer violated civilian rights, and to ‘address and prevent abuses and to weed out the bad  
26 actors.’” (*Becerra*, supra, at p. 921 [citing Stats. 2018, ch. 988, § 1; Assem. Com. on Public  
27 Safety Rep. on Sen. Bill No. 1421 (2017-2018 Reg. Sess.) as amended June 19, 2018, p. 4, 6].)

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1           23.       Specifically, SB 1421 modified Penal Code section 832.7 (“Section 832.7”) by  
2 making four categories of records related to peace officers public under the PRA. The categories  
3 include records related to (1) a use of force resulting in death or great bodily injury; (2) a  
4 discharge of a firearm at a person; (3) a sustained finding of sexual assault involving a member of  
5 the public; and (4) a sustained finding of dishonesty tied to police officers’ unique powers in  
6 investigating and prosecuting crimes, such as perjury or the fabrication of evidence, or police  
7 misconduct. (See Pen. Code, § 832.7, subd. (b)(1)(A)–(C), effective July 10, 2023.)

8           24.       In adopting these statutory amendments, the Legislature expressly recognized the  
9 strong public interest in access to these records:

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

14 (SB 1421, § 1, subd. (b).)

15           25.       In 2021, the Legislature further expanded the categories of police records that are  
16 public under the PRA through the enactment of SB 16. SB 16 added four new categories of police  
17 records that are disclosable under the PRA: (1) a sustained finding involving a complaint that  
18 alleges unreasonable or excessive force; (2) a sustained finding that an officer failed to intervene  
19 against another officer using force that is clearly unreasonable or excessive; (3) a sustained finding  
20 made by any law enforcement agency or oversight agency that a peace officer or custodial officer  
21 made verbal statements, writings, online posts, recordings, and gestures involving prejudice or  
22 discrimination based on a protected class, which includes race, religious creed, color, national  
23 origin, ancestry, physical disability, mental disability, medical condition, genetic information,  
24 marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military  
25 and veteran status; and (4) a sustained finding made by any law enforcement agency or oversight  
26 agency that the peace officer made an unlawful arrest or conducted an unlawful search. (Pen.  
27 Code, § 832.7, subs. (b)(1)(A)(iii)–(iv) and (b)(1)(D)–(E).)  
28



1           26.     SB 16 also expressly requires agencies to produce police records that are  
2 disclosable under SB 1421 or SB 16 at the “earliest possible time” and “no later than 45 days from  
3 the date of a request for their disclosure” unless the law specifically permits a longer response  
4 time. (See Pen. Code, § 832.7, subd. (b)(11).)

5           27.     Section 832.7 compels the production of all records in the agency’s possession that  
6 are related to disclosable incidents and allows redaction of records released under this section only  
7 for the specific bases prescribed by statute. (See Pen. Code, § 832.7, subd. (b)(6).) These are  
8 primarily intended to protect the identities and privacy of third parties and victims. (See Pen.  
9 Code, § 832.7, subd. (b)(6).) Furthermore, the PRA prohibits withholding a document that is  
10 otherwise disclosable on the basis that the document contains some information that may legally  
11 be withheld. Any information that may be withheld must be redacted from the document and the  
12 redacted document must be disclosed. (Gov. Code, § 7922.525, subd. (a).)

13           28.     Mandate lies to compel the government to comply with the PRA and the California  
14 Constitution. (Gov. Code, §§ 7923.000 and 7923.005.)

15 **B.     Requesting Records Under the PRA**

16           29.     To ensure that state and local agencies are transparent and accountable, the PRA  
17 empowers members of the public to inspect and copy agency records upon request. (See Gov.  
18 Code, §§ 7922.525 & 7922.530, subd. (b).) The PRA facilitates this transfer of information by  
19 codifying specific requirements and deadlines that agencies must observe upon receipt of a public  
20 records request.

21           30.     The PRA requires an agency to conduct a search that is “reasonably calculated to  
22 locate responsive documents,” *American Civil Liberties Union of Northern California v. Super.*  
23 *Ct.* (2011) 202 Cal.App.4th 55, 85, and an agency may be required to assist a requestor to  
24 formulate a request based on the agency’s greater knowledge of its own recordkeeping system.  
25 (Gov. Code, § 7922.600.)

26           31.     A public agency must “promptly” make publicly available for inspection or provide  
27 a copy of any record that it prepared, owns, uses, or retains—unless the record is subject to the  
28 PRA’s limited statutory exemptions to disclosure. (Gov. Code, § 7922.530, subd. (a).) If an

1 agency asserts that a request should be denied, it must justify its denial in writing. (Gov. Code,  
2 § 7922.540, subd. (a).)

3 32. The Government Code generally requires that an agency respond to a PRA request  
4 within ten days of receiving it. (Gov. Code, § 7922.535.) Within those ten days, the agency must:  
5 determine whether the request seeks disclosable public records, notify the requestor of its  
6 determination and reasoning, and provide the requestor with an estimate of when the disclosable  
7 records will be made available. (*Ibid.*)

8 33. In “unusual circumstances,” an agency may extend this deadline for up to fourteen  
9 days, but it must notify the requestor in writing, setting forth the reasons for the extension and a  
10 date upon which a determination will be made, and must still estimate when the records will be  
11 made available when it makes such a determination. (Gov. Code, § 7922.535.)

12 34. The PRA makes clear that a verified petition to the superior court is the correct  
13 procedural vehicle to address public records improperly withheld: “Whenever it is made to appear,  
14 by verified petition to the superior court of the county where the records or some part thereof are  
15 situated, that certain public records are being improperly withheld from a member of the public,  
16 the court shall order the officer or other person charged with withholding the records to disclose  
17 those records or show cause why that person should not do so.” (Gov. Code, §§ 7923.100 and  
18 7923.105.)

19 **C. The ACLU’s PRA Requests and the Department’s Deficient Response to the ACLU’s**  
20 **Original PRA Request**

21 35. The ACLU is seeking police records from the Department and other California law  
22 enforcement agencies to facilitate public access to these important records as part of the Police  
23 Records Access Project, in partnership with UC Berkeley’s Investigative Reporting Program,  
24 Stanford’s Computational Journalism Lab, the California Reporting Project, and other  
25 organizations.

26 36. Specifically, the ACLU and its partners are engaged in this Project to create a first-  
27 of-its-kind, state-wide database where any member of the public can easily access police  
28 misconduct and use-of-force records for free. This database will help communities, police

1 departments, journalists, prosecutors, public defenders, policymakers, researchers, and advocates  
2 better understand California policing and potentially serve as an accountability mechanism for  
3 uses of force and misconduct. California recently endorsed this Project by allocating \$6.87  
4 million in its 2023–24 budget to UC Berkeley to develop the database. The success of the  
5 database depends on obtaining a comprehensive collection of police records through PRA requests  
6 such as the one at issue in this litigation.

7 37. The ACLU submitted its Original PRA Request on or about January 1, 2019. The  
8 Original PRA Request, pursuant to the PRA and SB 1421, requested records relating to incidents  
9 in which an officer discharged a firearm at a person or used force that resulted in death or great  
10 bodily injury, or in which there was a sustained finding of sexual assault involving a member of  
11 the public or dishonesty by an officer. (**Exhibit A.**) To limit the burden on the Department, the  
12 request did not seek the entire file for each incident, but rather sought only “Decisional  
13 Documents,” meaning documents setting forth and explaining the disciplinary decisions.

14 38. In response to the ACLU’s Original PRA Request, on January 30, 2019, the  
15 Department produced three PDFs related to a 2018 incident in which an officer had committed a  
16 sexual act with a member of the public while on duty. (*See Exhibit B.*) The Department’s cover  
17 letter stated that the Department had no other responsive records to the Original PRA Request and  
18 had completed its response. (*Ibid.*) The Department did not state that it was withholding any  
19 records.

20 39. After searching publicly available sources, such as newspaper websites and the  
21 Department of Justice’s use of force database for reported incidents involving Chula Vista P.D.  
22 officers, the ACLU discovered nineteen responsive incidents, implying that the Department’s  
23 representation that it had no other responsive records was false.

24 40. On July 14, 2023, the ACLU sent the Department a letter that renewed the ACLU’s  
25 Original PRA Request. (**Exhibit C.**) The ACLU’s letter identified the nineteen missing incidents  
26 that appeared to be responsive based on publicly available information, including sixteen officer-  
27 involved shooting incidents; a 2018 incident involving a sustained finding of dishonesty against  
28 Officer Juan Vasquez; two in-custody deaths that occurred during the process of arrest in 2016 and

1 2018; and a 2015 incident in which police use of force resulted in great bodily injury. (*Ibid.*) The  
2 ACLU’s Renewed PRA Request demanded that the Department promptly produce any missing  
3 records and confirm that it had conducted a thorough search for records. (*Ibid.*)

4 **D. The Department’s Refusal to Provide a Production Date, Failure to Meet and Confer,  
5 Delayed Production Timeline, and Failure to Produce Responsive Documents**

6 41. The Department failed to respond to the ACLU’s July 14, 2023 Renewed PRA  
7 Request by July 24, 2023, as required by California law. (Gov. Code, § 7922.535.) When the  
8 Department acknowledged receipt of the request, three days after the deadline passed, it failed to  
9 provide an estimated date of production, also a violation of California law. (Gov. Code,  
10 § 7922.535.) (**Exhibit F.**)

11 42. Despite repeated requests from the ACLU, the Department continued to assert  
12 extensions not permitted by any law. The maximum extension to respond to a PRA request is  
13 fourteen days and must be supported by a written explanation and estimated date of production.  
14 (Gov. Code, § 7922.535.) Even if the Department properly requested the maximum extension,  
15 which it did not, that deadline passed on August 7, 2023. The Department refused to provide an  
16 estimated date of production despite *three requests from the ACLU* after this extended deadline.  
17 (**Exhibit G.**)

18 43. The ACLU attempted to meet and confer with the Department to resolve the  
19 Department’s failure to comply with its obligation to search for and produce responsive records.  
20 The Department repeatedly failed to meet and confer. On two occasions in August 2023, the  
21 Department’s counsel initially suggested times to meet and confer. The ACLU promptly accepted  
22 the Department’s proposed times. But the Department in each instance then failed to confirm or  
23 move forward with the times that the Department itself had originally suggested. (**Exhibit G.**)

24 44. On August 22, 2023, the Department asked for additional time and stated that  
25 compliance with the PRA request “could take at least 6 months for some of these requests.”  
26 (**Exhibit H.**) The Department then produced a limited number of responsive records regarding  
27 nineteen incidents previously identified by the ACLU in its Renewed PRA Request and repeated  
28 its request for more time. The Department’s August 22, 2023 production included limited

1 summaries and press board reports, and included no decisional information or documentation  
2 contemporaneous with the incident and subsequent investigations. (*See, e.g., Exhibit I.*)  
3 California law requires an agency to produce all responsive records by August 28, 2023, within *45*  
4 *days* of the request. (See Pen. Code, § 832.7, subd. (b)(11).) The Department did not provide any  
5 additional records on August 28.

6 45. When the Department finally proposed a production timeline, fifty days after the  
7 statutory deadline to provide a date of production and sixteen days after the statutory deadline to  
8 produce, its counsel offered to produce the remaining records only on a rolling basis, with records  
9 regarding only one incident produced every ninety days. (**Exhibit J.**) Under this schedule,  
10 production would not be completed for well over two years after the ACLU's Renewed PRA  
11 Request.

12 46. The ACLU offered a compromise under which the Department's written reports  
13 would be produced within 90-days rather than the legally-required 45 days and the Department's  
14 other records would be produced within 180 days. (**Exhibit J.**) The ACLU requested a response  
15 to its offer within five days but did not receive an acknowledgement or response until seven days  
16 later, on September 22, 2023, 26 days past the Department's statutory deadline to produce all  
17 responsive records. (**Exhibit K.**) The Department rejected the offer.

18 47. On September 22, 2023, the Department's counsel provided an updated proposed  
19 production timeline. (**Exhibit K.**) Yet the Department has failed to produce responsive  
20 documents according to its own proposed schedule. The Department proposed an October 2023  
21 production for five incidents, an early December 2023 production for four incidents, an early  
22 January 2024 production for three incidents, an early February 2024 production for three  
23 incidents, and a late March 2024 production for three incidents. All of these dates have now  
24 passed and the Department has produced documents relating to only six of the eighteen incidents  
25 addressed in its proposal. The Department has made no productions relating to incidents for  
26 which it proposed productions in January, February, or March 2024. California law requires an  
27 agency to produce responsive records within *45 days* of the request. (See Pen. Code, § 832.7,  
28 subd. (b)(11).)

1           48.     The Department has also failed to confirm that it conducted a thorough search for  
2 the full scope of records, as requested by the ACLU’s Original PRA Request – despite the  
3 ACLU’s four written requests for such confirmation on September 25, September 26, October 4,  
4 and October 12, 2023. (**Exhibit L.**) As of April 30, 2024, the Department’s counsel still has not  
5 provided the requested confirmation, or otherwise responded.

6           49.     The Department finally produced the remaining responsive records relating to six  
7 incidents on October 16, 2023, November 3, 2023, December 29, 2023, and April 6, 2024.  
8 (**Exhibit M; Exhibit N; Exhibit O; Exhibit P.**) California law requires an agency to produce all  
9 responsive records within *45 days* of the request. (See Pen. Code, § 832.7, subd. (b)(11).) The  
10 Department did not produce any Decisional Documents to the ACLU’s Renewed PRA Request  
11 until 50 days after the statutory deadline when it produced records in October 2023 relating to two  
12 incidents. The Department’s November 2023 production was 68 days past the statutory deadline  
13 to produce responsive records; the Department’s December 2023 production 124 days past the  
14 statutory deadline to produce responsive records; and the Department’s April 2024 production 223  
15 days past the statutory deadline to produce responsive records.

16 **F.     The Department’s Improper Redactions of Responsive Documents and Withholding  
17 of Decisional Documents**

18           50.     In addition, the records for the six cases that the Department produced in October  
19 2023, November 2023, December 2023, and April 2024 contain numerous improper redactions,  
20 including lengthy block redactions that span several pages, redactions of entire witness statements,  
21 redactions of certain officers’ prior law enforcement experience, and other redactions that appear  
22 to lack a valid statutory basis.

23           51.     The records produced for at least two of the incidents, Case No. 12-11565 and Case  
24 No. 11-06077, also appear to be missing responsive Decisional Documents.

25 **G.     The Department’s Failure to Identify Disclosable Incidents, Conduct a Thorough  
26 Search, and Disclose Responsive Records Regarding Jason Watts**

27           52.     The Department, in its initial production proposal, did not identify as disclosable  
28 the 2018 in-custody death of Jason Watts raised in the ACLU’s Renewed PRA. The Department’s

1 counsel said he believed the Department had determined the records regarding the in-custody  
2 death were not disclosable, but he also needed to confirm that with the Department. (**Exhibit Q.**)

3 53. Records regarding the Jason Watts death are disclosable under Penal Code section  
4 832.7, subdivision (b)(1)(A)(ii), because the death involved a use of force that resulted in death or  
5 great bodily injury. Chula Vista P.D. officers tased Mr. Watts multiple times, physically  
6 restrained him, and placed him in a maximum restraint WRAP device multiple times shortly  
7 before his death. (**Exhibit D ¶ 23.**)

8 54. Despite three emails asking the Department to disclose all responsive records  
9 relating to the death of Mr. Watts, the ACLU has received neither records nor an answer as to  
10 whether the Department will ever disclose these records. (**Exhibit L.**)

11 55. On September 25, 2023, the ACLU asked the Department's counsel to confirm that  
12 it had not limited its search to documents regarding the incidents the ACLU identified in its  
13 Renewed PRA Request, because the Department is obligated to produce records for all incidents  
14 within the scope of the Request, not only incidents the ACLU was able to identify through  
15 publicly available information. (**Exhibit R.**) The ACLU asked the Department's counsel to  
16 confirm that the Department conducted a thorough search for the full scope of records requested  
17 by the Original PRA Request which covers documents relating to incidents additional to those  
18 incidents specifically identified in the Renewed PRA Request. The ACLU repeated its request on  
19 September 26, 2023, followed up on its request on October 4, 2023, and repeated its request again  
20 on October 12, 2023. (**Exhibit S; Exhibit T; Exhibit L.**) Department's counsel, however,  
21 refused to confirm the Department conducted a reasonably diligent and thorough search.

22 56. In response to the ACLU's Original PRA Request, the Department identified a  
23 single incident and stated it had *no other responsive records*, including no responsive records  
24 related to officer-involved shootings. After the ACLU identified, through publicly available  
25 information, sixteen officer-involved shootings, the Department agreed to release records for all  
26 sixteen officer-involved shootings despite its earlier statement that the Department did not have  
27 responsive records. To date, the Department has self-identified only two responsive incidents.

28





1 belief alleges, that there are additional responsive records that the Department has  
2 failed to produce.

3 **FIRST CAUSE OF ACTION**

4 **For Writ of Mandate for Violation of the California Public Records Act, SB 1421, and SB 16**

5 61. Petitioner incorporates by reference the foregoing paragraphs as though fully set  
6 forth herein.

7 62. The PRA and Penal Code section 832.7 create mandatory, non-discretionary duties  
8 on the part of the Department to produce records relating to (1) uses of force resulting in death or  
9 great bodily injury, (2) discharge of firearm at a person, (3) sustained findings of dishonesty in the  
10 reporting, investigation, or prosecution of a crime or misconduct by another officer, and (4)  
11 sustained findings of sexual assault involving a member of the public. (Gov. Code, §§ 7922.535–  
12 7922.540, subd. (b); Pen. Code, § 832.7, subd. (b)(1)(A)(ii).)

13 63. The PRA also creates mandatory, non-discretionary duties on the part of the  
14 Department to adhere to deadlines and notice requirements when responding to records requests.  
15 (Gov. Code, § 6253, subs. (c)–(d).) Specifically, Government Code section 6253, subdivision  
16 (c), creates duties on the part of the Department to determine and notify requestors whether  
17 requested records are disclosable within 10 days, to be extended for no more than 14 days in the  
18 event of “unusual circumstances” upon notification to requestors in writing of the existence of  
19 such circumstances. Such records shall be made “promptly available,” (Gov. Code, § 6253, subd.  
20 (b)), and the law requires production of records related to police misconduct and serious use of  
21 force made public under Penal Code section 832.7, subdivision (b), within 45 days of an agency’s  
22 receipt of the request. (Pen. Code, § 832.7, subd. (b)(11).)

23 64. In addition, agencies are permitted to make redactions only for narrow purposes  
24 expressly set forth by statute. (Pen. Code, § 832.7, subs. (b)(6), (b)(7).)

25 65. The Department has failed to timely respond to the ACLU’s requests and is  
26 improperly withholding disclosable records, including records relating to the death of Mr. Watts,  
27 in violation of the PRA, SB 1421, and SB 16. To the extent the Department has agreed to produce  
28 other disclosable records, it has improperly delayed production of such records in violation of its

1 statutory duties. To the extent the Department has produced responsive records, the records  
2 include numerous improper redactions and are incomplete.

3 66. Issuance of a writ of mandate compelling the Department to perform its duties  
4 under the PRA, SB 1421, and SB 16 is required because there exists no plain, speedy, and  
5 adequate remedy in the ordinary course of law which would protect Petitioner's rights and  
6 interests.

7 **SECOND CAUSE OF ACTION**

8 **For Writ of Mandate for Violation of Article I, Section 3 of the California Constitution**

9 67. Petitioner incorporates by reference the foregoing paragraphs as though fully set  
10 forth herein.

11 68. The Department has failed to timely respond to the ACLU's requests and is  
12 improperly withholding disclosable records, including records relating to the death of Mr. Watts,  
13 in violation of Article I, Section 3 of the California Constitution and the PRA, SB 1421, and SB  
14 16. To the extent the Department has agreed to produce other disclosable records, it has  
15 improperly delayed production of such records in violation of its statutory duties. To the extent  
16 the Department has produced responsive records, the records include numerous improper  
17 redactions and are incomplete.

18 69. Issuance of a writ of mandate compelling the Department to perform its duties  
19 under the California Constitution and the PRA is required because there exists no plain, speedy,  
20 and adequate remedy in the ordinary course of law which would protect Petitioner's rights and  
21 interests.

22 **THIRD CAUSE OF ACTION**

23 **For Declaratory and Injunctive Relief for Violation of the California Public Records Act, SB**

24 **1421, and SB 16**

25 70. Petitioner incorporates by reference the foregoing paragraphs as though fully set  
26 forth herein.

27 71. The PRA and Penal Code section 832.7 create mandatory, non-discretionary duties  
28 on the part of the Department to produce records relating to (1) uses of force resulting in death or

1 great bodily injury, (2) discharge of firearm at a person, (3) sustained findings of dishonesty in the  
2 reporting, investigation, or prosecution of a crime or misconduct by another officer, and  
3 (4) sustained findings of sexual assault involving a member of the public. (Gov. Code,  
4 §§ 7922.535–7922.540, subd. (b); Pen. Code, § 832.7, subd. (b)(1)(A)(ii).) In addition, agencies  
5 are permitted to make redactions only for the narrow purposes expressly set forth by statute. (Pen.  
6 Code, § 832.7, subds. (b)(6), (b)(7); Gov. Code, § 7922.525, subd. (a).)

7 72. The Department has failed to timely respond to the ACLU’s requests and is  
8 improperly withholding disclosable records, including records relating to the death of Mr. Watts,  
9 in violation of the PRA, SB 1421, and SB 16. To the extent the Department has agreed to produce  
10 other disclosable records, it has improperly delayed production of such records in violation of its  
11 statutory duties. To the extent the Department has produced responsive records, the records  
12 include numerous improper redactions and are incomplete.

13 73. A declaration that the Department has violated the PRA by improperly withholding  
14 disclosable records, delaying production of records, and making improper redactions to produced  
15 records is therefore appropriate and an injunction should issue compelling the Department to  
16 produce all responsive records forthwith without any improper redactions.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioner prays for judgment as follows:

19 1. For issuance of a peremptory writ of mandate compelling the Department (i) to  
20 immediately disclose all non-exempt, requested public records in its possession, without improper  
21 redactions, including without limitation all responsive records and (ii) to reproduce all previously  
22 produced records that contain redactions with all improper redactions removed;

23 2. For issuance of an alternative writ of mandate, directing and requiring the  
24 Department (i) to immediately disclose all non-exempt, requested public records in its possession,  
25 including without limitation all responsive records and (ii) to reproduce all previously produced  
26 records that contain redactions with all improper redactions removed, or show cause why the  
27 Department should not have to; and upon return to the alternative writ, issue a peremptory writ as  
28 set forth in paragraph 1, above;

1           3.       For a declaration that the Department has violated the PRA, SB 1421, SB 16, and  
2 Article I, Section 3 of the California Constitution by improperly withholding disclosable records,  
3 delaying production of records, failing to timely respond to requests, and making improper  
4 redactions to records that it did produce;

5           4.       For an injunction requiring the Department to immediately disclose all public  
6 records in its possession;

7           5.       For an injunction requiring the Department to reproduce all previously produced  
8 records that contain redactions with all improper redactions removed;

9           6.       For an injunction requiring the Department conduct a thorough search for  
10 responsive records in its possession;

11          7.       For reasonable attorneys' fees pursuant to Code of Civil Procedure section 1021.5  
12 and Government Code, section 7923.115, subdivisions (a)–(b);

13          8.       For costs of suit; and

14          9.       For such other and further relief as the Court determines to be just and proper.  
15

16 DATED: April 30, 2024

MUNGER, TOLLES & OLSON LLP

17  
18 By:           /s/ Cory Batza          

19 WESLEY T.L. BURRELL

20 SKYLAR B. GROVE

CORY M. BATZA

21 KAYSIE GONZALEZ

22 Attorneys for Petitioner/Plaintiff

23 ACLU of Southern California  
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VERIFICATION

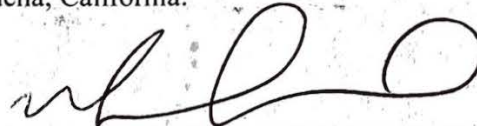
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I, MOHAMMAD TAJ SAR, am a Senior Staff Attorney at the American Civil Liberties Union of Southern California ("ACLU"), Petitioner in this action.

I have read the foregoing VERIFIED COMPLAINT AND PETITION FOR WRIT OF MANDATE and know the contents thereof. The facts as alleged therein are true to the best of my knowledge, except as to those matters alleged on information and belief, and as to those matters, I believe them to be true. I have authorization to verify such facts on behalf of the ACLU.

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

Executed on April 30, 2024, in Pasadena, California.

  
\_\_\_\_\_  
MOHAMMAD TAJ SAR

# EXHIBIT A



January 1, 2019

Chula Vista Police Department  
315 4th Ave  
Chula Vista, CA 91910

Re: Request for Public Records on Police Use of Force Investigations, Sustained Findings of Police Dishonesty and Sexual Assault

To Whom It May Concern:

I write to respectfully request records related to the investigation and discipline of peace officers employed by the Chula Vista Police Department (the "Department") under the California Public Records Act, Gov't Code §§ 6250 et seq., California Penal Code §§832.7-832.8, and Art. I, § 3(b) of the California Constitution, as set forth below.

Last fall, the California legislature passed, and Governor Brown enacted, SB 1421 (Skinner), which amends California Penal Code section 832.7 to provide the public a right of access to records related to investigations into investigations and discipline of peace officers for shootings and serious uses of force, as well as sustained findings of dishonesty related to the investigation, reporting, and prosecution of a crime or police misconduct. We now respectfully request the records newly available under SB 1421. We make this request as the American Civil Liberties Union of Southern California, as requestor, on behalf of the ACLU of California (including the ACLU of Northern California, ACLU of Southern California, and ACLU of San Diego and Imperial Counties) as well as a wide array of civil rights, government transparency, and criminal defense groups, including the Youth Justice Coalition, Justice Teams Network, Anti Police-Terror Project, California Faculty Association, PolicyLink, STOP Coalition, California Public Defender Association, and National Association of Criminal Defense Lawyers.

We have coordinated this request, and will share all records obtained, with this group of organizations, and further commit to making those records available to the public by posting on the Internet and other means, to help facilitate access to the records you produce.

### **I. Requests for Records**

We understand that this change in the law may result in a significant number of responsive documents, and that you may have received a number of requests for similar documents from other requestors. We have endeavored to tailor our request to a limited selection of the most important documents and most relevant timeframe for incidents.

As set forth below, for purposes Requests 1 through 7, we do not seek all records relating to the underlying incident, but only a limited set of "Decisional Documents" relating to the

administrative investigation of the incident. For purposes of these requests, “Decisional Documents” means all documents<sup>1</sup> reflecting or setting forth:

- The Department’s decision, prior to any administrative appeal, that an officer’s conduct did (or did not) violate the law or agency policy, and any reasons for that decision;
- The final investigative report (prior to any administrative appeal) of the Department, or any division of the Department, or any document setting out factual findings of, or recommended factual findings for, the person or body charged with deciding whether the officer’s conduct was within policy and/or warranted discipline or other corrective action;
- The punishment imposed or corrective action taken as the result of an administrative investigation, including letters of intent to impose discipline or other documents reflecting discipline imposed, changes in rank or assignment, training required, or changes to or examinations of Department policy, training or practice;
- A decision on appeal from the Department’s factual finding, or the discipline or corrective action imposed, including review by a superior or arbitration, including any statement of reasoning by an appeal body and any revised discipline or corrective action imposed, or any documents reflecting modifications of discipline due to the *Skelly* or grievance process,
- Any agreement to resolve an administrative investigation, including any agreement (or lack of agreement) as to the facts of what happened in the incident, or discipline or corrective action to be imposed;
- The final investigative report, factual findings, legal conclusions, or recommendations on discipline, policy, procedures or training, by the district attorney, independent civilian oversight body, or outside law enforcement agency brought on to conduct an investigation into an incident;
- The final imposition of discipline or implementation of corrective action.

For purposes of this request, records include, but are not limited to 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. Cal. Penal Code §832.7(b)(2).

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<sup>1</sup> The term “records” as used in this request is defined as “any writing 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.” Cal. Govt. Code § 6252, subsection (e). “Writing” is defined as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, 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.” Cal. Govt. Code § 6252 (g).



For purposes of these requests, “Decisional Documents” does not include underlying evidence, expert reports, witness statements, audio or video, unless incorporated by or included in the documents described above.

We also recognize that at some departments, older records may be stored in different recordkeeping systems that may require more time an effort to retrieve. If this is the case with your agency, we are happy to discuss particular obstacles or concerns and a process for retrieving records as efficiently as possible.

**Records Request No. 1:** All DECISIONAL DOCUMENTS related to the administrative investigation of any use of force by a peace officer employed by the Department<sup>2</sup> that resulted in death, from January 1, 1999 to the present. *See* Penal Code § 832.7(b)(1)(A)(ii).

**Records Request No. 2:** All DECISIONAL DOCUMENTS relating to any incident in which a peace officer employed by the Department was found to have committed an act of dishonesty 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, at any time from Jan. 1. 1999, to the present. *See* Penal Code § 832.7(b)(1)(C). Such incidents may also include receipt or solicitation of bribes, loans, favors, or gifts in relation to an investigation; misappropriation of property in an investigation, obstructing an investigation, or influencing a witness.

**Records Request No. 3:** For any officer about whom a sustained finding of dishonesty is disclosed in response to Records Request No. 2, above, all DECISIONAL DOCUMENTS relating to any sustained finding of dishonesty relating to the reporting, investigation, or prosecution of a crime or misconduct by another peace officer, regardless of date.

**Records Request No. 4:** All DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by a peace officer employed by the Department, which did not result in death, from January 1, 2014 to the present. *See* Penal Code § 832.7(b)(1)(A)(i).

**Records Request No. 5:** All DECISIONAL DOCUMENTS related to any administrative investigation into a use of force by a peace officer employed by the Department against a person that resulted great bodily injury, from January 1, 2009 to the present. *See* Penal Code § 832.7(b)(1)(A)(ii).

**Records Request No. 6:** For any officer who used force resulting in death at any time since January 1, 1999, all DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by that officer that did not result in death, or a use of

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<sup>2</sup> A peace officer is “employed by the Department” for purposes of these requests if that officer has been employed by the Department at any time. The modifying phrase “employed by the Department” does *not* limit the requests only to officers currently employed by the Department, nor does it exclude documents within the position of the Department that concern the incidents that occurred while the peace officer was employed by another agency.

force by that officer against a person that resulted great bodily injury but not death, regardless of date.

**Records Request No. 7:** All DECISIONAL DOCUMENTS relating to any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer employed by the Department engaged in sexual assault involving a member of the public, from January 1, 2009 to the present. *See* Penal Code § 832.7(b)(1)(B). For purposes of this request, “sexual assault” refers to 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, including unwanted or gratuitous sexual contact such as touching or groping. *See id.* § 832.7(b)(1)(B)(ii).

**Records Request No. 8:** For any officer about whom a sustained finding of sexual assault is disclosed in response to Records Request No. 7, above, all DECISIONAL DOCUMENTS relating to any sustained finding of sexual assault, regardless of date.

## II. Request for Preservation, or in the Alternative, Request for Documents

While we have asked for a limited selection of documents that are newly available pursuant to S.B. 1421, review of those documents will very likely reveal some incidents in which requestors or other members of the public would like additional detail, such as records of investigation, audio, video, expert reports and other documents excluded from the present request. We therefore request that you provide assurances that you will preserve all such documents, at least for a reasonable time after complying with the present set of document requests, to allow targeted requests for additional information on specific cases.

## III. Prioritization of Requests

We understand that this change in the law may result in a significant number of responsive documents, and that you may have received a number of requests for similar documents from other requestors. To help make sure your response serves the public interest in disclosure of these important records as efficiently as possible, we ask that you prioritize in the following order:

First, *please prioritize requests from other requestors who are family members of those killed by police seeking information on how their loved ones died.* We recognize that the change in law in many instances may allow these family members access to this information for the first time, and for the first time provide answers about their losses, and urge you prioritize these disclosures.

Second, for our requests, prioritize in the order of requests, 1 through 8.

Third, if for any reason some categories of documents responsive to a request are more readily disclosable and others more difficult — for example, if older records are in archival storage or stored in a different and harder-to-use system, or documents responsive to one request are not as easily categorized for disclosure and would require more time-intensive searching than another — please contact us to discuss the obstacles to prompt disclosure so that we can work out a

timeline, process, or refined selection criteria for documents that are more difficult to find or produce.

Please respond to this request in ten days, either by providing the requested information or providing a written response setting forth the specific legal authority on which you rely in failing to disclose each requested record, or by specifying a date in the near future to respond to the request. See Cal. Gov't Code § 6255. Pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

If any records requested above are available in electronic format, please provide them in an electronic format, as provided in Govt. Code § 6253.9. To assist with the prompt release of responsive material, we ask that you make records available to us as you locate them, rather than waiting until all responsive records have been collected and copied.

If you would like to discuss these requests, please feel free to call Hermelinda Calderon or Casey Kasher at (213) 977-5265. Otherwise, please send any correspondence or documents in electronic format via email to [prarequest@aclusocal.org](mailto:prarequest@aclusocal.org), or correspondence or documents on CD-ROM or USB drive to:

SB 1421 Records  
ATTN: Casey Kasher  
ACLU of Southern California  
1313 W. 8th Street  
Los Angeles, CA 90017

Because this request is made on behalf of a number of nonprofit public interest organizations, with the intent to make this material easily accessible to the public as promptly as possible, we request that you waive any fees. *North Cty. Parents Ass'n v. Dep't of Ed.*, 23 Cal. App. 4th 144, 148 (1994); Cal. Gov. Code §6253(e). However, should you be unable to do so, ACLU SoCal will reimburse your agency for the "direct costs" of copying these records plus postage. If you anticipate these costs to exceed \$50.00, please notify us prior to making the copies.

Thank you in advance for providing the records we have requested. Please do not hesitate to contact us with any questions regarding this letter.

Best,



Peter Bibring  
Director of Police Practices  
ACLU of Southern California

# EXHIBIT B



## Police Department

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**SENT ELECTRONICALLY to [prarequest@aclusocal.org](mailto:prarequest@aclusocal.org)**

January 30, 2019

Peter Bibring  
Director of Police Practices  
ACLU of Southern California

***Re: January 2, 2019 Public Records Request for Records Related to the Investigation and Discipline of Peace Officers***

Dear Mr. Bibring:

This letter is in timely response to the above-referenced five-page request, which the City of Chula Vista received on January 2, 2019. The Department responded to you on January 11, 2019 and on January 25, 2019, invoking its authority for more time to respond under Cal. Gov. Code section 6253(c). This letter accompanies records that are provided in response to your requests, as noted below after each numbered request.

You requested public records pursuant to the California Public Records Act (CPRA) (Cal. Gov. Code section 6250 et seq.), as well as the California Constitution, Article I, Section 3.(b) and California Penal Code sections 832.7 and 832.8.

You asked for "Decisional Documents," as defined on Pages 2 and 3 of your letter, relating to eight (8) specific requests regarding peace officers employed by the Chula Vista Police Department:

*"Decisional Documents" means all documents (footnote omitted) reflecting or setting forth:  
The Department's decision, prior to any administrative appeal, that an officer's conduct did (or did not) violate the law or agency policy, and any reasons for that decision;*

*The final investigative report (prior to any administrative appeal) of the Department, or any division of the Department, or any document setting out factual findings of, or recommended factual findings for, the person or body charged with deciding whether the officer's conduct was within policy and/or warranted discipline or other corrective action;*

*The punishment imposed or corrective action taken as the result of an administrative investigation, including letters of intent to impose discipline or other documents reflecting discipline imposed, changes in rank or assignment, training required, or changes to or examinations of Department policy, training or practice;*

*A decision on appeal from the Department's factual finding, or the discipline or corrective action imposed, including review by a superior or arbitration, including any statement of reasoning by an appeal body and*

*any revised discipline or corrective action imposed, or any documents reflecting modifications of discipline due to the Skelly or grievance process,*

*Any agreement to resolve an administrative investigation, including any agreement (or lack of agreement) as to the facts of what happened in the incident, or discipline or corrective action to be imposed;*

*The final investigative report, factual findings, legal conclusions, or recommendations on discipline, policy, procedures or training; by the district attorney, independent civilian oversight body; or outside law enforcement agency brought on to conduct an investigation into an incident;*

*The final imposition of discipline or implementation of corrective action.”*

You also included a paragraph listing record types requested. This paragraph is omitted for the sake of brevity but is noted and understood as a list of records required to be released pursuant to Cal. Penal Code section 832.7(b)(2).

**Records Request No. 1:** *All DECISIONAL DOCUMENTS related to the administrative investigation of any use of force by a peace officer employed by the Department that resulted in death, from January 1, 1999 to the present. See Penal Code § 832.7(b)(1)(A)(ii).*

The Department has no responsive records.

**Records Request No. 2:** *All DECISIONAL DOCUMENTS relating to any incident in which a peace officer employed by the Department was found to have committed an act of dishonesty 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, at any time from Jan. 1, 1999, to the present. See Penal Code §832.7(b)(1)(C). Such incidents may also include receipt or solicitation of bribes, loans, favors, or gifts in relation to an investigation; misappropriation of property in an investigation, obstructing an investigation, or influencing a witness.*

The Department has no responsive records.

**Records Request No. 3:** *For any officer about whom a sustained finding of dishonesty is disclosed in response to Records Request No. 2, above, all DECISIONAL DOCUMENTS relating to any sustained finding of dishonesty relating to the reporting; investigation, or prosecution of a crime or misconduct by another peace officer, regardless of date.*

The Department has no responsive records.

**Records Request No. 4:** *All DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by a peace officer employed by the Department, which did not result in death, from January 1, 2014 to the present. See Penal Code §832.7(b)(1)(A)(i).*

The Department has no responsive records.

**Records Request No. 5:** *All DECISIONAL DOCUMENTS related to any administrative investigation into a use of force by a peace officer employed by the Department against a person that resulted great bodily injury, from January 1, 2009 to the present. See Penal Code §832.7(b)(1)(A)(ii).*

The Department has no responsive records.

**Records Request No. 6:** *For any officer who used force resulting in death at any time since January 1, 1999, all DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by that officer that did not result in death, or a use of force by that officer against a person that resulted great bodily injury but not death, regardless of date.*

The Department has no responsive records.

**Records Request No. 7:** *All DECISIONAL DOCUMENTS relating to any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer employed by the Department engaged in sexual assault involving a member of the public, from January 1, 2009 to the present. See Penal Code §832.7(b)(1)(B). For purposes of this request, "sexual assault" refers to 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, including unwanted or gratuitous sexual contact such as touching or groping. See id. §832.7(b)(1)(B)(ii).*

Please note that despite the reference to the statutory definition of "sexual assault" in Cal. Penal Code section 832.7(b)(1)(B)(ii), your request excludes the final sentence in this subsection: "For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault." On January 29, 2019, a Department representative spoke to Ms. Casey Kasher of your organization by phone and clarified that your request was intended to include "any sexual act while on duty."

Accordingly, the Department has Decisional Documents relating to a 2018 incident in which a sustained finding was made by the Department that one of its peace officers committed a sexual act with a member of the public while on duty, a required disclosure under Cal. Penal Code section 832.7(b)(1)(B)(i). Please see the three (3) PDF documents noted as attachments below and attached to the email accompanying this letter: records of the administrative investigation, transcripts of officer and witness interviews, and discipline documents. The specific record types requested on Page 2 of your request are addressed in more detail below.

**Records Request No. 8:** *For any officer about whom a sustained finding of sexual assault is disclosed in response to Records Request No. 7, above, all DECISIONAL DOCUMENTS relating to any sustained finding of sexual assault, regardless of date.*

The Department has no responsive records.

Record types. Regarding the records types requested and provided, redactions from these records are noted below, with the statutory authority therefore.

- Investigative reports. Names, home addresses, phone numbers and email addresses, and identities of family members of complainants and witnesses are redacted, pursuant to Cal.

Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).

- Photographic evidence. A photograph of an aerial map of the incident area is provided, but the home addresses of complainants and witnesses are redacted pursuant to Cal. Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).
- Audio evidence. Audio recordings of subject and witness interviews are available but are not included in this response. If, after reviewing the below-noted interview transcripts, you are interested in obtaining a copy of the audio recordings or portions thereof, please contact me in writing. We will estimate the cost of producing a copy, with the redactions required by Cal. Penal Code sections and 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6) and will provide you an estimate pursuant to Cal. Government Code section 6253.9(b). Please note that payment will be required before the Department initiates copying and/or redaction of these audio recordings.
- Video evidence. The Department has no responsive records.
- Transcripts. Transcripts of subject and witness interviews are provided, but the names, home addresses, phone numbers and email addresses, and identities of family members of complainants and witnesses are redacted, pursuant to Cal. Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).
- Autopsy reports. The Department has no responsive records.
- All materials compiled and presented for review to the District Attorney's office and/or any legislative body, law enforcement group or persons tasked with determining whether or not criminal charges should be filed against an officer. The Department has no responsive records.

I trust this letter and the attachments fully respond to your request. Should you have any questions please feel free to contact me.

Sincerely,  
/s/ Captain Eric Thunberg  
Support Operations Division  
Chula Vista Police Department  
619-691-5230

Attachments:

Investigation  
Transcripts  
Discipline



# EXHIBIT C

MUNGER, TOLLES & OLSON LLP

350 SOUTH GRAND AVENUE
FIFTIETH FLOOR
LOS ANGELES, CALIFORNIA 90071-3426
TELEPHONE (213) 683-9100
FACSIMILE (213) 687-9702

500 MISSION STREET
TWENTY-SEVENTH FLOOR
SAN FRANCISCO, CALIFORNIA 94105-3085
TELEPHONE (415) 512-4000
FACSIMILE (415) 512-4077

501 MASSACHUSETTS AVENUE NW
SUITE 5000
WASHINGTON, D.C. 20001-5389
TELEPHONE (202) 220-1100
FACSIMILE (202) 220-2300

July 14, 2023

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DAVE B. LERMAN
UNESCOY P. GROBE
BRAD D. BRIAN
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MICHAEL E. SCLOFF
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JUDITH T. KITANO
STUART N. SENATOR
MAYN D. BEIN
JONATHAN E. ALTMAN
KELO W. WILSON
DAVID BIGGOLDMAN
DAVID H. TRY
IGOR J. CENOSY
MALCOLM A. HENSHIRE
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J. ASHLEY ALL
WESLEY T.L. BURWELL
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SHARON R. WOODHOLM
J. MAX ROZICH
ANNE K. DONLEY
DAVID W. MORGENTHAU
ANDREW W. BRONSTEIN P.
ROWLAND J. RICE
DANIELA MICHOLINA\*
ISHA CHAKRABARTI VANDI
ZARA BARI

BREKIDAN D. GANTO
LAUREN E. ROSE
DORAMON G. BARON
ABE DYK
MICHAEL C. NIELSEN
MEDIAN MOCHLADE
RAQUEL E. DOMINGUEZ
JAVEL TESTERA
SHAMON DALVIN AMIRAD
JACOBAN APPE RU
ANNALE KARE
BERNIE E. NAAM
CARRIE C. LITEN
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NATHANIEL F. SUCSMAN
OLIVER BROWN
PAUL E. MARFIN
REBECCA L. SCHORRHO
CORY M. DAZA
BRIAN R. BRESNENDECKER
AVI SELWAN DAVI
ROBERT E. BOWEN
RICHARD T. JOHNSON
BRUCE OWEN FISHER
LAUREN H. DECK
GABRIEL W. PERRON
TREGORY T. S. BRISCHOPIN\*
JAMIE B. LUGUB
STEVEN B. R. LEVICK
JANELLE FRUMER
WILLIAM M. ORR
GABRIEL M. BROUGHTON
JING JIB
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RODOLFO FLORES
JESSICA D. LAIRD
JERMA C. KROCH
SARAH E. WERNER
LEONARDO MANGAT\*
EVAN MARKS
ANDREW F. KOWEN
RACHEL M. SCHIFF
SHARON L. REHART
YANA E. SHIER
STEPHANIE REAVES\*

LAUREN E. KAHN
D. KAHN DAY
SHARON V. SHAN
GARETT COUSINS
TED KANG
LEIGH E. KAMMER
ADAM W. KWON
H. JAWPER KORDI
JOSPH N. OLYAN
SARON K. ZHON
DARSON J. SCOTT
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ADELYN T. CHEN
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BRIANNE HOLLAND-STODAR
MICHAEL KOLTEUFEL
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JERRY H. HOFF
ROBERT A. CH
ADAM R. LAWTON
MICHAEL E. GREANEY
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\*ASSOCIATE
(2009-PRESENT)

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Skylar.Grove@mt.com

VIA E-MAIL

Captain Henry Martin
Support Operations Division
Chula Vista Police Department
315 Fourth Avenue
Chula Vista, CA 91910
hmartin@chulavistapd.org

Re: Follow-Up Regarding the ACLU's Request for SB 1421 Peace Officer
Records Pursuant to the Public Records Act

Captain Martin:

We have been retained by the California affiliates of the American Civil Liberties Union ("ACLU") to enforce their rights under the California Public Records Act ("CPRA") and Senate Bill 1421 ("SB 1421"). On or about January 1, 2019, the ACLU sent the Chula Vista Police Department (the "Department") a request under the CPRA and SB 1421 for records relating to incidents in which an officer discharged a firearm at a person or used force that resulted in death or great bodily injury, or in which there was a sustained finding of sexual assault or dishonesty by an officer. The ACLU's request is enclosed for your reference and convenience.

The ACLU previously corresponded with your predecessor, Captain Eric Thunberg, regarding the ACLU's request. On January 30, 2019, the Department produced 3 PDFs related to a 2018 incident in which a sustained finding was made by your agency that one of its officers committed a sexual act with a member of the public while on duty. The Department's cover letter for the

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production stated that the Department had no other records that are responsive to the ACLU's records request. The Department's cover letter is enclosed for your reference. We have reason to believe that the Department failed to produce responsive records for numerous incidents.

First, the Department's website identifies the officer-involved shooting incidents listed below (see <https://www.chulavistaca.gov/departments/police-department/about-us/transparency-and-accountability/officer-involved-shooting-incidents>), but the Department did not produce any records for these incidents to the ACLU. Although some of these incidents occurred earlier than the date range requested by the ACLU for officer-involved shooting incidents (Request No. 4), they may be independently disclosable pursuant to the ACLU's requests for incidents involving a use of force that resulted in death or great bodily injury (Request Nos. 1 and 5), which go further back in time. For example, publicly available databases suggest that at least Case Nos. 17-13455, 07-26646, and 07-17351 involved fatal shootings and are therefore disclosable under the ACLU's Request No. 1. Other incidents listed below likewise may be disclosable.

<b>Date</b>	<b>Location</b>	<b>Case Number</b>	<b>Investigating Agency</b>
September 19, 2017	700 Monterey Ave.	17-13455	Chula Vista Police Department
October 15, 2012	Fourth Ave. & C St.	12-13475	Chula Vista Police Department
September 5, 2012	Third Ave. & G St.	12-11565	Chula Vista Police Department
April 23, 2011	500 Madrona St.	11-06077	Chula Vista Police Department
May 7, 2010	600 Fifth Ave.	10-07616	Chula Vista Police Department
March 20, 2008	600 L St.	08-06156	Chula Vista Police Department
December 7, 2007	200 Orange Ave.	07-26646	Chula Vista Police Department
November 14, 2007	300 Quintard Ave.	07-24928	Chula Vista Police Department
August 2, 2007	500 Third Ave.	07-17351	Chula Vista Police Department
June 14, 2006	3800 Main St.	07-13542	Chula Vista Police Department
September 28, 2005	500 E Naples St.	05-20117	Chula Vista Police Department
September 13, 2004	200 Woodlawn Ave.	04-17542	Chula Vista Police Department

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January 29, 2003	700 F St.	03-01862	Chula Vista Police Department
April 11, 2001	200 F St.	01-07546	Chula Vista Police Department
February 17, 2001	1000 Fifth Ave.	01-03465	Chula Vista Police Department
March 8, 2000	300 E H St.	00-04165	Chula Vista Police Department

Second, the Department's website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident "300 4th Avenue" at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU's Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department's website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department's possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>.

Third, the Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request.

Fourth, we discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>.

We request that you confirm that your agency conducted a search for documents over the entire time periods requested, without limitation, and do not have custody or control of any responsive records for these incidents. An agency's search must be "reasonably calculated to locate responsive documents," *ACLU of N. Cal. v. Super. Ct.*, 202 Cal. App. 4th 55, 85 (2011), and an agency may be required to assist a requester to formulate a request based on the agency's greater knowledge of its own recordkeeping system. Cal. Gov't Code § 6253.1(a)(1)–(3) (2022).<sup>1</sup>

<sup>1</sup> This section has since been recodified at Cal. Gov. Code § 7922.600 (2023). This section and others have been recodified and renumbered without substantive change in the Government

Chula Vista Police Department  
Page 4

Please describe the search conducted, whether any obstacles impeded your search, and what explains the absence of responsive records for these incidents. If responsive records do exist for these incidents, we request that your office produce them within a reasonable timeframe.

\* \* \*

We kindly request a response to this letter within 14 days. We look forward to working with your agency to resolve these issues. If you have any questions, please feel free to contact me directly at [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com).

Very truly yours,

*/s/ Skylar B. Grove*

Skylar B. Grove

Enclosed:

- (1) The ACLU's January 1, 2019 Request for Public Records on Police Use of Force Investigations, Sustained Findings of Police Dishonesty and Sexual Assault
- (2) January 30, 2019 Letter from Chula Vista P.D. to ACLU



January 1, 2019

Chula Vista Police Department  
315 4th Ave  
Chula Vista, CA 91910

Re: Request for Public Records on Police Use of Force Investigations, Sustained Findings of Police Dishonesty and Sexual Assault

To Whom It May Concern:

I write to respectfully request records related to the investigation and discipline of peace officers employed by the Chula Vista Police Department (the "Department") under the California Public Records Act, Gov't Code §§ 6250 et seq., California Penal Code §§832.7-832.8, and Art. I, § 3(b) of the California Constitution, as set forth below.

Last fall, the California legislature passed, and Governor Brown enacted, SB 1421 (Skinner), which amends California Penal Code section 832.7 to provide the public a right of access to records related to investigations into investigations and discipline of peace officers for shootings and serious uses of force, as well as sustained findings of dishonesty related to the investigation, reporting, and prosecution of a crime or police misconduct. We now respectfully request the records newly available under SB 1421. We make this request as the American Civil Liberties Union of Southern California, as requestor, on behalf of the ACLU of California (including the ACLU of Northern California, ACLU of Southern California, and ACLU of San Diego and Imperial Counties) as well as a wide array of civil rights, government transparency, and criminal defense groups, including the Youth Justice Coalition, Justice Teams Network, Anti Police-Terror Project, California Faculty Association, PolicyLink, STOP Coalition, California Public Defender Association, and National Association of Criminal Defense Lawyers.

We have coordinated this request, and will share all records obtained, with this group of organizations, and further commit to making those records available to the public by posting on the Internet and other means, to help facilitate access to the records you produce.

## **I. Requests for Records**

We understand that this change in the law may result in a significant number of responsive documents, and that you may have received a number of requests for similar documents from other requestors. We have endeavored to tailor our request to a limited selection of the most important documents and most relevant timeframe for incidents.

As set forth below, for purposes Requests 1 through 7, we do not seek all records relating to the underlying incident, but only a limited set of "Decisional Documents" relating to the

administrative investigation of the incident. For purposes of these requests, “Decisional Documents” means all documents<sup>1</sup> reflecting or setting forth:

- X The Department’s decision, prior to any administrative appeal, that an officer’s conduct did (or did not) violate the law or agency policy, and any reasons for that decision;
- X The final investigative report (prior to any administrative appeal) of the Department, or any division of the Department, or any document setting out factual findings of, or recommended factual findings for, the person or body charged with deciding whether the officer’s conduct was within policy and/or warranted discipline or other corrective action;
- X The punishment imposed or corrective action taken as the result of an administrative investigation, including letters of intent to impose discipline or other documents reflecting discipline imposed, changes in rank or assignment, training required, or changes to or examinations of Department policy, training or practice;
- X A decision on appeal from the Department’s factual finding, or the discipline or corrective action imposed, including review by a superior or arbitration, including any statement of reasoning by an appeal body and any revised discipline or corrective action imposed, or any documents reflecting modifications of discipline due to the *Skelly* or grievance process,
- X Any agreement to resolve an administrative investigation, including any agreement (or lack of agreement) as to the facts of what happened in the incident, or discipline or corrective action to be imposed;
- X The final investigative report, factual findings, legal conclusions, or recommendations on discipline, policy, procedures or training, by the district attorney, independent civilian oversight body, or outside law enforcement agency brought on to conduct an investigation into an incident;
- X The final imposition of discipline or implementation of corrective action.

For purposes of this request, records include, but are not limited to 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. Cal. Penal Code §832.7(b)(2).

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<sup>1</sup> The term “records” as used in this request is defined as “any writing 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.” Cal. Govt. Code § 6252, subsection (e). “Writing” is defined as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, 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.” Cal. Govt. Code § 6252 (g).

For purposes of these requests, “Decisional Documents” does not include underlying evidence, expert reports, witness statements, audio or video, unless incorporated by or included in the documents described above.

We also recognize that at some departments, older records may be stored in different recordkeeping systems that may require more time and effort to retrieve. If this is the case with your agency, we are happy to discuss particular obstacles or concerns and a process for retrieving records as efficiently as possible.

**Records Request No. 1:** All DECISIONAL DOCUMENTS related to the administrative investigation of any use of force by a peace officer employed by the Department<sup>2</sup> that resulted in death, from January 1, 1999 to the present. *See* Penal Code § 832.7(b)(1)(A)(ii).

**Records Request No. 2:** All DECISIONAL DOCUMENTS relating to any incident in which a peace officer employed by the Department was found to have committed an act of dishonesty 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, at any time from Jan. 1, 1999, to the present. *See* Penal Code § 832.7(b)(1)(C). Such incidents may also include receipt or solicitation of bribes, loans, favors, or gifts in relation to an investigation; misappropriation of property in an investigation, obstructing an investigation, or influencing a witness.

**Records Request No. 3:** For any officer about whom a sustained finding of dishonesty is disclosed in response to Records Request No. 2, above, all DECISIONAL DOCUMENTS relating to any sustained finding of dishonesty relating to the reporting, investigation, or prosecution of a crime or misconduct by another peace officer, regardless of date.

**Records Request No. 4:** All DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by a peace officer employed by the Department, which did not result in death, from January 1, 2014 to the present. *See* Penal Code § 832.7(b)(1)(A)(i).

**Records Request No. 5:** All DECISIONAL DOCUMENTS related to any administrative investigation into a use of force by a peace officer employed by the Department against a person that resulted in great bodily injury, from January 1, 2009 to the present. *See* Penal Code § 832.7(b)(1)(A)(ii).

**Records Request No. 6:** For any officer who used force resulting in death at any time since January 1, 1999, all DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by that officer that did not result in death, or a use of

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<sup>2</sup> A peace officer is “employed by the Department” for purposes of these requests if that officer has been employed by the Department at any time. The modifying phrase “employed by the Department” does *not* limit the requests only to officers currently employed by the Department, nor does it exclude documents within the position of the Department that concern the incidents that occurred while the peace officer was employed by another agency.



force by that officer against a person that resulted great bodily injury but not death, regardless of date.

**Records Request No. 7:** All DECISIONAL DOCUMENTS relating to any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer employed by the Department engaged in sexual assault involving a member of the public, from January 1, 2009 to the present. *See* Penal Code § 832.7(b)(1)(B). For purposes of this request, “sexual assault” refers to 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, including unwanted or gratuitous sexual contact such as touching or groping. *See id.* § 832.7(b)(1)(B)(ii).

**Records Request No. 8:** For any officer about whom a sustained finding of sexual assault is disclosed in response to Records Request No. 7, above, all DECISIONAL DOCUMENTS relating to any sustained finding of sexual assault, regardless of date.

## II. Request for Preservation, or in the Alternative, Request for Documents

While we have asked for a limited selection of documents that are newly available pursuant to S.B. 1421, review of those documents will very likely reveal some incidents in which requestors or other members of the public would like additional detail, such as records of investigation, audio, video, expert reports and other documents excluded from the present request. We therefore request that you provide assurances that you will preserve all such documents, at least for a reasonable time after complying with the present set of document requests, to allow targeted requests for additional information on specific cases.

## III. Prioritization of Requests

We understand that this change in the law may result in a significant number of responsive documents, and that you may have received a number of requests for similar documents from other requestors. To help make sure your response serves the public interest in disclosure of these important records as efficiently as possible, we ask that you prioritize in the following order:

First, *please prioritize requests from other requestors who are family members of those killed by police seeking information on how their loved ones died.* We recognize that the change in law in many instances may allow these family members access to this information for the first time, and for the first time provide answers about their losses, and urge you prioritize these disclosures.

Second, for our requests, prioritize in the order of requests, 1 through 8.

Third, if for any reason some categories of documents responsive to a request are more readily disclosable and others more difficult — for example, if older records are in archival storage or stored in a different and harder-to-use system, or documents responsive to one request are not as easily categorized for disclosure and would require more time-intensive searching than another — please contact us to discuss the obstacles to prompt disclosure so that we can work out a

timeline, process, or refined selection criteria for documents that are more difficult to find or produce.

Please respond to this request in ten days, either by providing the requested information or providing a written response setting forth the specific legal authority on which you rely in failing to disclose each requested record, or by specifying a date in the near future to respond to the request. See Cal. Gov't Code § 6255. Pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

If any records requested above are available in electronic format, please provide them in an electronic format, as provided in Govt. Code § 6253.9. To assist with the prompt release of responsive material, we ask that you make records available to us as you locate them, rather than waiting until all responsive records have been collected and copied.

If you would like to discuss these requests, please feel free to call Hermelinda Calderon or Casey Kasher at (213) 977-5265. Otherwise, please send any correspondence or documents in electronic format via email to [prarequest@aclusocal.org](mailto:prarequest@aclusocal.org), or correspondence or documents on CD-ROM or USB drive to:

SB 1421 Records  
ATTN: Casey Kasher  
ACLU of Southern California  
1313 W. 8th Street  
Los Angeles, CA 90017

Because this request is made on behalf of a number of nonprofit public interest organizations, with the intent to make this material easily accessible to the public as promptly as possible, we request that you waive any fees. *North Cty. Parents Ass'n v. Dep't of Ed.*, 23 Cal. App. 4th 144, 148 (1994); Cal. Gov. Code §6253(e). However, should you be unable to do so, ACLU SoCal will reimburse your agency for the "direct costs" of copying these records plus postage. If you anticipate these costs to exceed \$50.00, please notify us prior to making the copies.

Thank you in advance for providing the records we have requested. Please do not hesitate to contact us with any questions regarding this letter.

Best,



Peter Bibring  
Director of Police Practices  
ACLU of Southern California



## Police Department

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**SENT ELECTRONICALLY to [prarequest@aclusocal.org](mailto:prarequest@aclusocal.org)**

January 30, 2019

Peter Bibring  
Director of Police Practices  
ACLU of Southern California

***Re: January 2, 2019 Public Records Request for Records Related to the Investigation and Discipline of Peace Officers***

Dear Mr. Bibring:

This letter is in timely response to the above-referenced five-page request, which the City of Chula Vista received on January 2, 2019. The Department responded to you on January 11, 2019 and on January 25, 2019, invoking its authority for more time to respond under Cal. Gov. Code section 6253(c). This letter accompanies records that are provided in response to your requests, as noted below after each numbered request.

You requested public records pursuant to the California Public Records Act (CPRA) (Cal. Gov. Code section 6250 et seq.), as well as the California Constitution, Article I, Section 3.(b) and California Penal Code sections 832.7 and 832.8.

You asked for "Decisional Documents," as defined on Pages 2 and 3 of your letter, relating to eight (8) specific requests regarding peace officers employed by the Chula Vista Police Department:

*"Decisional Documents" means all documents (footnote omitted) reflecting or setting forth:  
The Department's decision, prior to any administrative appeal, that an officer's conduct did (or did not) violate the law or agency policy, and any reasons for that decision;*

*The final investigative report (prior to any administrative appeal) of the Department, or any division of the Department, or any document setting out factual findings of, or recommended factual findings for, the person or body charged with deciding whether the officer's conduct was within policy and/or warranted discipline or other corrective action;*

*The punishment imposed or corrective action taken as the result of an administrative investigation, including letters of intent to impose discipline or other documents reflecting discipline imposed, changes in rank or assignment, training required, or changes to or examinations of Department policy, training or practice;*

*A decision on appeal from the Department's factual finding, or the discipline or corrective action imposed, including review by a superior or arbitration, including any statement of reasoning by an appeal body and*

*any revised discipline or corrective action imposed, or any documents reflecting modifications of discipline due to the Skelly or grievance process,*

*Any agreement to resolve an administrative investigation, including any agreement (or lack of agreement) as to the facts of what happened in the incident, or discipline or corrective action to be imposed;*

*The final investigative report, factual findings, legal conclusions, or recommendations on discipline, policy, procedures or training; by the district attorney, independent civilian oversight body; or outside law enforcement agency brought on to conduct an investigation into an incident;*

*The final imposition of discipline or implementation of corrective action.”*

You also included a paragraph listing record types requested. This paragraph is omitted for the sake of brevity but is noted and understood as a list of records required to be released pursuant to Cal. Penal Code section 832.7(b)(2).

**Records Request No. 1:** *All DECISIONAL DOCUMENTS related to the administrative investigation of any use of force by a peace officer employed by the Department that resulted in death, from January 1, 1999 to the present. See Penal Code § 832.7(b)(1)(A)(ii).*

The Department has no responsive records.

**Records Request No. 2:** *All DECISIONAL DOCUMENTS relating to any incident in which a peace officer employed by the Department was found to have committed an act of dishonesty 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, at any time from Jan. 1, 1999, to the present. See Penal Code §832.7(b)(1)(C). Such incidents may also include receipt or solicitation of bribes, loans, favors, or gifts in relation to an investigation; misappropriation of property in an investigation, obstructing an investigation, or influencing a witness.*

The Department has no responsive records.

**Records Request No. 3:** *For any officer about whom a sustained finding of dishonesty is disclosed in response to Records Request No. 2, above, all DECISIONAL DOCUMENTS relating to any sustained finding of dishonesty relating to the reporting; investigation, or prosecution of a crime or misconduct by another peace officer, regardless of date.*

The Department has no responsive records.

**Records Request No. 4:** *All DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by a peace officer employed by the Department, which did not result in death, from January 1, 2014 to the present. See Penal Code §832.7(b)(1)(A)(i).*

The Department has no responsive records.

**Records Request No. 5:** *All DECISIONAL DOCUMENTS related to any administrative investigation into a use of force by a peace officer employed by the Department against a person that resulted great bodily injury, from January 1, 2009 to the present. See Penal Code §832.7(b)(1)(A)(ii).*

The Department has no responsive records.

**Records Request No. 6:** *For any officer who used force resulting in death at any time since January 1, 1999, all DECISIONAL DOCUMENTS related to any administrative investigation into the discharge of a firearm at a person by that officer that did not result in death, or a use of force by that officer against a person that resulted great bodily injury but not death, regardless of date.*

The Department has no responsive records.

**Records Request No. 7:** *All DECISIONAL DOCUMENTS relating to any incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer employed by the Department engaged in sexual assault involving a member of the public, from January 1, 2009 to the present. See Penal Code §832.7(b)(1)(B). For purposes of this request, "sexual assault" refers to 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, including unwanted or gratuitous sexual contact such as touching or groping. See id. §832.7(b)(1)(B)(ii).*

Please note that despite the reference to the statutory definition of "sexual assault" in Cal. Penal Code section 832.7(b)(1)(B)(ii), your request excludes the final sentence in this subsection: "For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault." On January 29, 2019, a Department representative spoke to Ms. Casey Kasher of your organization by phone and clarified that your request was intended to include "any sexual act while on duty."

Accordingly, the Department has Decisional Documents relating to a 2018 incident in which a sustained finding was made by the Department that one of its peace officers committed a sexual act with a member of the public while on duty, a required disclosure under Cal. Penal Code section 832.7(b)(1)(B)(i). Please see the three (3) PDF documents noted as attachments below and attached to the email accompanying this letter: records of the administrative investigation, transcripts of officer and witness interviews, and discipline documents. The specific record types requested on Page 2 of your request are addressed in more detail below.

**Records Request No. 8:** *For any officer about whom a sustained finding of sexual assault is disclosed in response to Records Request No. 7, above, all DECISIONAL DOCUMENTS relating to any sustained finding of sexual assault, regardless of date.*

The Department has no responsive records.

Record types. Regarding the records types requested and provided, redactions from these records are noted below, with the statutory authority therefore.

- Investigative reports. Names, home addresses, phone numbers and email addresses, and identities of family members of complainants and witnesses are redacted, pursuant to Cal.

Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).

- Photographic evidence. A photograph of an aerial map of the incident area is provided, but the home addresses of complainants and witnesses are redacted pursuant to Cal. Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).
- Audio evidence. Audio recordings of subject and witness interviews are available but are not included in this response. If, after reviewing the below-noted interview transcripts, you are interested in obtaining a copy of the audio recordings or portions thereof, please contact me in writing. We will estimate the cost of producing a copy, with the redactions required by Cal. Penal Code sections and 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6) and will provide you an estimate pursuant to Cal. Government Code section 6253.9(b). Please note that payment will be required before the Department initiates copying and/or redaction of these audio recordings.
- Video evidence. The Department has no responsive records.
- Transcripts. Transcripts of subject and witness interviews are provided, but the names, home addresses, phone numbers and email addresses, and identities of family members of complainants and witnesses are redacted, pursuant to Cal. Government Code sections 6254(k) and 6255; Cal. Evidence Code section 1040(a); and Cal. Penal Code sections 832.7(a), 832.7(b)(5), 832.7(b)(6) and 832.8(a)(6).
- Autopsy reports. The Department has no responsive records.
- All materials compiled and presented for review to the District Attorney's office and/or any legislative body, law enforcement group or persons tasked with determining whether or not criminal charges should be filed against an officer. The Department has no responsive records.

I trust this letter and the attachments fully respond to your request. Should you have any questions please feel free to contact me.

Sincerely,  
/s/ Captain Eric Thunberg  
Support Operations Division  
Chula Vista Police Department  
619-691-5230

Attachments:

Investigation  
Transcripts  
Discipline

# EXHIBIT D

1 CHRISTOPHER J. OLSEN, SBN: 109124  
2 3075 East Thousand Oaks Boulevard  
3 Suite 100  
4 Westlake Village, California 91362  
5 Tel: (805)557-0660 Fax: (805)491-8324  
6 E-mail: cjolaw@aol.com

7 Attorney for Plaintiffs  
8 DIANA C. WATTS and ODIN H. WATTS, a minor, by and through his Guardian Ad Litem,  
9 DIANA C. WATTS

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 DIANA C. WATTS and ODIN H. WATTS, a )  
13 minor, by and through his Guardian Ad Litem, )  
14 DIANA C. WATTS, )

Case No.: 21-cv-00581-CAB-WVG

**FOURTH AMENDED COMPLAINT FOR DAMAGES**

15 Plaintiffs,

- 1. Unreasonable Use of Deadly Force (42 U.S.C. § 1983);
- 2. Deprivation of Life Without Due Process (42 U.S.C. § 1983);
- 3. Interference with Parent-Child Relationship (42 U.S.C. § 1983);
- 4. Wrongful Death (Cal. Civ. Proc. Code § 377.60);
- 5. Negligence;
- 6. Wrongful Death (Cal. Civ. Proc. Code § 377.60);
- 7. Negligence

16 vs.

17 CITY OF CHULA VISTA, ROXANA  
18 KENNEDY, BRITTANY SCHOFER,  
19 individually, THOMAS LUHTA, individually,  
20 MARK MEREDITH, individually, JUAN  
21 MANIBUSAN, individually, BRYAN  
22 JACKSON, individually, GINGER VAN  
23 HOUGHTON, individually, CHRISTOPHER  
24 BEARSS, individually, MARIO PEREIRA,  
25 individually, JOSE AGUAYO, individually, S.  
O'CONNELL individually, DOES 11 to 200,

DEMAND FOR JURY TRIAL

Defendants.

26 Plaintiffs DIANA C. WATTS and ODIN H. WATTS, a minor by and through his Guardian  
27 ad Litem, DIANA C. WATTS, upon information and belief, allege the following:  
28



**INTRODUCTION**

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1. This case challenges the unjustified killing of Jason Alan Watts (“Mr. Watts”), the husband of Plaintiff DIANA C. WATTS and the father of Plaintiff ODIN H. WATTS, a minor by Defendant officers of the Chula Vista Police Department (“CVPD”). Mr. Watts suffered from significant mental illness, including without limitation ADHD. At the time of the subject incident, Mr. Watts was unarmed and experiencing an episode of severe psychological distress. Prior to engaging in the conduct that ultimately led to Mr. Watts’ death, Mr. Watts clearly exhibited to said Defendant officers of the CVPD conduct consistent with severe psychological distress and/or a psychotic break; therefore, said Defendant officers were on notice that Mr. Watts was then suffering from a mental illness, condition, disability, and/or breakdown, and was then experiencing a severe psychotic break and/or other severe psychological distress and was substantially disabled by reason thereof. Plaintiffs allege that said Defendant officers went to the 7-11 store located at or about 403 Third Avenue, Chula Vista, California, after having been called both by 7-11 staff and by Mr. Watts himself, and that Mr. Watts expressed in his 911 call to CVPD, and to said Defendant officers at said 7-11 store, that he was extremely fearful that persons waiting outside the 7-11 store intended to kill him, that he had taken refuge inside said 7-11 store, and persisted in his stated, but factually inaccurate, belief that said persons were still waiting outside the 7-11 store to kill him despite the presence of said Defendant officers. During this encounter, and in a heightened state of fear and mental disability, decedent became even more fearful and ran behind the counter of the 7-11 store as a consequence thereof, in order to protect himself from said perceived killers waiting for him outside. Although Mr. Watts was unarmed and was clearly in a state of profound fear and mental disability, said Defendant officers failed to stabilize the situation and failed to summon officers and/or other professionals trained and experienced in de-escalating situations involving persons suffering from mental illnesses, conditions, disabilities, and/or breakdowns, or to otherwise calm Mr. Watts and obtain his cooperation by non-traumatic means. Instead, despite that Mr. Watts was not a danger to himself or others, said Defendant officers needlessly escalated the situation by proceeding to use pepper spray, tasers, and other violent and harmful techniques and methodologies to violently attack Mr. Watts in order to compel his cooperation, which such violent conduct,

1 techniques, and methodologies ultimately resulted in Mr. Watts’ death several hours later. After so  
2 attacking him, the aforesaid Defendant officers of the CVPD thereupon took Mr. Watts into  
3 custody. The use of force, including deadly force, against Mr. Watts was unnecessary,  
4 unconstitutional and violated clearly established law that would have been known to any reasonable  
5 police officer.

6 **JURISDICTION AND VENUE**

7 2. This case arises under 42 U.S.C. § 1983, The Americans with Disabilities Act, Section  
8 504 of the Rehabilitation Act and California law. This Court has subject matter jurisdiction over  
9 this action pursuant to 28 U.S.C. § 1331. This Court has subject matter jurisdiction over Plaintiffs’  
10 supplemental state law claims pursuant to 28 U.S.C. § 1367.

11 3. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and (e) in that  
12 (1) unlawful actions challenged herein occurred in this Judicial District and (2) all Defendants  
13 reside in this Judicial District.

14 **THE PARTIES**

15 4. Plaintiffs Diana C. Watts and Odin H. Watts, a minor, bring this action individually  
16 and as heirs and the sole successors-in-interest to Jason Alan Watts, husband of Plaintiff Diana C.  
17 Watts and natural father of Odin H. Watts, a minor (“Mr. Watts”). Plaintiffs assert all survival  
18 claims and rights under California law, which survive Mr. Watts’ death pursuant to California Code  
19 of Civil Procedure §§ 377.30 and 377.60, and any survival claims they may bring under 42 U.S.C.  
20 § 1983, The Americans with Disabilities Act and Section 504 of the Rehabilitation Act in their  
21 capacities as the successors-in-interest to Mr. Watts. Plaintiffs have served and filed concurrently  
22 herewith a declaration pursuant to California *Civil Code* § 377.32 establishing their standing to  
23 bring this action.

24 5. At all relevant times, Mr. Watts was a resident of Chula Vista, County of San Diego,  
25 State of California. Plaintiff Diana C. Watts is currently a resident of the State of California.  
26 Plaintiff Odin H. Watts, a minor, is currently a resident of the State of Nebraska.

27 6. Plaintiffs are informed and believe and thereon allege that at all relevant times  
28 Defendant CITY OF CHULA VISTA was a duly chartered and established public municipal entity

1 organized under the laws of the State of California, and within the meaning of Title II of the ADA  
2 and has received federal financial assistance within the meaning of Section 504 of the  
3 Rehabilitation Act, and was located within in the County of San Diego, State of California.  
4 Plaintiffs are further informed and believe and thereon allege that at all relevant times Defendant  
5 CITY OF CHULA VISTA owned, operated, and maintained the Chula Vista Police Department  
6 (“CVPD”) as the duly-constituted law enforcement agency in and for the CITY OF CHULA  
7 VISTA, and that at all relevant time CVPD acted in all respects in accordance with and pursuant to  
8 all applicable rules and policies promulgated by the CITY OF CHULA VISTA, and with the  
9 express and/or implied authorization, consent, and ratification of CITY OF CHULA VISTA.

10 7. Plaintiffs are informed and believe and thereon allege that at all relevant times  
11 Defendant BRITTANY SCHOFER (hereinafter “SCHOFER”) (formerly sued as “DOE 1”) was a  
12 duly authorized officer and employee of the CVPD, was at all relevant times acting under the  
13 authority thereof, was at all relevant times acting under the color of law within the curse and scope  
14 of her respective duties as a CVPD officer, and with the complete authority and ratification of the  
15 CVPD.

16 8. Plaintiffs are informed and believe and thereon allege that at all relevant times  
17 Defendant THOMAS LUHTA (hereinafter “LUHTA”) (formerly sued as “DOE 2”) was a duly  
18 authorized officer and employee of the CVPD, was at all relevant times acting under the authority  
19 thereof, was at all relevant times acting under the color of law within the curse and scope of his  
20 respective duties as a CVPD officer, and with the complete authority and ratification of the CVPD.

21 9. Plaintiffs are informed and believe and thereon allege that at all relevant times  
22 Defendant MARK MEREDITH (hereinafter “MEREDITH”) (formerly sued as “DOE 3”) was a  
23 duly authorized officer and employee of the CVPD holding the rank and responsibilities of  
24 Sergeant, was at all relevant times acting under the authority thereof, was at all relevant times  
25 acting under the color of law within the curse and scope of his respective duties as a CVPD officer,  
26 and with the complete authority and ratification of the CVPD.

27 10. Plaintiffs are informed and believe and thereon allege that at all relevant times  
28 Defendant JUAN MANIBUSAN (hereinafter “MANIBUSAN”) (formerly sued as “DOE 4”) was a

1 duly authorized officer and employee of the CVPD, was at all relevant times acting under the  
2 authority thereof, was at all relevant times acting under the color of law within the curse and scope  
3 of his respective duties as a CVPD officer, and with the complete authority and ratification of the  
4 CVPD.

5 11. Plaintiffs are informed and believe and thereon allege that at all relevant times  
6 Defendant BRYAN JACKSON (hereinafter "JACKSON") (formerly sued as "DOE 5") was a duly  
7 authorized officer and employee of the CVPD holding the rank and responsibilities of Agent, was  
8 at all relevant times acting under the authority thereof, was at all relevant times acting under the  
9 color of law within the curse and scope of his respective duties as a CVPD officer, and with the  
10 complete authority and ratification of the CVPD.

11 12. Plaintiffs are informed and believe and thereon allege that at all relevant times  
12 Defendant GINGER VAN HOUGHTON (hereinafter "VAN HOUGHTON") (formerly sued as  
13 "DOE 6") was a duly authorized officer and employee of the CVPD, was at all relevant times  
14 acting under the authority thereof, was at all relevant times acting under the color of law within the  
15 curse and scope of her respective duties as a CVPD officer, and with the complete authority and  
16 ratification of the CVPD.

17 13. Plaintiffs are informed and believe and thereon allege that at all relevant times  
18 Defendant CHRISTOPHER BEARSS (hereinafter "BEARSS") (formerly sued as "DOE 7") was a  
19 duly authorized officer and employee of the CVPD, was at all relevant times acting under the  
20 authority thereof, was at all relevant times acting under the color of law within the curse and scope  
21 of his respective duties as a CVPD officer, and with the complete authority and ratification of the  
22 CVPD.

23 14. Plaintiffs are informed and believe and thereon allege that at all relevant times  
24 Defendant MARIO PEREIRA (hereinafter "PEREIRA") (formerly sued as "DOE 8") was a duly  
25 authorized officer and employee of the CVPD, was at all relevant times acting under the authority  
26 thereof, was at all relevant times acting under the color of law within the curse and scope of his  
27 respective duties as a CVPD officer, and with the complete authority and ratification of the CVPD.

28 15. Plaintiffs are informed and believe and thereon allege that at all relevant times

1 Defendant JOSE AGUAYO (hereinafter “AGUAYO”) (formerly sued as “DOE 9”) was a duly  
2 authorized officer and employee of the CVPD, was at all relevant times acting under the authority  
3 thereof, was at all relevant times acting under the color of law within the curse and scope of his  
4 respective duties as a CVPD officer, and with the complete authority and ratification of the CVPD.

5 16. Plaintiffs are informed and believe and thereon allege that at all relevant times  
6 Defendant S. O’CONNELL (hereinafter “O’CONNELL”) (formerly sued as “DOE 10”) was a duly  
7 authorized employee and specialty clinician of the CVPD assigned to its Psychiatric Emergency  
8 Response Team (“PERT”), was at all relevant times acting under the authority thereof, was at all  
9 relevant times acting under the color of law within the curse and scope of her respective duties as a  
10 specialty clinician within the PERT unit of CVPD, and with the complete authority and ratification  
11 of the CVPD.

12 17. Plaintiffs are informed and believe and thereon allege that at all relevant times  
13 Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN  
14 MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER BEARSS,  
15 MARIO PEREIRA, JOSE AGUAYO, S. O’CONNELL, and Defendants DOES 11 through 100,  
16 inclusive, were duly authorized officers, sergeants, agents, supervisors, and/or managers of the  
17 CVPD and agents and employees of the CITY OF CHULA VISTA, and were directly involved in  
18 escalating the encounters that resulted in the death of Mr. Watts. Plaintiffs are informed and believe  
19 and thereon allege that at all relevant times said Defendants acted with the complete authority and  
20 ratification of CITY OF CHULA VISTA and CVPD.

21 18. The true names of Defendants DOES 11 through 200, inclusive, are unknown to  
22 Plaintiffs at this time. Plaintiffs will seek leave to amend this complaint to show the true names and  
23 capacities of these Defendants when they have been ascertained. Plaintiffs are informed and believe  
24 and thereon allege that each of the fictitiously-named Defendants is responsible for some part of the  
25 conduct, liabilities and damages alleged herein.

26 19. Plaintiffs are informed and believe and thereon allege that each Defendant is, and at all  
27 times mentioned, was the agent, employee, representative, successor and/or assignee of each other  
28 Defendant. Each Defendant, in doing the acts, or in omitting to act as alleged in this Complaint,

1 was acting within the scope of his or her actual or apparent authority, or the alleged acts and  
2 omissions of each Defendant agent subsequently were ratified and adopted by each other Defendant  
3 as principal. Plaintiffs are informed and believe and thereon allege that each of the individual  
4 Defendants were in some way responsible for the constitutional violations and torts alleged in this  
5 Complaint.

6 20. Plaintiffs are informed and believe and thereon allege that all Defendants, at all times  
7 relevant to the allegations herein, acted under the color of state law. Each non-government entity  
8 Defendant is sued in his or her individual capacity only. Liability under California law for all  
9 government employees is based upon, among other things, California Civil Code Sections 43, 51,  
10 51.7, 52, 52.1, 54.1, 377.30, and 377.60; Government Code Section 815.2; and Penal Code  
11 Sections 149, 240 and/or 242. Liability under federal law for all government entity employees is  
12 based upon 42 U.S.C. § 1983. Plaintiffs timely filed tort claims with CITY OF CHULA VISTA,  
13 COUNTY OF SAN DIEGO, and UNIVERSITY OF CALIFORNIA, SAN DIEGO and have  
14 complied with the requirements of the California Tort Claims Act.

15 21. In committing the acts alleged in this Complaint, Defendants BRITTANY SCHOFER,  
16 THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN  
17 HOUGHTON, CHRISTOPHER BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL,  
18 and DOES 11 through 100, inclusive, and each of them, acted knowingly, maliciously, and with  
19 reckless or callous disregard for the constitutional rights of Plaintiffs and of Mr. Watts, justifying  
20 an award of punitive damages under Federal and California law against each individual defendant.

### 21 FACTUAL ALLEGATIONS

22 22. According to the records of CVPD, on or about October 12, 2018, at approximately  
23 8:38 AM, in Chula Vista, California, officers of the CVPD were called to the residence of the aunt  
24 of the decedent, Jason Alan Watts, located at 1190 Myra Avenue, Chula Vista, California 91911,  
25 who reported that Watts had come to her residence, was "not making sense," that he was "making  
26 irrational comments," and that she was scared of him. Watts had further reportedly stated that he  
27 was being pursued by "the cartel," who wanted to kill him, that he was filthy and unkempt, and that  
28 he looked like he had not slept in five days. Defendants BEARSS and PEREIRA initially

1 responded to this call, and after speaking with Watts and his aunt, called for assistance from  
2 SVPD's PERT unit, to which Defendants AGUAYO and PERT Clinician O'CONNELL responded  
3 and further interviewed Watts. PERT Clinician O'CONNELL ultimately evaluated Watts as not  
4 meeting criteria for a hold pursuant to California *Welfare and Institutions Code* § 5150. Defendants  
5 BEARSS, PEREIRA, AGUAYO, and O'CONNELL left the 1190 Myra Avenue location without  
6 taking Watts into custody or having him transported for further medical/mental health evaluations  
7 to determine whether he would benefit from a Section 5150 hold, and simply left Watts to his own  
8 devices. This decision would lead to Watts' condition and behavior worsening throughout the day,  
9 and ultimately to his death.

10 23. On or about October 12, 2018, at approximately 11:30 PM, in Chula Vista, California,  
11 Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN,  
12 BRYAN JACKSON, GINGER VAN HOUGHTON and DOES 11 through 100, and each of them,  
13 officers of the CVPD, encountered the decedent, Jason Alan Watts, at a 7-11 store located at or  
14 about 403 Third Avenue, Chula Vista, California. At said time, Mr. Watts was then suffering from  
15 a severe mental illness, condition, disability, and/or breakdown, in addition to, apparently, having  
16 ingested controlled substance(s) that further altered his consciousness and ability to accurately  
17 perceive events around him. In fact, Mr. Watts had repeatedly entered and exited the 7-11 store  
18 without incident, becoming more and more confused and fearful, and believing that persons with  
19 guns were pursuing him and lying in wait with the intent of killing him. At one point, Mr. Watts  
20 requested of the 7-11 clerk that he be allowed to use the business' telephone, whereupon he himself  
21 called CVPD asking for help and protection from these perceived but nonexistent threats, which  
22 were delusions arising from the profound mental breakdown that he was experiencing. As Mr.  
23 Watts became increasing afraid and paranoid, the 7-11 clerk became concerned and called CVPD.  
24 Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN,  
25 BRYAN JACKSON, GINGER VAN HOUGHTON and DOES 11 through 100, and each of them, were  
26 dispatched to the scene, along with another CVPD Officer, Andrea Mayorga, who apparently  
27 observed the unfolding scene from outside the 7-11 and attempted to gather information from  
28 homeless individuals congregating nearby and one or more individuals at a nearby hotel which Mr.

1 Watts had previously entered. Whereas CVPD had dispatched Defendant Clinician O'CONNELL  
2 to the encounter with Mr. Watts at the 1190 Myra Avenue address earlier that same day, no  
3 clinician or other member of CVPD's PERT team was dispatched to the 7-11 at any point during  
4 this profound breakdown experienced by Mr. Watts. Instead, Defendants BRITTANY SCHOFER  
5 and THOMAS LUHTA, approached Mr. Watts in an aggressive and intimidating manner, which was  
6 clearly perceived by Mr. Watts as a grave threat to his life and safety. In his clearly confused and  
7 disoriented state, as Defendant THOMAS LUHTA approached Mr. Watts near the door to the 7-11,  
8 Mr. Watts yelled "Check the freezers! Check the freezers!" then ran at full speed back into the 7-11  
9 and behind the counter where 7-11 employees worked, clearly taking refuge from a perceived but  
10 nonexistent threat. Defendant THOMAS LUHTA would later describe Mr. Watts as 'acting  
11 strangely,' and that he had "red bloodshot eyes, dried blood in his mouth, and his face was filthy,"  
12 and that he 'just stared blankly.' Despite that Mr. Watts was clearly in the midst of a profound  
13 delusion and mental breakdown, was extremely fearful, paranoid, agitated, confused, and  
14 disoriented, Defendant THOMAS LUHTA began issuing commands to Mr. Watts which he did not  
15 follow, whereupon Defendant THOMAS LUHTA drew his firearm, and Defendant BRITTANY  
16 SCHOFER approached and drew her taser. Defendants Sergeant MARK MEREDITH, Officer  
17 JUAN MANIBUSAN, Agent BRYAN JACKSON, Officer GINGER VAN HOUGHTON and DOES 11  
18 through 100, and each of them, arrived and joined in attempting to violently and physically subdue  
19 Mr. Watts. Over the next several minutes, Mr. Watts was repeatedly shot by said Defendants and  
20 electrocuted with four separate tasers, was stuck with fists, batons, sprayed in the face with pepper  
21 spray, all causing him to begin to vomit uncontrollably, and then once being swarmed and  
22 physically subdued from all movement by a throng of 4-6 officers, was placed in a physical  
23 restraint system known as a "WRAP," and a device known as a "spit bag" was placed over his  
24 mouth and nose, in which he had no freedom of movement and in which his breathing was  
25 restricted. Mr. Watts' fear, anxiety, and paranoia increased exponentially.

26           24. At no point during the encounter at 7-11 between Mr. Watts and Defendants  
27 BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN, BRYAN  
28 JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, and each of them, did any



1 officer or employee of CVPD ever make any attempt to ascertain Mr. Watts’ mental status, nor did  
2 any officer or employee of CVPD ever summon officers and/or other professionals trained and  
3 experienced in de-escalating situations involving persons suffering from mental illnesses,  
4 conditions, disabilities, and/or breakdowns – such as one of more members of CVPD’s PERT unit  
5 that had encountered, evaluated, and inaccurately determined that Mr. Watts did not meet the  
6 criteria for a Section 5150 hold – or to otherwise obtain Mr. Watts’ cooperation by less traumatic  
7 means. Defendants Sergeant MARK MEREDITH, Officer JUAN MANIBUSAN, Agent BRYAN  
8 JACKSON, Officer GINGER VAN HOUGHTON and DOES 11 through 100, and each of them,  
9 thereupon took Mr. Watts into custody.

10 25. In fact, had Defendants BEARSS, PEREIRA, AGUAYO, and O’CONNELL correctly  
11 assessed Mr. Watts’ downward-spiraling condition earlier the same day after his family had called  
12 on CVPD for help and placed him on a Section 5150 hold, rather than abandoning him to his own  
13 devices in his worsening state, the disastrous encounter at 7-11 would never have occurred and Mr.  
14 Watts would likely be alive today.

15 26. Plaintiffs are informed and believe and based thereon allege that during said encounter  
16 at 7-11, Defendants Sergeant MARK MEREDITH and Agent BRYAN JACKSON had a  
17 conversation wherein both agreed that the decedent, Mr. Watts, appeared to be suffering from  
18 “excited delirium.” Excited delirium is a condition well-known to law enforcement and medical  
19 personnel to be a complex neuropsychiatric syndrome that is characterized by disturbances in  
20 consciousness, orientation, memory, thought, perception, and behavior, including agitation,  
21 aggression, and acute distress resulting from or more structural and/or physiological abnormalities  
22 directly or indirectly affecting the brain, and is associated with high rates of sudden death, often in  
23 the pre-hospital care setting. Plaintiffs are informed and believe and based thereon allege that the  
24 awareness that Mr. Watts was suffering from excited delirium was communicated and/or otherwise  
25 known to Defendants BRITTANY SCHOFER, THOMAS LUHTA, JUAN MANIBUSAN, GINGER  
26 VAN HOUGHTON, and DOES 11 through 100, and each of them. Despite recognizing what would  
27 ultimately cause Mr. Watts to die several hours later, not one of said Defendants acted to minimize  
28 the stress experienced by Mr. Watts, to seek and obtain medical care specifically to address and

1 control this advancing condition, and instead treated Mr. Watts like an ordinary criminal who was  
2 simply being uncooperative. Defendant THOMAS LUHTA would later state to interviewers  
3 concerning the incident “In my mind, I was thinking why didn’t you just do what we told you to  
4 do? It didn’t have to get to the point was at had he complied with the orders,” evidencing said  
5 Defendants’ commitment to the false notion that a severely mentally-ill man in the midst of a  
6 profound mental breakdown and suffering from obvious, severe paranoia and delusions could  
7 understand and rationally comply with commands.

8 27. Defendants Officer MARK MEREDITH, Officer JUAN MANIBUSAN, Agent BRYAN  
9 JACKSON, Officer GINGER VAN HOUGHTON and DOES 11 through 100, and each of them, called  
10 paramedics to the scene to evaluate the decedent after he continued to exhibit the effects of the  
11 aforesaid mental illness, condition, disability, and/or breakdown following his arrest, who  
12 ultimately transported the decedent in the early hours of October 13, 2018, to Paradise Valley  
13 Hospital, where he was evaluated and deemed suitable for incarceration. Defendants Officer  
14 MARK MEREDITH, Officer JUAN MANIBUSAN, Agent BRYAN JACKSON, Officer GINGER VAN  
15 HOUGHTON and DOES 11 through 100, and each of them, then transported the decedent to the  
16 COUNTY OF SAN DIEGO Men's Central Detention Facility, operated by Defendant COUNTY  
17 OF SAN DIEGO through its duly-authorized law enforcement agency, the San Diego County  
18 Sheriff's Department. While in the process of being booked into the COUNTY OF SAN DIEGO  
19 Men's Central Detention Facility, Mr. Watts' medical condition began to further deteriorate rapidly,  
20 and, and he was subsequently transported by ambulance to the University of California at San  
21 Diego (UCSD) Medical Center. Once at the UCSD Medical Center, Mr. Watts suffered additional  
22 medical complications and vital system shutdown associated with his excited delirium, and he was  
23 pronounced dead at or about 12:21 P.M. on October 13, 2018.

24 28. Plaintiffs are informed and believe and thereon allege that prior to violently attacking  
25 Mr. Watts as aforesaid, Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH,  
26 JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100,  
27 and each of them, were aware that that Mr. Watts was quite obviously then suffering from a mental  
28 illness, condition, disability, and/or breakdown, and was then experiencing a severe psychotic break

1 and/or other severe psychological distress and was substantially disabled by reason thereof, yet did  
2 not conduct the aforesaid encounter with Mr. Watts any differently than a criminal suspect. Mr.  
3 Watts was not in possession of any weapon at any time during said encounter. At all times,  
4 Defendants were unaware or deliberately did not consider that they could seek any professional  
5 assistance and had no policies, procedures, or training on contacting a mental health professional  
6 when dealing with an individual in psychological distress.

7 29. Instead, Defendants needlessly escalated the situation by proceeding to use pepper  
8 spray, tasers, fists, batons, and other violent and harmful techniques and methodologies to violently  
9 attack Mr. Watts in order to compel his cooperation, which such violent conduct, techniques, and  
10 methodologies only served to further escalate the severity of Mr. Watts' mental distress, confusion,  
11 and excited delirium, and ultimately resulted in his death several hours later.

12 30. The lack by Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH,  
13 JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100,  
14 and each of them, of having received from CVPD training in the protocols, procedures and policies  
15 regarding encountering individuals with mental disabilities or emotional disturbance directly  
16 contributed to and impacted their failure to plan or create any less extreme and/or de-escalating  
17 course of action prior to attacking Mr. Watts.

18 31. At the time of the aforesaid attack, Mr. Watts was unarmed and suffering through an  
19 episode of extreme psychological distress and mental illness. The use of what was ultimately  
20 deadly force in this case was unreasonable and excessive given that Defendants BRITTANY  
21 SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER  
22 VAN HOUGHTON, and DOES 11 through 100, and each of them, knew that Mr. Watts was  
23 obviously suffering through an episode of extreme psychological distress, mental illness, confusion,  
24 and delusion, as Mr. Watts had himself called CVPD for help based on his fear that persons were  
25 waiting outside the 7-11 store to kill him, and that the presence thereof of said Defendants as armed,  
26 uniformed police officers did not itself persuade him that he was safe from the deadly but  
27 nonexistent harm he feared by reason of his severe mental illness, condition, disability, breakdown,  
28 and other severe psychological distress, and his substantially disability by reason thereof.

1 Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN,  
2 BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, and each of them,  
3 failed to: use proper procedures in responding to a situation involving a mentally or emotionally  
4 disturbed person; seek any assistance, before or during the incident, from mental health officials or  
5 a crisis intervention team, wait for back up, and/or call or wait for the arrival of Mr. Watts' family,  
6 relatives and/or friends who could have helped to defuse the situation. Instead, the officers  
7 unreasonably escalated the level of tension and acted violently without cause, resorting to  
8 unnecessary and excessive force to subdue Mr. Watts and used ultimately deadly force, which was  
9 excessive and unreasonable under the circumstances.

10 32. Plaintiffs allege that the aforesaid officers and employees of CVPD, including without  
11 limitation Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN  
12 MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, and each  
13 of them, were negligently and inadequately trained, hired, retained and/or supervised regarding the  
14 use of force and regarding proper procedures for responding to situations involving individuals with  
15 mental disabilities or emotional disturbance, including:

16 A. Failing to provide adequate training and supervision to officers with respect to  
17 constitutional limits on the use of force;

18 B. Failing to provide adequate discipline, training, and supervision to officers with a  
19 propensity for violence or a history of violence and unconstitutional actions;

20 C. Failing to provide adequate training and supervision to officers with respect to the  
21 proper procedures to be followed in dealing and interacting with individuals with mental  
22 disabilities or emotional disturbance in need of medical or psychological treatment.

23 33. Before his death, Mr. Watts was a husband, a father, a son, and a sibling. His death has  
24 been devastating to his family, including Plaintiffs, who are his next of kin.

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**FIRST CAUSE OF ACTION**

**Unreasonable Use of Force**

**(42 U.S.C. § 1983)**

**(By Plaintiffs in their capacities as successors-in-interest to Jason Alan Watts)**

**(Against Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, inclusive)**

34. Plaintiffs repeat and reallege each and every allegation in paragraphs 1-33 of this Complaint, and incorporate the same as if fully set forth herein.

35. Defendants’ use of force, including the use of what was ultimately deadly force, was both excessive and unreasonable under the circumstances. Defendants’ unjustified attack upon and killing of Mr. Watts deprived him of his rights under the Fourth Amendment. Plaintiffs, as Mr. Watts’ successors-in-interest, have the right and standing to assert Mr. Watts’ claim for this violation of his Fourth Amendment rights.

36. Defendants’ unlawful use of force, including what was ultimately deadly force, caused Mr. Watts extreme pain and suffering, and loss of his life, earning capacity and his relationship with his wife, son, friends, and family. Defendants’ actions also deprived Plaintiffs of the life-long love, companionship, support, society, care, and sustenance of Mr. Watts, and they will continue to be so deprived for the remainder of their lives.

37. As a result of their conduct, said Defendants are liable for Mr. Watts’ injuries and death, either because they were integral participants in the excessive force, or because they failed to intervene to prevent these violations, or because they permitted a policy and practice of conscious disregard of and reckless indifference to Constitutional rights.

38. The claim against Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, and each of them, as employees of CITY OF CHULA VISTA and its law enforcement entity, CVPD, are based in part upon Plaintiffs’ allegations that said Defendants, and each of them, failed to follow proper and generally accepted procedures in dealing with individuals with mental

1 disabilities or emotional disturbances in need of medical or psychological treatment, such as Mr.  
2 Watts, and instead used excessive force under the circumstances when proper intervention and the  
3 use of a lesser degree of force would not have needlessly accelerated the tension of the  
4 circumstances and exacerbated Mr. Watts’ mental disabilities and emotional disturbances, leading  
5 to his death.

6 39. As a direct and legal result of Defendants’ acts and omissions, Plaintiffs and decedent  
7 suffered damages, including, without limitation, loss of enjoyment of life; pain and suffering;  
8 emotional distress; funeral expenses; attorneys’ fees; costs of suit; other pecuniary losses not yet  
9 ascertained; and the loss of Mr. Watts’ love, affection, society, and companionship.

10 40. Plaintiffs are informed and believe and thereon allege that the acts of the individual  
11 Defendants were willful, malicious, intentional, reckless and/or were done in willful and conscious  
12 disregard of Mr. Watts’ rights, justifying the awarding of punitive and exemplary damages in an  
13 amount to be determined at the time of trial.

14 41. Plaintiffs bring this claim as successors-in-interest to Mr. Watts, and seek both survival  
15 and wrongful death damages under Federal law for the violation of Mr. Watts’ rights. Plaintiffs also  
16 seek attorneys’ fees under this claim.

17 **SECOND CLAIM FOR RELIEF**

18 **Interference with Parent-Child Relationship**

19 **(42 U.S.C. § 1983)**

20 **(By Plaintiff ODIN H. WATTS, a minor, by and through his**

21 **Guardian Ad Litem, DIANA C. WATTS)**

22 **(Against Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN**

23 **MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER BEARSS,**

24 **MARIO PEREIRA, JOSE AGUAYO, S. O’CONNELL, and DOES 11 through 100,**

25 **inclusive)**

26 42. Plaintiffs repeat and reallege each and every allegation in paragraphs 1- 50 of this  
27 Complaint, and incorporate the same as if fully set forth herein.

28 43. The interference by Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK

1 MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER  
2 BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL, and DOES 11 through 100, and  
3 each of them, parent-child relationship caused Mr. Watts extreme pain and suffering, and loss of his  
4 life, earning capacity and his relationship with his wife, son, friends, and family. Defendants'  
5 actions also deprived Plaintiff of the life-long love, companionship, support, society, care, and  
6 sustenance of Mr. Watts, and he will continue to be so deprived for the remainder of his life.

7 44. As a result of their conduct, Defendants BRITTANY SCHOFER, THOMAS LUHTA,  
8 MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON,  
9 CHRISTOPHER BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL, and DOES 11  
10 through 100, and each of them, are liable for Mr. Watts' injuries, either because they were integral  
11 participants in the interference with the parent-child relationship, or because they failed to intervene  
12 to prevent these violations.

13 45. The claim against Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK  
14 MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER  
15 BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL, and DOES 11 through 100, and  
16 each of them, as employees of CITY OF CHULA VISTA and its law enforcement entity, CVPD,  
17 are based in part upon Plaintiffs' allegations that said Defendants, and each of them, failed to  
18 follow proper and generally accepted procedures in dealing with individuals with mental  
19 disabilities or emotional disturbances in need of medical or psychological treatment, such as Mr.  
20 Watts, and instead used excessive force under the circumstances when proper intervention and the  
21 use of a lesser degree of force would not have needlessly accelerated the tension of the  
22 circumstances and exacerbated Mr. Watts' mental disabilities and emotional disturbances, leading  
23 to his death, thereby wrongfully interfering with the parent-child relationship between Mr. Watts  
24 and his sone, Plaintiff ODIN H. WATTS, a minor.

25 46. As a direct and legal result of said Defendants' acts and omissions, Plaintiff ODIN H.  
26 WATTS, a minor, by and through his Guardian Ad Litem, DIANA C. WATTS, has suffered  
27 damages, including, without limitation, loss of enjoyment of life; pain and suffering; emotional  
28 distress; attorneys' fees; costs of suit; other pecuniary losses not yet ascertained; and the loss of Mr.

1 Watts’ love, affection, society, and companionship.

2 47. Plaintiff is informed and believes and thereon alleges that the acts of the individual  
3 Defendants were willful, malicious, intentional, reckless and/or were done in willful and conscious  
4 disregard of Mr. Watts’ rights, justifying the awarding of punitive and exemplary damages in an  
5 amount to be determined at the time of trial.

6 48. Plaintiffs bring this claim in their individual and/or representative capacities for  
7 wrongful death damages and other remedies available to Plaintiff ODIN H. WATTS, a minor, by  
8 and through his Guardian Ad Litem, DIANA C. WATTS, under federal law.

9 **THIRD CLAIM FOR RELIEF**

10 **Wrongful Death**

11 **(Cal. Civ. Proc. Code § 377.60)**

12 **(By Plaintiffs in their individual capacities as heirs of Jason Alan Watts)**

13 **(Against Defendants CITY OF CHULA VISTA, BRITTANY SCHOFER, THOMAS LUHTA,**  
14 **MARK MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON,**  
15 **CHRISTOPHER BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O’CONNELL, and**  
16 **DOES 11 through 100, inclusive)**

17 49. Plaintiffs repeat and reallege each and every allegation in paragraphs 1- 57 of this  
18 Complaint, and incorporate the same as if fully set forth herein.

19 50. Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN  
20 MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100, and each  
21 of them, violently attacked Mr. Watts, ultimately resulting in his death, despite the fact that he was  
22 unarmed. Said officers engaged in said wrongful actions individually and in their capacities as  
23 employees of Defendant CITY OF CHULA VISTA and CVPD.

24 51. Defendants CHRISTOPHER BEARSS, MARIO PEREIRA, JOSE AGUAYO, S.  
25 O’CONNELL and DOES 11 through 100, and each of them, failed to accurately evaluate Mr.  
26 Watts’ condition earlier on October 12, 2018, at the 1190 Myra Avenue encounter referred to  
27 above, failed to place him on a hold pursuant to *Welfare and Institutions Code* § 5150, and failed to  
28 otherwise protect him from the effects of his worsening mental breakdown, ultimately resulting in



1 his death. Said officers engaged in said wrongful actions individually and in their capacities as  
2 employees of Defendant CITY OF CHULA VISTA and CVPD.

3 52. Furthermore, Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK  
4 MEREDITH, JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER  
5 BEARSS, MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL and DOES 11 through 100, and  
6 each of them, as officers, agents and employees of CITY OF CHULA VISTA and its duly-  
7 constituted law enforcement agency, CVPD, were on notice that Mr. Watts was then suffering from  
8 a mental illness, condition, disability, and/or breakdown, and was then experiencing a severe  
9 psychotic break and/or other severe psychological distress and was substantially disabled by reason  
10 thereof. As such, when Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH,  
11 JUAN MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, and DOES 11 through 100,  
12 and each of them, responded to the aforesaid 7-11 store, they should have done so in a manner  
13 designed to minimize the possibility of the use of any force. Instead, said Defendants confronted  
14 Mr. Watts with the use of unnecessary and excessive force causing his death. Said officers engaged  
15 in said wrongful actions individually and in their capacities as employees of Defendant CITY OF  
16 CHULA VISTA and CVPD.

17 53. Given that Diana C. Watts was Mr. Watts' wife, and Odin H. Watts was Mr. Watts'  
18 natural son, Plaintiffs are the proper persons to sue for his wrongful death under California state  
19 law.

20 54. As the surviving wife and son of Mr. Watts, Plaintiffs assert wrongful death actions  
21 against Defendants pursuant to C.C.P. §§ 377.60 et seq. This claim is based upon the fact that  
22 Defendants' negligent, reckless and wrongful acts and omissions, as alleged herein, were a direct  
23 and legal cause of Mr. Watts' death and the resulting damages to Plaintiffs. As a result of their  
24 conduct, Defendants are liable for Plaintiffs' injuries, either because they were integral participants  
25 in the wrongful conduct, or because they failed to intervene to prevent these violations.

26 55. As a direct and legal result of Defendants' acts and omissions, Plaintiffs suffered  
27 damages, including without limitation, actual damages according to proof, attorneys' fees; costs of  
28 suit; other pecuniary losses not yet ascertained.

1 56. Plaintiffs bring this claim in their individual capacity for survival and wrongful death  
2 damages and other remedies available to them under state law.

3 **FOURTH CLAIM FOR RELIEF**

4 **Negligence**

5 **(By Plaintiffs in their capacities as successors-in-interest to Jason Alan Watts)**

6 **(Against Defendants BRITTANY SCHOFER, THOMAS LUHTA, MARK MEREDITH, JUAN**

7 **MANIBUSAN, BRYAN JACKSON, GINGER VAN HOUGHTON, CHRISTOPHER BEARSS,**

8 **MARIO PEREIRA, JOSE AGUAYO, S. O'CONNELL, and DOES 11 through 100,**

9 **inclusive)**

10 57. Plaintiffs repeat and reallege each and every allegation in paragraphs 1- 65 of this  
11 Complaint, and incorporate the same as if fully set forth herein.

12 58. Defendants owed a duty of care to Plaintiffs and Mr. Watts, and were required to use  
13 reasonable diligence to ensure that Plaintiffs and Mr. Watts were not unreasonably harmed by  
14 Defendants' acts or omissions. Defendants' actions and omissions in breach of such duties of care  
15 were negligent and reckless, including but not limited to:

16 A. the failure to properly assess the need to use any force or deadly force against Mr.  
17 Watts;

18 B. the negligent tactics and handling of the situation with Mr. Watts;

19 C. the negligent use of force, including ultimately deadly force, against Mr. Watts;

20 D. the failure to properly train, supervise and discipline employees, including the  
21 individual Defendants;

22 E. the negligent hiring, retention and assignment of its employees, including the  
23 individual defendants; and,

24 F. the negligent failure to properly train CVPD officers in the use of generally  
25 accepted police practices on encountering mentally ill individuals in a manner designed to  
26 decrease the risk of using unnecessary force or taking a life.

27 59. Defendants' conduct caused Mr. Watts extreme pain and suffering, and loss of life and  
28 earning capacity. Defendants' actions also deprived Plaintiffs of the life-long love, companionship,

1 support, society, care, and sustenance of their husband and father, and they will continue to be so  
2 deprived for the remainder of their lives.

3 60. As a result of their conduct, Defendants are liable for Mr. Watts’ and Plaintiffs’  
4 injuries, either because they were integral participants in the negligence, or because they failed to  
5 intervene to prevent these violations.

6 61. Plaintiffs bring this claim as successors-in-interest to Mr. Watts, and seek both survival  
7 and wrongful death damages under state law for the violation of Mr. Watts’ rights.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs request entry of judgment in their favor and against Defendants,  
10 and each of them, as follows:

- 11 A. For compensatory damages, including both survival damages and wrongful death
- 12 damages under federal and state law, and interest, in an amount to be determined at trial;
- 13 B. For general damages in an amount to be determined at trial;
- 14 C. For exemplary and punitive damages, in an amount to be proven at trial;
- 15 D. For reasonable costs of this suit incurred herein;
- 16 E. For attorneys' fees; and,
- 17 F. For such further relief as the Court may deem just, proper, and appropriate.

18 DATED: April 17, 2023

LAW OFFICE OF CHRISTOPHER J. OLSEN

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s/Christopher J. Olsen  
CHRISTOPHER J. OLSEN, ESQ.  
Attorney for Plaintiffs  
DIANA C. WATTS and  
ODIN H. WATTS, a minor, by and through his  
Guardian Ad Litem, DIANA C. WATTS

# EXHIBIT E

OFFICE OF  
**THE DISTRICT ATTORNEY**  
COUNTY OF SAN DIEGO

SUMMER STEPHAN  
DISTRICT ATTORNEY

December 31, 2019

Chief Roxana Kennedy  
Chula Vista Police Department  
315 Fourth Avenue  
Chula Vista, CA 91910

**Re: In-custody death of Mr. Jason Watts on October 13, 2018, involving Chula Vista Police Officers Thomas Luhta, Brittany Schofer, Ginger Van Houten, Bryan Jackson, Juan Manibusan, Leopoldo Chousal, and Natalie Garnsey; CVPD Case No. 18-14631; DA Special Operations Case No. 18-197CD; Deputy District Attorney assigned: Stephen Marquardt**

Dear Chief Kennedy:

We have reviewed the materials compiled by the Chula Vista Police Department's Crimes of Violence Unit concerning the arrest of Mr. Jason Watts on October 12, 2018 and his death on October 13, 2018. This case was initially presented to the District Attorney's Office on April 9, 2019. The final case materials were delivered to the District Attorney's Office for review on August 7, 2019.

***Summary***

At 11:45 p.m. on October 12, 2018, Chula Vista Police Officers were dispatched to a 7-Eleven store in Chula Vista in response to a 911 call placed by Jason Watts. Watts reported to the dispatcher that there were people in the back freezer and outside of the store who were going to shoot him. The dispatcher spoke with the store employee, who refuted Watts' claims. The employee requested a patrol unit respond because Watts was lingering in the store and had entered into the register area. Officers Luhta and Schofer arrived on scene and attempted to have a conversation with Watts, but Watts quickly entered the store. Watts hurriedly moved past the store clerk and behind the employee counter area. Luhta entered and drew his firearm. Schofer aimed her taser toward Watts. The officers made numerous commands to Watts to place his hands behind his back. Watts refused. Luhta holstered his firearm and calmly spoke to Watts. Watts remained noncompliant as the officers continued to give commands.

Agent Jackson arrived and asked Watts to come out from behind the counter. Watts responded, "No," and immediately punched the register screen. Watts picked up the register from the counter and began raising it with both hands. Schofer discharged her taser at Watts but it was ineffective. Jackson and Luhta fired their tasers. Watts dropped the register and fell onto his buttocks. Watts pulled taser barbs out as the officers commanded him to roll onto his stomach. Watts refused to comply. He grabbed the register and tried to break it free from its cables. Schofer pepper-sprayed Watts. Watts dove over the counter toward Jackson and fell to the floor. Jackson struck Watts with his baton once in leg. The officers repeatedly ordered Watts to roll over onto his stomach, but he refused. Van Houten entered the 7-Eleven with her taser drawn. Watts made his way to the doors and grabbed both handles. After Van Houten gave multiple warnings, she discharged her taser. Watts fell to the floor. The officers attempted to take hold of Watts and he physically resisted. During a brief struggle, Watts began to vomit and Jackson radioed for medics. Watts continued to physically resist. The officers handcuffed Watts and

positioned him on his side. Medics arrived. Luhta, Schofer, Jackson, Van Houten, and Officer Manibusan placed Watts in a maximum restraint WRAP device in the presence of medics.

Watts was transported by medics to Paradise Valley Hospital. At Paradise Valley Hospital, the WRAP was removed, and Watts was evaluated by staff. Watts was medically cleared by hospital staff to be transported to Central Jail. Watts became combative as officers were preparing to transport him. Luhta, Van Houten, Manibusan, Chousal, and Garnsey reapplied the WRAP in the presence of medical personnel while inside of the hospital. Watts was transported by officers to Central Jail, where medical intake staff rejected him for having an “altered mental status.”

Officers requested an ambulance transport Watts to the hospital. An ambulance responded and medics took Watts to UCSD Hospital. While under medical care at UCSD Hospital, Watts became unresponsive and went into cardiac arrest. Watts was pronounced deceased on October 13 at 1221 hours. On October 15, the Medical Examiner conducted an autopsy and determined the cause of death to be methamphetamine intoxication and excited delirium. Physical exertion and restraint were contributing. The manner of death was classified as an accident. The District Attorney’s Office has concluded that Luhta, Schofer, Jackson, Van Houten, Manibusan, Chousal, and Garnsey employed a reasonable amount of force when lawfully detaining Watts and while he was in police custody.

### ***Persons Involved***

Jason Watts was a 29-year-old resident of San Diego. All officers involved in this incident were employed by the Chula Vista Police Department and were on duty and in full police uniform. The approximate time each officer had been employed at the time of the incident was as follows: Luhta and Schofer for four years, Jackson for 17 years, Van Houten for two and a half years, Chousal for four and a half years, Manibusan for nine months, and Garnsey for seven months.

### ***Civilian Witness One (CW1)***

Civilian Witness One (CW1) arrived for his shift at 7-Eleven and two coworkers told him a male (Watts) had been loitering around the store for four hours. They told him the police had been called earlier, but Watts left before officers arrived. After the officers left, Watts returned. CW1 saw Watts lingering, sitting on the floor and in different places around the store. CW1 asked Watts if he needed help and Watts responded there were snipers outside trying to shoot him. Watts asked CW1 if he could use the store phone to call his uncle and CW1 handed him the phone. Watts tried calling.

Watts continued loitering in the store and CW1 told him that he had to leave. Watts left the store but returned only to leave again. Watts did this approximately three times, buying something each time. When Watts came back the third time, he went behind the register. CW1 told him to leave or he would call the police, but Watts refused. CW1 felt Watts could be a threat to him and told Watts numerous times to get out from the register area. Watts still refused. Watts asked CW1 again if he could use the phone to call his uncle. CW1 handed Watts the phone and Watts called 911. CW1 heard Watts tell the police dispatcher that there was a person in the cooler aiming and trying to shoot him. Watts left the register area and came back.

It occurred to CW1 that maybe Watts had a gun. When Watts came back behind the register area, he warned CW1 that if the men came in there, he would break all of the registers. CW1 told Watts not to do that and that if Watts just left, CW1 would just forget everything. CW1 stepped out of the register area and Watts followed him. Watts stepped outside and came back inside. At some point, CW1 went outside of the store because he didn’t have a good feeling about Watts being behind the register area. When the

officers arrived, CW1 went outside. He didn't see what happened between Watts and the officers, but he heard slamming and he heard the officers telling Watts to calm down and go down onto the ground. When the officers gave Watts orders, Watts didn't listen.

### ***Civilian Witness Two (CW2)***

Civilian Witness Two (CW2) went to the 7-Eleven. From outside of the store, CW2 noticed that CW1 and Watts were at the register area. CW2 went inside and heard CW1 telling Watts to leave the register area. Watts ignored CW1. CW1 repeatedly told Watts to leave the register area. CW2 paid for an item, went outside, called 911, and reported what was happening. CW2 saw Watts grab the 7-Eleven phone. Watts walked to the entrance door and opened it while holding the 7-Eleven phone. Watts appeared to be trying to make a call. Watts went back to the register area, where he was playing with and grabbing stuff. At that point, two officers showed up and went inside. CW2 stated he remained outside when police arrived. CW2 was able to see Watts grab a monitor from the counter and either throw it at the officers or toward the ground. CW2 saw the officers trying to handcuff Watts while Watts kept fighting with them, hitting, punching, and struggling the whole time.

### ***Law Enforcement Witness Statements and Actions***

Some officers actively involved in the events provided a statement. Their statements are summarized below. Other officers declined to provide a statement. Their actions are documented in video footage and are summarized below.

### ***Statement of Officer Thomas Luhta***

Luhta responded to a radio call of a man outside of 7-Eleven threatening to shoot people. He arrived and contacted a male, CW2, who stated he had called the police because a male inside of the 7-Eleven was acting strangely and refusing to leave. CW2 stated he had concerns for the store clerk. CW2 identified Watts as the male causing the disturbance. Watts exited the store, told Luhta to check the freezers and then ran back into the store. Luhta followed as Watts ran through the store, pushed past the store clerk (CW1) and went behind the employee counter. Luhta observed Watts acting strangely. Luhta suspected, based on his training and experience, that Watts was under the influence of a central nervous system stimulant: his eyes were red and bloodshot, he had dried blood around his mouth, his face was filthy, and he was blankly staring at Luhta.

Luhta commanded Watts to place his hands behind his head. Watts said he was not going to do it. Luhta sensed Watts growing more agitated. Watts bladed his body away from Luhta, preventing Luhta from seeing Watts' hand somewhere near his waistband. Luhta feared Watts may have been preparing to draw a weapon. Luhta continued to give Watts commands but Watts failed to comply. Luhta drew his handgun and pointed it at Watts while giving commands. Schofer walked up next to Luhta and drew her taser. Both officers continuously gave commands ranging in tone from conversational to authoritative.

Though still not compliant, Watts began to calm down. Jackson arrived and Luhta directed Jackson to remain on the outside of the counter. Luhta recalled Schofer advising him that Watts' fist was balled up behind his back and appeared as though he was preparing to throw a punch. Watts continued to be non-compliant with commands. Watts punched a cash register and ripped it from the counter. Luhta described the register as heavy with sharp edges. Watts was standing approximately three feet away from them as he armed himself with the register. Luhta was cognizant of the harm that Watts could inflict with the cash register on any of the three officers had he been able to throw it. Schofer deployed her taser, but due to the position of the register Watts was holding, the taser was ineffective. Luhta then drew his taser and deployed it towards Watts at the same time Jackson deployed his taser. This second deployment was

effective. Watts fell to the ground but immediately began pulling the taser barbs from his body. Luhta attempted to activate the taser again but it was ineffective, possibly because Watts had removed the barbs. Watts stood up immediately and jumped over the counter towards Jackson. Schofer deployed OC spray at Watts at some point between Watts removing the barbs and his jumping over the store counter.

Luhta went around the counter to assist Jackson. Luhta recalled there being another taser deployment, but was unsure which officer it came from. At this point, Watts was on his knees and swinging his arms and hands towards the officers. Officers attempted to gain Watts' compliance by using muscle techniques. Luhta used his right hand to punch Watts in his face to gain compliance. Watts fell to the ground and started to vomit. While vomiting, Watts thrashed, kicked, fought, and tensed his muscles. Watts tucked his hands under his body as he lay on his stomach. Luhta was concerned Watts may have had a weapon since Watts had not yet been searched. Luhta used his right knee to strike Watts in the right side. Luhta was then able to reach under and grab Watts' left hand and pull it behind his back. Officers managed to gain control of Watts' right hand and placed him in handcuffs. Watts continued to thrash and tense his body while handcuffed. Medics were called due to Watts' erratic behavior. Watts was placed in the WRAP device, but he continued to resist the entire time and periodically would spit and vomit. Watts was placed on his side and medics evaluated him.

Medics transported Watts to Paradise Valley Hospital. Luhta followed the ambulance in his patrol vehicle while Van Houten rode in the ambulance with Watts. At the hospital, the medical staff removed Watts from the WRAP device in order to medically evaluate him. The staff strapped him to the gurney using soft restraints. Once Watts was medically cleared by medical staff, Luhta and Van Houten attempted to gain compliance from Watts without the use of the WRAP device. However, as soon as the soft restraints were removed and he was placed in handcuffs, Watts began thrashing and yelling again. During the process of placing Watts back into the WRAP device, Watts again vomited, spat and continued to thrash. Watts was placed into Chousal and Garnsey's patrol vehicle and transported to San Diego County Jail.

#### ***Statement of Officer Brittany Schofer***

Schofer responded to a call she believed came from a 7-Eleven clerk reporting that someone had threatened to shoot him. Schofer arrived and saw Luhta with CW2, who pointed at Watts. Luhta began walking toward Watts. Schofer exited her patrol vehicle to join Luhta. Watts exited the store, then turned and went quickly back into the 7-Eleven. Watts ran behind the counter, pushed past the clerk (CW1), and then wedged himself in a corner by the register. Watts turned his back to Schofer and Luhta. Schofer drew her taser and saw Luhta draw his firearm. Schofer gave Watts commands to put his hands behind his back, but he refused and kept his hands in front. Watts was touching his pocket and Schofer ordered him to stop. He complied with that command, but did not comply with the commands to put his hands behind his back or head. Schofer walked to where Luhta was positioned behind the counter. Schofer explained to Watts that if he did not comply, he would be tasered. Luhta put his gun away and began trying to talk Watts down so that they could physically detain Watts. Schofer noticed Watts' left hand was behind his back clenched into a fist. Schofer told Luhta and advised him to wait for another officer to arrive before moving in on Watts.

Jackson arrived on scene. The plan was for Jackson to taser Watts and Luhta and Schofer would have an opportunity to move in. Schofer was about to holster her taser when Watts smacked the register and picked it up. Watts turned towards Schofer and Luhta while still holding the register. Watts was clenching his teeth and appeared very angry and aggressive. Schofer believed Watts was going to throw the register at them. Schofer fired her taser at Watts. One of the darts struck Watts and the other missed. Luhta and Jackson fired their tasers simultaneously and Watts fell to the ground. Watts immediately



years, and the others from his body. The officers continued giving Watkins commensurate to what came to his stomach, but the referee, Watkins grabbed the referee's groin and began to stand up. Schofer then threw Watkins over his shoulder to throw the referee at them so the referee squinted and hid his eyes. Watkins then jumped over the counter to ward back at them and Schofer then fell up against the front door to the 7-11 store. The other held the door closed from the outside. Watkins continued to refuse the officers' commands. When the store, now on scene, started Watkins Schofer attempted to gain control of Watkins, who then rolled about. Watkins then went underneath him. Schofer attempted to gain compliance by using force; however, he's against his stomach. Schofer and another were able to grab Watkins' left hand and place it behind his back. As they then lifted Watkins, he began vomiting. Watkins was placed on his side.

Watkins arrived. When the store had been controlled of Watkins' head and arm and Schofer was insisting on control of his legs when Schofer felt Watkins begin to stiffen his legs. In order to maintain control, Schofer placed his arm over Watkins' leg. Watkins screamed something about not wanting off his leg. Watkins began to back and Schofer had to squint more because he was hurt. The officers implemented the W/CR/P. Keeping Watkins on his side as much as possible until he could be placed on the gurney.

*Statement of Deputy Eugene Backstrom*

Backstrom is a Schofer partner in priority and he's urgent. Backstrom quickly responded to Schofer's location. Upon arrival, Backstrom observed a large male, black individual as Watkins inside the store behind the emergency counter. Schofer and another were also behind the counter and were firing. Backstrom contacted and contacted Watkins, who responded angrily and agitated. In his state, Watkins was not firing on anyone. In his back, Backstrom then turned while in the and Schofer would physically attempt to detain Watkins. Backstrom calmly asked Watkins to come over the counter to talk. Watkins responded, "No," and suddenly grabbed the referee's arm. Watkins grabbed the referee to throw it at Schofer and in his, who was there to fire from Watkins. An officer deployed a taser. Backstrom then threw the taser while there too. He then saw Watkins. Backstrom then discharged the discharge. He then immediately became off the board and then rounded the corner. Watkins remained standing. Backstrom drew his taser, announced, "Taser, taser," and deployed the taser over the counter at Watkins. Immediately, Watkins started, fell into a seated position on the floor, and began crawling. He then hid from his body. Backstrom notified dispatch and called a taser and began deployment. The officers ordered Watkins to roll over onto his stomach and place the taser behind his back. Watkins replied, "No."

Watkins stood up, grabbed a chair and threw it at the referee in another attempt to throw it at Schofer and in his. Schofer deployed a taser and Watkins' face and hand. Unsuccessfully, Watkins attempted over the counter to ward back. Backstrom immediately began covering. Getting and temporarily could not see due to the referee's spray. Backstrom stepped to the side, drew his collateral. Backstrom and struck Watkins once in the leg. The officers continued to give commands, but Watkins continued to ignore them.

Backstrom looked up and saw When the store started, inside of the store at the front door. She was positioned with her back to the store. When the store held Watkins not to go near the door or the would be the referee. Watkins did not comply, and When the store discharged the taser. The deployment was effective and caused Watkins' body to back up. At that point, Backstrom screamed for Schofer and in his to assist him in taking hold of and cuffing Watkins. However, he was on the five-second taser cycle and, Watkins squinted back and began pushing the away. The officers held Watkins' arms, but Watkins still overpowered them. Backstrom began using force to try to gain control of Watkins' right arm. Backstrom continued to have trouble securing and was still covering from the referee's spray. The officers were about to turn Watkins onto his stomach when Watkins began to severely vomit. Backstrom continued to have great difficulty in moving. Watkins' right arm behind his back so that it could be cuffed. After a brief struggle, Watkins was cuffed.

Jackson came into contact with the slimy, hot vomit that Watts was expelling and Jackson himself started to gag. Watts continued to scream and struggle. Jackson immediately radioed for an ambulance and was informed an ambulance was waiting for the officers to gain control of Watts. A sergeant provided a WRAP device. The officers struggled to get Watts into the WRAP device. Once Watts was secured in it, he was placed onto a gurney and transported by medics to Paradise Valley Hospital.

***Officer Ginger Van Houten (summary of video footage as no statement was provided)***

Van Houten responded to the 7-Eleven. As she approached the front door, Jackson was inside standing on the outside of the counter and Watts was behind it. Jackson withdrew his expandable baton and Watts sprang over the counter toward Jackson. As Watts fell to the floor, Jackson struck Watts once with the baton. Van Houten entered the store, drew her taser and pointed it at Watts as Jackson, Schofer, and Luhta surrounded Watts. Watts looked toward his midsection and touched his shirt. Van Houten ordered Watts not to reach for anything and Luhta told him to put his hands behind his head. Jackson ordered Watts to roll over and Schofer unsuccessfully attempted to physically roll Watts onto his stomach. Watts shuffled his body across the floor toward the front doors. Van Houten pointed her taser at Watts. Watts sat up and placed his hand on the glass of the door. Van Houten warned him that if he pushed the door, she would taser him. Watts reached up to the door handles. Jackson repeatedly ordered Watts to stay down, but Watts placed both hands on the handles. Van Houten announced “taser” multiple times, then discharged at Watts’ abdomen. Watts fell to the floor.

Schofer attempted to roll Watts away from the door. Watts physically resisted and started to sit up when Luhta employed two blows to Watts’ head. Watts went onto his stomach. Luhta, Schofer, and Jackson physically struggled to gain control of Watts’ arms. Jackson and Luhta ordered him to give them his arms, but he did not comply.

Watts started vomiting and within seconds Jackson radioed for medics. A sergeant arrived and opened the doors to the 7-Eleven. Van Houten stood over Watts with her taser in hand; her taser’s barbs still appeared to be connected to Watts. Jackson struggled to pull Watts’ right arm behind Watts’ back. After he was able to pull Watts’ arm into position, Van Houten handcuffed Watts’ right wrist. The officers were then able to handcuff Watts’ wrists together and he was rolled onto his side.

Van Houten passed her taser to Jackson and stepped in to relieve Schofer, who had been maintaining control of Watts’ legs. Van Houten held his legs in place while Luhta held his upper body. Watts notably calmed down and paramedics entered the store. Schofer relieved Luhta as medics gathered biographical and medical information from Watts. Van Houten relieved Schofer. As the paramedics were talking with Watts and the officers, Watts grew agitated. The medics explained to Watts they were taking him to Paradise Valley Hospital. Van Houten agreed to ride in the ambulance with Watts. Watts began to shout, and the officers decided to secure him in the WRAP device. Van Houten secured the ankle strap first. Van Houten, Schofer, Manibusan, Luhta, and Jackson fully secured Watts in the WRAP device while the paramedics and sergeant remained on scene. Van Houten, Manibusan, Jackson, and Luhta lifted him onto the gurney and positioned him with guidance from the medics. Van Houten rode in the ambulance when paramedics transported Watts to Paradise Valley Hospital.

After Watts had been medically discharged from Paradise Valley Hospital, Von Houten informed him he was being placed under arrest for assaulting officers at the 7-Eleven. She informed him that as soon as transport officers arrived, he would be taken to County Jail. Van Houten and Luhta explained to Watts that if he was complaint and relaxed, he would walk on his own in handcuffs to the patrol car, but

if he was not compliant, he would be placed back into the WRAP device. Watts confirmed he would be compliant and listen to the officers.

As the officers prepared to transport Watts to jail, he began to shout. Luhta indicated that the WRAP would have to be used and Van Houten left the room to get the leg strap. She reentered as Luhta placed a spit sock over Watts' head. Manibusan held the end of the handcuffs that had been placed on Watts' right wrist and Chousal held the end of the cuffs that had been placed on Watts' left wrist. Watts continued to shout for help, yelling they were taking him to Tijuana. Medical staff aided Van Houten, Luhta, and Garnsey by removing the hospital soft restraints that held Watts' ankles to the bottom corners of the gurney. Van Houten applied the ankle strap of the WRAP device. Hospital staff removed the soft restraint that held Watts' right wrist to the rail of the gurney. Van Houten removed the other restraint from Watts' left wrist. With assistance from hospital staff, the officers moved Watts' torso forward so his hands could be cuffed behind his back. The gurney was wheeled into the hallway, where officers and hospital staff lifted Watts and placed him onto the floor. Van Houten guided his feet. She gave instructions on how to position Watts into the WRAP device.

Watts wretched and then vomited. Hospital staff stood near his head and cleaned the floor as Van Houten worked to secure the straps around Watts' legs. Van Houten instructed that Watts be placed on his side in a recovery position. The officers applied the upper portion of the device, moved Watts into a seated position, and fastened the device as Watts continued to struggle, scream, and gag. Hospital staff assisted in positioning Watts. Van Houten directed that some of the straps be repositioned. Once that had been done, Van Houten placed a new spit sock over Watts' head and explained to him there were holes in the sock, making it breathable. The officers lifted Watts onto the gurney wheeled him out of the hospital. Outside, the officers and hospital staff moved Watts into the rear seat of the patrol vehicle.

***Officer Juan Manibusan (summary of video footage as no statement was provided)***

Manibusan responded to the 7-Eleven, where paramedics were on scene standing by and Luhta, Schofer, Van Houten and Jackson were actively securing Watts in the WRAP device. Manibusan stepped in and aided the officers by holding Watts' legs in place as the device was applied. Manibusan, Luhta, Schofer, and Van Houten placed Watts into a seated position. Manibusan assisted in fastening the final strap of the WRAP device. Manibusan, Jackson, Luhta, and Schofer lifted Watts onto the gurney. The medics advised the officers as the officers positioned Watts onto the gurney. A medic applied a spit sock over Watts' head. Watts was secured to the gurney, and medics rolled the gurney to the ambulance.

Approximately one hour after taking witness statements, Manibusan arrived at Paradise Valley Hospital, where Watts was medically cleared. Luhta and Van Houten explained to Watts that if he was compliant, he would be transported only in handcuffs, but if he was noncompliant, they would have to reapply the WRAP device. Watts indicated he would remain compliant.

Chousal and Garnsey arrived to transport Watts to jail. When officers began to remove the hospital gurney soft restraints from Watts' arms and replace them with handcuffs, Watts began to yell for help, shouting that the officers were going to take him to Tijuana. As Watts shouted, Luhta indicated that the WRAP device would have to be reapplied. Luhta placed a spit sock over Watts' head as Chousal placed a handcuff on Watts' left wrist. Watts removed the spit sock and Chousal placed it back on Watts' head. Manibusan held Watts' left wrist cuff for Chousal so Chousal could reapply the spit sock. Luhta, Van Houten, and Garnsey then placed the WRAP restraint onto Watt's ankles while Manibusan held Watts' leg in place.

Watts continued to shout and physically struggle by moving his body about and flexing and clenching his hands. Watts again pulled the spit sock off. Chousal placed it back on. The officers calmly discussed how to best apply the WRAP while Watts screamed and shouted. The officers gave numerous commands to stop shouting and relax. Hospital staff assisted in removing the soft restraints. Hospital staff then lifted the back of the gurney, putting Watts into a seated position. Manibusan and Chousal pulled Watts' hands behind his back and cuffed them.

The gurney was wheeled into the hallway, where officers and hospital staff lifted Watts and placed him onto the open WRAP device. Manibusan, Van Houten, Garnsey, Chousal, and Luhta secured Watts into the WRAP device. Watts continued to shout and began to vomit. Chousal guided Watts' head to the floor. Watts vomited through the spit sock. Hospital staff removed the spit sock and Watts continued to vomit onto the floor. Officers rolled Watts onto his side as they continued to apply the WRAP device.

Manibusan, Garnsey, Chousal, Luhta, and hospital staff attempted to place Watts into a seated position to secure the device. Watts began to forcefully struggle. Van Houten joined the other officers in securing the WRAP device. Watts actively resisted and said several times that he couldn't breathe. Van Houten directed the other officers to reposition Watts so that the straps could be repositioned. Hospital staff were on scene as this was done. Once Watts was fully secured in the WRAP device, Van Houten placed a new spit sock over Watts' head and the officers lifted Watts onto the gurney. Hospital staff and the officers wheeled Watts out of the hospital. Watts again stated that he was going to be taken to Mexico. Garnsey backed his vehicle into position and officers and hospital staff moved Watts into the backseat of the patrol vehicle.

***Officer Leopoldo Chousal (summary of video footage as no statement was provided)***

Chousal arrived at Paradise Valley Hospital to transport Watts after he had been cleared for jail. Watts was reclined on a hospital gurney and each of his hands were bound to the railings by soft restraints. Luhta placed a handcuff onto Watts' right wrist as Chousal took hold of Watts' left wrist. Watts yelled out for help and said that they were taking him to Tijuana. Luhta said they would have to place Watts again in the WRAP device. Chousal placed a handcuff on Watts' left wrist and Luhta placed a spit sock over Watts' head. Watts continued to shout for help and again said they were taking him to Tijuana. Watts pulled the spit sock off and Chousal told him not to remove it again. Chousal placed the spit sock back over his head. Chousal calmly told Watts no one was taking him to Tijuana as other officers began to wrap Watts' legs. Watts continued shouting. Watts pulled the spit sock off again. Chousal again replaced the spit sock. Van Houten removed the soft restraint from Watts' left wrist and hospital staff assisted in repositioning the gurney so that Watts was seated more upright. Chousal and Manibusan brought both of Watts' hands behind his back and cuffed them together.

The gurney was wheeled into the hallway where officers and hospital staff lifted Watts from the gurney and placed him onto the floor. Chousal was positioned near Watts' head and used his hands to guide Watts' head slowly toward the floor, preventing it from coming into contact with anything. Watts continued to yell. As Watts was being secured in the WRAP, Watts began to vomit. Hospital staff removed the spit sock and wiped the vomit from the floor with towels. Chousal and other officers rolled Watts onto his left side. Chousal maintained Watts in a stable position by holding Watts' right arm in place while officers continued applying the WRAP device. Chousal, other officers and hospital staff positioned Watts into a seated position. Watts resisted and then stated multiple times that he couldn't breathe. Officers repositioned Watts and connected the final straps. Garnsey and Luhta held Watts in place as Van Houten placed a new spit sock on his head. Chousal, Luhta, Manibusan, Van Houten, and Garnsey lifted Watts onto the gurney and with hospital staff, wheeled him outside. Garnsey drove the

patrol vehicle up and officers and hospital staff placed Watts into the backseat. Chousal and Garnsey transported Watts to county jail.

***Officer Natalie Garnsey (summary of video footage as no statement was provided)***

Garnsey and Chousal arrived at Paradise Valley Hospital to transport Watts to jail. Garnsey exited the hospital room and asked for a gown to place on Watts for transport. Watts began shouting and the officers determined the WRAP would be reapplied. Van Houten picked up the leg strap for the WRAP device. Hospital staff removed the soft restraints from Watts' ankles. Garnsey held Watts' legs together as Van Houten applied the WRAP leg strap. Watts continued shouting for help. Garnsey stabilized Watts' head with her hands as the soft restraints were removed. Watts used his freed left hand to remove the spit sock. Garnsey placed the spit sock back onto Watts' head. Chousal and Manibusan cuffed Watts' hands behind his back. The gurney was wheeled into the hall, where Garnsey took part in lowering Watts from the gurney to the floor. While on the floor, Watts began to vomit. Garnsey and other officers rolled Watts onto his left side. She then held Watts in place as other officers continued fastening the WRAP device. Garnsey then connected the cuffs to the carabiner clip at the back of the WRAP. Von Houten stated that the WRAP device needed to be repositioned. Garnsey aided in repositioning Watts so the device's placement could be modified. Garnsey and other officers placed Watts onto the gurney and moved him outside and into the patrol vehicle. Garnsey and Chousal transported Watts to County Jail.

***Investigation***

As part of this investigation, Chula Vista Police reports, audio and video-recorded witness interviews, scene photographs, Body Worn Camera (BWC) footage, 911 calls, police radio communications, and interviews of officers were reviewed. Video surveillance from 7-Eleven, San Diego County Jail, Paradise Valley Hospital, and UCSD Hospital were examined, as well as medical records from Paradise Valley and UCSD Hospitals along with toxicology reports and the Medical Examiner's autopsy report. BWC footage and accompanying written reports regarding Watts and police earlier in the day on October 12, 2018 outside of the home of Watts' relative was also reviewed. These materials provided a thorough understanding of the events on October 12-13, 2018 and provided corroboration generally consistent with the statements made by the officers and civilian witnesses.

At 11:44 p.m. on October 12, 2018, Watts called 911 from the 7-Eleven to reported "a bunch of black guys" were going to shoot him. The claim was quickly dismissed by the store employee, CW1. CW1, however, did ask that police respond. Watts had entered behind the employee counter several times and CW1 had repeatedly asked Watts to leave, but Watts refused.

At 11:52 p.m., Luhta and Schofer arrived in separate patrol vehicles at the 7-Eleven. Both officers' BWC recorded the entire duration of their interaction with Watts inside the store. Luhta first contacted CW2 in the parking lot. Watts exited the 7-Eleven. Luhta asked Watts to sit down outside, but Watts quickly retreated inside. Luhta followed. Watts hurried past the store employee, CW1, and went to the other end of the employee counter area. Watts went to the deepest part of the U-shaped counter area where the register was located. Schofer entered the store and positioned herself facing the register from the outside of the counter and drew her taser. Watts was holding a silver and black cordless phone in his left hand and put his hand near his pants pocket. Schofer ordered Watts not to reach towards it. Luhta positioned himself inside the counter area and drew his handgun. The officers made numerous commands for Watts to place his hands behind his back. Watts refused to comply. At 11:53 p.m., Schofer repositioned herself next to Luhta and aimed her taser at Watts. She requested another unit on the radio. Luhta ordered Watts to put his hands behind his back and to face away from him. Watts

responds, "I'm not doing that." At 11:54 p.m., Luhta holstered his handgun and inched toward Watts, explaining he only wanted to pat Watts down to make sure he did not have any weapons. Watts stated, "You're not gonna cuff me," as he maintained his left hand behind his back out of Luhta's view. Schofer advised Luhta that Watts's hand was fisted and he was getting ready to punch. Luhta ordered Watts to show his hand. Watts showed both hands. Luhta ordered him to put his hands on his head and Watts refused.

At 11:55 p.m., Jackson entered 7-Eleven and casually greeted Watts. Jackson's BWC recorded the entirety of his interaction with Watts. Upon entering, Jackson stopped on the outside of the counter facing Watts at the register. Luhta briefly explained the situation and asked Jackson to taser Watts from his position so Luhta and Schofer could move in. At 11:56 p.m., Jackson calmly asked Watts to come out from behind the counter. Watts responded, "No," and punched the register computer monitor. He grabbed the monitor and yanked it from the counter. Watts turned to face Schofer and Luhta and Schofer deployed her taser. Watts showed no reaction. Luhta and Jackson then deployed their tasers. Watts screamed, released the monitor, and fell to the floor. Watts pulled the taser barbs from his body. The officers gave commands to Watts to roll over on his stomach. Watts refused. He grabbed the register monitor and aggressively attempted to break it free of its cables. Watts began to stand up when Schofer discharged a stream of pepper spray at Watts' head. Watts covered his head and dove across the counter toward Jackson. Jackson delivered one strike with his expandable baton to Watts' right thigh area as Watts landed on the floor beside Jackson. Van Houten entered the store with her taser drawn. Van Houten, Jackson, Schofer, and Luhta all gave Watts commands to roll over. Watts refused to comply.

At 11:57 p.m., Schofer attempted to gain control of Watts, but he scooted across the floor toward the exit. Watts reached the doors and sat up. He placed his hand on one of the glass doors and looked outside. Van Houten, with taser drawn, warned she would taser him if he pushed the door. CW1 approached the glass doors from outside and used his right foot to hold them closed. Jackson raised his baton and repeatedly ordered Watts to stay down, but Watts raised both hands and grabbed the door handles. Van Houten announced "taser," then fired her taser, making contact with Watts. Watts fell to the floor. Schofer attempted to roll Watts away from the door. Watts resisted and started to sit up. Luhta employed two blows to Watts' head and he and Schofer were able to put Watts onto the floor. Luhta, Schofer, and Jackson struggled to gain control of Watts' arms. Jackson and Luhta ordered him to give them his arms, but he did not comply. During the struggle, Watts began to vomit. At 11:58 p.m., Jackson radioed for medics. A sergeant arrived on scene and opened the doors to the 7-Eleven. Jackson struggled to pull Watts' right arm behind Watts' back. As Jackson held Watts' arm, Van Houten handcuffed Watts' right wrist. Schofer cuffed Watts' left wrist and then hooked the two sets of cuffs together. Watts was rolled onto his side into a recovery position. Watts notably calmed down. Officers maintained Watts in this position and monitored his breathing until paramedics entered the store.

At 12:02 a.m., medics entered and evaluated Watts, who was conscious, breathing, and answered the medics' questions. The medics explained to Watts they were taking him to Paradise Valley Hospital. At 12:07 a.m., Watts began to shout as he grew more physically agitated. The officers decided to place him in the WRAP device. As the paramedics stood by, Van Houten, Schofer, Jackson, and Luhta secured Watts in the WRAP device. Manibusan arrived and assisted in the application of the WRAP device. At 12:11 a.m., Watts was lifted onto the gurney and the paramedics confirmed how to position Watts. A medic placed a spit sock over his head, and he was secured to the gurney. Van Houten rode with Watts and the medics in the ambulance to Paradise Valley Hospital.

At Paradise Walkley Hospital, the spit sock and WRAP device were taken off and Watts was fastened to his gurney by soft restraints at the wrists and ankles. He was medically and psychologically evaluated by hospital employees. At approximately 11:50 a.m., medical personnel cleared him for booking. At 11:55 a.m., Wam Houston stood at Watts' bedside and informed him he was being placed under arrest for assaulting officers at the 7-Eleven. She told him that as soon as transport officers arrived, he would be taken to County Jail. Wam Houston and Lulita explained to Watts that if he was compliant and unshaved, he would be taken from the bed, handcuffed, and walked to the patrol car. However, if he was not compliant, he would be placed back into the WRAP device. Watts said he would be compliant. A short time later, Chouval and Garmey arrived at Paradise Walkley Hospital to transport Watts to jail.

At 2:05 a.m., as Lulita and Chouval were beginning to replace the soft restraints with handcuffs, Watts began to shout for help, saying they were going to take him to Tijuana. Lulita said they'd have to use the WRAP again. At 2:06 a.m., Lulita placed a spit sock over Watts' head. Watts continued to shout for help, yelling they were taking him to Tijuana. Hospital staff assisted in removing the soft restraints as Wam Houston, Garmey, Mambusa, Chouval, and Lulita applied the WRAP device. During the application of the device, Watts continued to shout. He pulled the spit sock from his head multiple times only to have it replaced each time by an officer. At 2:10 a.m., hospital staff aided the officers in positioning Watts' torso forward so that Chouval and Mambusa could cuff Watts' hands behind his back. The gurney was wheeled into the hallway. At 2:12 a.m., officers and hospital staff lifted Watts and placed him onto the open WRAP device on the floor in the hallway. Watts continued to shout. Wam Houston gave instructions on how to position Watts. At 2:13 a.m., Watts began to vomit.

Hospital staff removed the spit sock staff, placed a towel under Watts' head, and cleaned the floor with towels as the WRAP straps were secured around Watts' legs. At 2:15 a.m., Wam Houston instructed that Watts be placed on his side in an recovery position. The officers applied the upper portion of the device, moved Watts into a seated position, and fastened the device. Watts continued to struggle, scream, and gag. Hospital staff assisted in positioning Watts. At 2:18 a.m., Wam Houston directed that some of the straps be repositioned. Watts was reclined and the straps were adjusted. At 2:19 a.m., the officers and hospital staff placed Watts into a seated position and fastened the final strap. Wam Houston placed a new spit sock over Watts' head. At 2:20 a.m., the officers lifted Watts onto the gurney, and he was wheeled out of the hospital. At 2:23 a.m., the officers and hospital staff moved Watts into the rear seat of the patrol vehicle. Watts was transported to jail by Garmey and Chouval.

At 2:54 a.m., Garmey and Chouval arrived at County Jail with Watts. He was removed from the vehicle to the medically cleared for admission. Watts was transported onto a gurney, where the jail's intake nurse could evaluate him. Watts was deemed not medically fit for admission to the jail and rejected for "Altered Mental Status." Chouval and Garmey requested an ambulance transport Watts to the hospital. At 3:42 a.m., an ambulance arrived at the jail to transport Watts to UCRSD Hospital. Garmey rode in the ambulance with Watts. Her BWC was activated. Watts was noticeably angry, yelling, and verbally abusive towards the medic. Watts yelled several times at the medic that he couldn't breathe. The medic told him to stop shouting and that he could breathe through the mesh spit sock. The ambulance arrived at UCRSD Hospital at 4:00 a.m. and Watts was wheeled into the hospital. During the first few minutes in the hospital, Watts was conscious, speaking, and agitated. At 4:09 a.m., Watts was given a dose of Ativan. At 4:12 a.m., Watts was transferred from the gurney onto a hospital bed. At this point, Watts was audibly breathing, but was no longer agitated. At 4:15 a.m., the shoulder harness and handcuffs were removed. Watts did not appear conscious at this point. At 4:22 a.m., the remainder of the WRAP is removed. Watts did not regain consciousness. He was pronounced deceased by Dr. Nokes at 11:221 p.m.

### ***Prior Police Contact***

Watts had a separate interaction with Chula Vista Police several hours before the incident at 7-Eleven. At approximately 8:47 a.m. on October 12, 2018, officers responded to the home of one of Watts' relative. The officers' BWC captured the incident. Watts' female relative explained to police that Watts was "tweaked out" scaring her, following her, trying to take the phone from her, and saying that people were following him. Watts explained to the police he only wanted to use the relative's phone. A Psychiatric Emergency Response Team (PERT) clinician responded to evaluate Watts. The clinician spoke with the relative. Watts denied using any controlled substances. The clinician suggested mental health counseling and gave Watts information. Watts stated he wouldn't stay at the residence without permission. Ultimately, it was determined Watts did not meet the criteria for a mental health hold and he was not detained.

### ***Autopsy***

On October 15, 2018, an autopsy was performed. The deputy medical examiner reviewed police reports and BWC video from the October 12 incident and reviewed Paradise Valley Hospital and UCSD Hospital records. Toxicological testing of Watts showed a positive reading for methamphetamine (0.22mg/L) and its active metabolite amphetamine (0.10 mg/L) in addition to the presence of phenylephrine. The deputy medical examiner noted that Watts displayed erratic behavior, confusion, and combativeness. It was noted there was no evidence of significant blunt force injury during autopsy that could possibly cause or contribute to death. The cause of death was determined to be methamphetamine intoxication and excited delirium. In considering the surrounding circumstances, physical exertion and restraint were listed as contributing factors. The manner of death was determined to be an accident.

### ***Legal Standards of Criminal Liability***

In analyzing the potential criminal liability of the officers involved in the arrest and use of force on Watts, there must first be a determination of causation. For charges of either murder or manslaughter, there must be an act or acts that cause the death of another. The Medical Examiner determined the cause of death to be methamphetamine intoxication and excited delirium. There is no evidence of murder or manslaughter. Luhta, Schofer, Jackson and Van Houten lawfully detained Watts after he violently vandalized property and physically armed himself with a large metal monitor. Watts refused to comply with the officers' commands, and he resisted detention by struggling and attempting to flee.

The officers were justified in elevating the level of force needed to safely detain Watts. Luhta, Schofer, Jackson, and Van Houten restrained Watts by means of reasonable and necessary force. Jackson requested the assistance of medical personnel as soon as it was reasonably possible. The officers placed Watts into a recovery position and monitored his breathing until paramedics arrived. Criminal liability resulting from negligence may be determined by applying an involuntary manslaughter analysis.

Criminal negligence from failure to seek medical attention requires extreme circumstances and actions that show a disregard of human life or an indifference to those consequences. It requires more than ordinary carelessness, inattention, or mistake of judgement. There is no evidence of involuntary manslaughter. At the request of the officers, Watts received extensive medical attention throughout the night. At the 7-Eleven, Jackson radioed for medics even before Watts was fully subdued. The WRAP device was applied at 7-Eleven in the presence of medics. The WRAP device was reapplied at Paradise Valley Hospital while medical staff watched and aided the officers in securing Watts in the device. Medical staff at UCSD did not object or question the officers' decisions to restrict the movements of Watts, nor did they appear to be alarmed at his presentation to the emergency room.



***Conclusion***

Based upon our review of the facts and circumstances surrounding Watts' death, the law enforcement personnel named in this review who were involved in his arrest and restraint acted reasonably under the circumstances and bear no state criminal liability for their actions. A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,

  
SUMMER STEPHAN  
District Attorney

SS:gm

cc Captain Phil Collum  
Chula Vista Police Department  
315 Fourth Avenue  
San Diego, CA 91910

# EXHIBIT F

Message

---

**From:** CHULAVISTACA Support [chulavistaca@govqa.us]  
**Sent:** 7/27/2023 9:18:15 AM  
**To:** Grove, Skylar [Skylar.Grove@mto.com]  
**Subject:** PD Records Request :: P000213-072723



Dear SKYLAR,

Thank you for your request for public records from the City of Chula Vista Police Department. Your request was received on 7/27/2023 and assigned Request No. P000213-072723 for tracking purposes. Your request has been forwarded to the appropriate department(s) to locate the document(s) you are requesting. We will respond to your request within 10 days as required under the California Public Records Act (GC 7920.000 et seq.).

You can monitor the progress of your request by logging into My Request Center on the Portal. Thank you for using the Chula Vista's City Public Records Center.

Thank you,

City of Chula Vista Police Department

# EXHIBIT G

Message

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**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 8/30/2023 1:26:54 PM  
**To:** Morgan Foley [mfoley@mcdougallawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <mfoley@mcdougallawfirm.com>  
**Sent:** Wednesday, August 30, 2023 12:19 PM  
**To:** Grove, Skylar <Skylar.Grove@mto.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

---

**From:** Grove, Skylar <Skylar.Grove@mto.com>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Grove, Skylar  
**Sent:** Thursday, August 24, 2023 9:55 AM  
**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:skylar@munger.com)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,



Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honore**  
*Police Support Services Manager*  
*Chula Vista Police Department*  
*315 Fourth Ave., Chula Vista, CA 91910*  
*619-476-2310 Voice*  
*619-585-5745 Fax*  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan

Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

**Sent:** Tuesday, August 01, 2023 10:50 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT H

**To:** Grove, Skylar[Skylar.Grove@mto.com]; Shannel Honore[shonore@chulavistapd.org]  
**Cc:** Henry Martin[HMartin@chulavistapd.org]; Burrell, Wesley[Wesley.Burrell@mto.com]  
**From:** Karen Rogan[KRogan@chulavistaca.gov]  
**Sent:** Tue 8/22/2023 4:41:28 PM (UTC-07:00)  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <Skylar.Grove@mto.com>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <shonore@chulavistapd.org>; Karen Rogan <KRogan@chulavistaca.gov>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday**,

**August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

**Skylar B. Grove (formerly Brooks) (she/her/hers) | Munger, Tolles & Olson LLP**  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel  
Shannel  
**Shannel Honoré**  
*Police Support Services Manager*  
*Chula Vista Police Department*  
*315 Fourth Ave., Chula Vista, CA 91910*  
*619-476-2310 Voice*  
*619-585-5745 Fax*  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

**Skylar B. Grove (formerly Brooks) (she/her/hers) | Munger, Tolles & Olson LLP**  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 01, 2023 10:50 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to



discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT I



CITY OF  
CHULA VISTA

POLICE DEPARTMENT

POLICE SUPPORT SERVICES UNIT  
(619) 691-5137

Date: 8/17/2023

The following information is provided in response to a request made pursuant to the California Public Records Act (CPRA). The information provided herein relates to a **reported crime**.

Pursuant to the terms of Government Code Section 920.000-7931.000, the following information is provided:

Crime Incident Report Number: **0301862**  
Crime Type: **664/187 (a) PC – ATTEMPT MURDER**  
Date/Time of Reported Crime: **01/29/2003 11:30**  
Location of Incident: **706 F ST.**  
Name of Victim: **JOE CASTILLO**

Summary:

**Suspect led a vehicle pursuit, crashed vehicle into fence near complex, then fled on foot through the complex. Suspect pulled out gun and pointed it at officers. Officers returned fire. Suspect died on scene.**

# EXHIBIT J

Message

---

**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 9/15/2023 5:01:14 PM  
**To:** Morgan Foley [mfoley@mcDougalllawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 11, 2023 1:02 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

[site](#) | [get directions](#)

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---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Monday, September 11, 2023 12:53 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 30, 2023 12:19 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar  
**Sent:** Thursday, August 24, 2023 9:55 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar



Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04g>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honore**  
*Police Support Services Manager*  
*Chula Vista Police Department*  
*315 Fourth Ave., Chula Vista, CA 91910*  
*619-476-2310 Voice*  
*619-585-5745 Fax*  
[\*shonore@chulavistapd.org\*](mailto:shonore@chulavistapd.org)

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan

Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

**Sent:** Tuesday, August 01, 2023 10:50 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT K

Message

---

**From:** Morgan Foley [mfoley@mcdougallawfirm.com]  
**Sent:** 9/22/2023 10:43:28 AM  
**To:** Grove, Skylar [Skylar.Grove@mto.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss  
  
**Flag:** Follow up

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.



--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

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F: 619.440.4907

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La Mesa, CA 91942

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**From:** Grove, Skylar <Skylar.Grove@mto.com>

**Sent:** Friday, September 15, 2023 5:01 PM

**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>

**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;

4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
  5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.
- The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 11, 2023 1:02 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

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F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 11, 2023 12:53 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:Skylar.Grove@mto.com)) | Munger, Tolles & Olson LLP

560 Mission Street | San Francisco, CA 94105

Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records,

and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Wednesday, August 30, 2023 12:19 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Wednesday, August 30, 2023 10:41 AM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar

**Sent:** Thursday, August 24, 2023 9:55 AM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Wednesday, August 23, 2023 4:54 PM

**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444

F: 619.440.4907

La Mesa Village Plaza

8100 La Mesa Boulevard, Suite 200

La Mesa, CA 91942

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---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcDougalllawfirm.com](mailto:mfoley@mcDougalllawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has compiled responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records “promptly” under the PRA. Cal. Gov’t Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records “at the earliest possible time and no later than 45 days from the date of a request for their disclosure.” Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU’s request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney’s fees and costs. Cal. Gov’t Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honoré**  
Police Support Services Manager  
Chula Vista Police Department  
315 Fourth Ave., Chula Vista, CA 91910  
619-476-2310 Voice  
619-585-5745 Fax  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)



---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 01, 2023 10:50 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT L

Message

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**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 10/12/2023 1:54:28 PM  
**To:** Morgan Foley [mfoley@mcdougallawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss  
**Attachments:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss; RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for these updates, Morgan. We are still awaiting responses from you on three outstanding issues raised in my attached emails from September 25 and 26, summarized below:

1. We asked you to confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019.
2. We asked you to confirm that the Department will produce records related to the in-custody death of Jason Watts on October 13, 2018 and any similar incidents that were previously withheld.
3. We raised issues with the records posted on the Department's website for a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636), and you said that you would confirm that the Department will review that case to make certain all information will be released.

Please provide responses as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) [\(she/her/hers\)](#) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <mfoley@mcdougallawfirm.com>  
**Sent:** Thursday, October 12, 2023 1:08 PM  
**To:** Grove, Skylar <Skylar.Grove@mto.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Skylar.

The Department has been able to meet its goal for completing the preparation of documents to post on its website related to the officer involved shooting (OIS 17-13455, Sachs) and the excessive force (dog bite) (21-04061, Steele), which have had my review resulting in additional modifications of the records, shortly. I am informed that those two files will be posted Monday (10/16/23) and you will receive a notification of their availability from the Department (Ms. Honoré) once the uploading is complete.

The Department is now continuing its initial reviews of three more files, which they anticipate providing to me for my review on 10/20. I would expect that if the schedule is maintained the final versions of the documents will be uploaded around 10/30.

Let me know if you have any questions.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
5100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, October 4, 2023 12:59 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

I am writing to follow up on my below email from September 26. Please provide a response as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Grove, Skylar  
**Sent:** Tuesday, September 26, 2023 3:01 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for providing that information and looking into those issues. Can you please also confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019?

With respect to the in-custody death of Jason Watts on October 13, 2018, we've discovered records posted publicly on the San Diego County District Attorney's website that establish that this incident is disclosable under SB 1421 and SB 16: <https://www.sdcca.org/Content/MediaRelease/Watts%20ICD.pdf>. The records state that Chula Vista P.D. officers tased Mr. Watts multiple times, physically restrained him, and placed him in a maximum restraint WRAP device multiple times shortly before his death. Accordingly, such records are disclosable under Penal Code 832.7(b)(1)(A)(ii) as relating to an incident involving a use of force that resulted in death or great bodily injury. The recent attached order in *Open Vallejo v. City of Vallejo*, No. FCS057109 (Cal. Sup. Ct. May 5, 2023) confirms that these records are disclosable. In that decision, the court held that use of a taser in and of itself constitutes great bodily injury requiring disclosure where the individual

who was shocked by the taser dies within 96 hours of being tased, while in custody, as is the case with Mr. Watts' death. *Id.* at 18. Please confirm that Chula Vista P.D. will include responsive records relating to the death of Mr. Watts, as well as any similar incidents that were previously withheld, in its first production.

Please respond to these questions and provide confirmation of the other issues raised in my last email as soon as possible, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

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Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 25, 2023 5:38 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for getting back to us, Skylar.

If I am correct the Vasquez item is in the process of being reviewed to make certain all information that should be released has been, or will be, released. I will confirm this as soon as I get confirmation from our client.

As for the "in custody" deaths to which you refer, these were analyzed for determinations whether these should be released and posted on the website. I believe that it was determined by the Department that nothing in the use of force to conduct the arrests contributed to these deaths. Again, I will ask for confirmation on these two matters.

The Romero matter is one of the "five" cases that I referred to in my Friday email and is being prepared for release of non-exempt records. It is one of the two cases not identified in your initial correspondence to the Department. The other also involves a dog bite and a partial report is on the Department's website. Staff is also including these in their first wave of records to get out to you in October.

--mlf--

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 25, 2023 2:32 PM

**To:** Morgan Foley <[mfoley@mcDougalllawfirm.com](mailto:mfoley@mcDougalllawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thank you for your message and for Chula Vista P.D.'s commitment to produce the responsive records.

We have a couple of questions about the Department's proposed plan. First, your email appears to only address the missing officer-involved-shooting incidents that we identified from the Department's website and not the other incidents we identified in our July 14th letter, summarized again below. Please confirm that the Department will also promptly produce any responsive records for these additional incidents. These incidents are all more recent, so we expect they will take less time to produce and should not impact the other dates in your proposed timeline.

1. The Department's website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident "300 4th Avenue" at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU's Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department's website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department's possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>. Please either remove the redactions or provide a specific statutory basis for them, and if there are any additional Decisional Documents for this incident, please also produce them.
2. The Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request and must be produced. Please either produce records for these incidents or provide a reason for withholding them.
3. We discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>. Please either produce records for this incident or provide a reason for withholding them.

Second, please confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019, and that the Department did not limit its search to the incidents identified in our July 14th letter. We identified incidents that we were able to discover through publicly available information, but our list was not comprehensive, and the Department is obligated to produce records for all responsive incidents.

We request a response to these questions as soon as possible, and by no later than the end of this week, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Friday, September 22, 2023 10:43 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.

--mlf--



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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, September 15, 2023 5:01 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and

5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Monday, September 11, 2023 1:02 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

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**Morgan Foley  
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---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 11, 2023 12:53 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP

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---

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
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Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 30, 2023 12:19 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

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560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar

**Sent:** Thursday, August 24, 2023 9:55 AM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP

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**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Wednesday, August 23, 2023 4:54 PM

**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444

F: 619.440.4907

La Mesa Village Plaza

8100 La Mesa Boulevard, Suite 200

La Mesa, CA 91942

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**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougalllawfirm.com](mailto:mfoley@mcdougalllawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,

Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Mungler, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04g>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

---

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honoré**  
Police Support Services Manager  
Chula Vista Police Department  
315 Fourth Ave., Chula Vista, CA 91910  
619-476-2310 Voice  
619-585-5745 Fax  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>



**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

**From:** Karen Rogan

**Sent:** Tuesday, August 1, 2023 11:18 AM

**To:** Grove, Skylar <[Skylar.Grove@mta.com](mailto:Skylar.Grove@mta.com)>

**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

**From:** Grove, Skylar <[Skylar.Grove@mta.com](mailto:Skylar.Grove@mta.com)>

**Sent:** Tuesday, August 1, 2023 11:06 AM

**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 01, 2023 10:50 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT M

Message

---

**From:** CHULAVISTACA Support [chulavistaca@govqa.us]  
**Sent:** 10/16/2023 3:27:16 PM  
**To:** Grove, Skylar [Skylar.Grove@mto.com]  
**Subject:** [Records Center] PD Records Request :: P000213-072723

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of July 27, 2023., Reference # P000213-072723.

Dear SKYLAR GROVE,

The City of Chula Vista is in receipt of your July 27, 2023, request for the following public records pursuant to the California Public Records Act ("CPRA") (Cal. Gov. Code section 7920.000 et seq.):

**"SEE ATTACHED SCANNED REQUEST FROM EMAIL"**

The City has identified partial records responsive to your request. Please be advised that responsive records have been reviewed and redacted. Redacted segments are not disclosed based upon the "personal/privacy" exemptions pursuant to Government Code sections 7922.200, 7921.000 and, 7927.700 respectively. The records that have been identified and are responsive are being sent to you electronically via My Request Center. **Please log in to your Request Center to access the records.**

I have been informed by staff that they believe that they have fully responded to your request; however, if you need additional information, I will assist you in your efforts pursuant to Government Code section 7922.600.

Should you have any questions please feel free to email this response directly.

Sincerely,

Police Support Services Staff

Link to Request Center: <https://chulavistaca.govqa.us/WEBAPP/rs/supporthome.aspx>

# EXHIBIT N

Message

---

**From:** CHULAVISTACA Support [chulavistaca@govqa.us]  
**Sent:** 11/3/2023 11:34:03 AM  
**To:** Grove, Skylar [Skylar.Grove@mto.com]  
**Subject:** [Records Center] PD Records Request :: P000213-072723

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of July 27, 2023., Reference # P000213-072723.

Dear SKYLAR GROVE,

The City of Chula Vista is in receipt of your July 27, 2023 request for the following public records pursuant to the California Public Records Act ("CPRA") (Cal. Gov. Code section 7920.000 et seq.):

**"SEE ATTACHED SCANNED REQUEST FROM EMAIL"**

Thank you for your continued patience as we review and prepare responsive records. In our efforts to provide a rolling output of information, two additional Officer Involved Shooting cases are being released (case# 12-11565 and case#12-13475). The records are being sent to you electronically via My Request Center. **Please log in to your Request Center to access the records.**

We are continuously reviewing and preparing additional responsive records and will provide you with another release on/after November 17, 2023.

Should you have any questions please feel free to email this response directly.

Sincerely,

Police Support Services Staff

Link to Request Center: <https://chulavistaca.govqa.us/WEBAPP/rs/supporthome.aspx>

# EXHIBIT O

**From:** [CHULAVISTACA Support](#)  
**To:** [Grove, Skylar](#)  
**Subject:** [Records Center] PD Records Request :: P000213-072723  
**Date:** Friday, December 29, 2023 2:14:17 PM

---

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of July 27, 2023., Reference # P000213-072723.

Dear SKYLAR GROVE,

The City of Chula Vista is in receipt of your July 27, 2023 request for the following public records pursuant to the California Public Records Act ("CPRA") (Cal. Gov. Code section 7920.000 et seq.):

**"SEE ATTACHED SCANNED REQUEST FROM EMAIL"**

Thank you for your continued patience. The City has identified additional records responsive to your request. The records that have been identified and are responsive are being sent to you electronically via My Request Center. **Please log in to your Request Center to access the records.**

This request still requires the need to search for, collect, and appropriately examine a number of separate and distinct records that are demanded in a single request; therefore, pursuant to the provisions of Government Code section § 7922.535, the City is asserting its authority to extend the time to reply. This assertion of the City's authority to extend the time to reply shall not serve as a waiver of any privileges or exemptions to disclosure pursuant to applicable provisions of the CPRA and any other applicable statutory and/or case law authority. Upon completion of this process, this office will contact you to inform you of any responsive records and the costs associated with obtaining the same.

In light of the above, this office will provide you with additional responsive records on or before **January 26, 2024**. Thank you in advance for your continued patience and anticipated consideration regarding this matter.

Should you have any questions please feel free to email this response directly.

Sincerely,



Police Support Services Staff

Link to Request Center: [https://chulavistaca.govqa.us/WEBAPP/\\_rs/supporthome.aspx](https://chulavistaca.govqa.us/WEBAPP/_rs/supporthome.aspx)

# EXHIBIT P

**From:** [CHULAVISTACA Support](#)  
**To:** [Grove, Skylar](#)  
**Subject:** [Records Center] PD Records Request :: P000213-072723  
**Date:** Saturday, April 6, 2024 9:59:14 AM

---

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of July 27, 2023., Reference # P000213-072723.

Dear SKYLAR GROVE,

The City of Chula Vista is in receipt of your July 27, 2023, request for the following public records pursuant to the California Public Records Act ("CPRA") (Cal. Gov. Code section 7920.000 et seq.):

**"SEE ATTACHED SCANNED REQUEST FROM EMAIL"**

The City has identified additional records responsive to your request. The records that have been identified and are responsive are being sent to you electronically via My Request Center. **Please log in to your Request Center to access the records.**

Additionally, your request still requires the need to search for, collect, and appropriately examine a number of separate and distinct records that are demanded in a single request; therefore, pursuant to the provisions of Government Code section § 7922.535, the City is asserting its authority to extend the time to reply. This assertion of the City's authority to extend the time to reply shall not serve as a waiver of any privileges or exemptions to disclosure pursuant to applicable provisions of the CPRA and any other applicable statutory and/or case law authority. Upon completion of this process, this office will contact you to inform you of any responsive records and the costs associated with obtaining the same. In light of the above, this office will respond to your request on or before **April 30, 2024**, to inform you of when additional responsive records may be available. Thank you in advance for your patience and anticipated consideration regarding this matter.

Should you have any questions please feel free to email this response directly.

Sincerely,

Police Support Services Staff

Link to Request Center: [https://chulavistaca.govqa.us/WEBAPP/\\_rs/supporthome.aspx](https://chulavistaca.govqa.us/WEBAPP/_rs/supporthome.aspx)

# EXHIBIT Q

Message

---

**From:** Morgan Foley [mfoley@mcdougallawfirm.com]  
**Sent:** 9/25/2023 5:38:16 PM  
**To:** Grove, Skylar [Skylar.Grove@mto.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for getting back to us, Skylar.

If I am correct the Vasquez item is in the process of being reviewed to make certain all information that should be released has been, or will be, released. I will confirm this as soon as I get confirmation from our client.

As for the "in custody" deaths to which you refer, these were analyzed for determinations whether these should be released and posted on the website. I believe that it was determined by the Department that nothing in the use of force to conduct the arrests contributed to these deaths. Again, I will ask for confirmation on these two matters.

The Romero matter is one of the "five" cases that I referred to in my Friday email and is being prepared for release of non-exempt records. It is one of the two cases not identified in your initial correspondence to the Department. The other also involves a dog bite and a partial report is on the Department's website. Staff is also including these in their first wave of records to get out to you in October.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

T: 619 440 4444  
F: 619 440 4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

[site](#) . [get directions](#)

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**From:** Grove, Skylar <Skylar.Grove@mto.com>  
**Sent:** Monday, September 25, 2023 2:32 PM  
**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thank you for your message and for Chula Vista P.D.'s commitment to produce the responsive records.

We have a couple of questions about the Department's proposed plan. First, your email appears to only address the missing officer-involved-shooting incidents that we identified from the Department's website and not the other incidents we identified in our July 14th letter, summarized again below. Please confirm that the Department will also promptly produce any responsive records for these additional incidents. These incidents are all more recent, so we expect they will take less time to produce and should not impact the other dates in your proposed timeline.

1. The Department's website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident "300 4th Avenue" at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU's Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department's website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department's possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>. Please either remove the redactions or provide a specific statutory basis for them, and if there are any additional Decisional Documents for this incident, please also produce them.

2. The Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request and must be produced. Please either produce records for these incidents or provide a reason for withholding them.

3. We discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>. Please either produce records for this incident or provide a reason for withholding them.

Second, please confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019, and that the Department did not limit its search to the incidents identified in our July 14th letter. We identified incidents that we were able to discover through publicly available information, but our list was not comprehensive, and the Department is obligated to produce records for all responsive incidents.

We request a response to these questions as soon as possible, and by no later than the end of this week, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
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**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Friday, September 22, 2023 10:43 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.

--m/f--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

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**From:** Grove, Skylar <Skylar.Grove@mto.com>

**Sent:** Friday, September 15, 2023 5:01 PM

**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>

**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 11, 2023 1:02 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY**  
**LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

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F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
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---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Monday, September 11, 2023 12:53 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,

Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

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**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 30, 2023 12:19 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

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Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar  
**Sent:** Thursday, August 24, 2023 9:55 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

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F: 619.440.4907  
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**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04g>

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**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is

quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honoré**  
*Police Support Services Manager  
Chula Vista Police Department  
315 Fourth Ave., Chula Vista, CA 91910  
619-476-2310 Voice  
619-585-5745 Fax  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)*

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.



Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 01, 2023 10:50 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT R

Message

---

**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 9/25/2023 2:32:23 PM  
**To:** Morgan Foley [mfoley@mcdougallawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thank you for your message and for Chula Vista P.D.'s commitment to produce the responsive records.

We have a couple of questions about the Department's proposed plan. First, your email appears to only address the missing officer-involved-shooting incidents that we identified from the Department's website and not the other incidents we identified in our July 14th letter, summarized again below. Please confirm that the Department will also promptly produce any responsive records for these additional incidents. These incidents are all more recent, so we expect they will take less time to produce and should not impact the other dates in your proposed timeline.

1. The Department's website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident "300 4th Avenue" at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU's Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department's website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department's possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>. Please either remove the redactions or provide a specific statutory basis for them, and if there are any additional Decisional Documents for this incident, please also produce them.
2. The Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request and must be produced. Please either produce records for these incidents or provide a reason for withholding them.
3. We discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>. Please either produce records for this incident or provide a reason for withholding them.

Second, please confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019, and that the Department did not limit its search to the incidents identified in our July 14th letter. We identified incidents that we were able to discover through publicly available information, but our list was not comprehensive, and the Department is obligated to produce records for all responsive incidents.

We request a response to these questions as soon as possible, and by no later than the end of this week, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <mfoley@mcdougallawfirm.com>  
**Sent:** Friday, September 22, 2023 10:43 AM  
**To:** Grove, Skylar <Skylar.Grove@mto.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444

F: 619.440.4907

La Mesa Village Plaza

5100 La Mesa Boulevard, Suite 200

La Mesa, CA 91942

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Friday, September 15, 2023 5:01 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;

3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 11, 2023 1:02 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY**  
**LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Monday, September 11, 2023 12:53 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Grove, Skylar  
**Sent:** Wednesday, August 30, 2023 1:27 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their



disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 30, 2023 12:19 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar  
**Sent:** Thursday, August 24, 2023 9:55 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcDougalllawfirm.com](mailto:mfoley@mcDougalllawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has compiled responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records “promptly” under the PRA. Cal. Gov’t Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records “at the earliest possible time and no later than 45 days from the date of a request for their disclosure.” Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU’s request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney’s fees and costs. Cal. Gov’t Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honoré**  
Police Support Services Manager  
Chula Vista Police Department  
315 Fourth Ave., Chula Vista, CA 91910  
619-476-2310 Voice  
619-585-5745 Fax  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 01, 2023 10:50 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT S



Message

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**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 9/26/2023 3:01:12 PM  
**To:** Morgan Foley [mfoley@mcdougallawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss  
**Attachments:** 2023-05-05 Open Vallejo v. City of Vallejo Order (rec'd May 10).pdf

Thank you for providing that information and looking into those issues. Can you please also confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019?

With respect to the in-custody death of Jason Watts on October 13, 2018, we've discovered records posted publicly on the San Diego County District Attorney's website that establish that this incident is disclosable under SB 1421 and SB 16: <https://www.sdcca.org/Content/MediaRelease/Watts%20ICD.pdf>. The records state that Chula Vista P.D. officers tased Mr. Watts multiple times, physically restrained him, and placed him in a maximum restraint WRAP device multiple times shortly before his death. Accordingly, such records are disclosable under Penal Code 832.7(b)(1)(A)(ii) as relating to an incident involving a use of force that resulted in death or great bodily injury. The recent attached order in *Open Vallejo v. City of Vallejo*, No. FCS057109 (Cal. Sup. Ct. May 5, 2023) confirms that these records are disclosable. In that decision, the court held that use of a taser in and of itself constitutes great bodily injury requiring disclosure where the individual who was shocked by the taser dies within 96 hours of being tased, while in custody, as is the case with Mr. Watts' death. *Id.* at 18. Please confirm that Chula Vista P.D. will include responsive records relating to the death of Mr. Watts, as well as any similar incidents that were previously withheld, in its first production.

Please respond to these questions and provide confirmation of the other issues raised in my last email as soon as possible, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <mfoley@mcdougallawfirm.com>  
**Sent:** Monday, September 25, 2023 5:38 PM  
**To:** Grove, Skylar <Skylar.Grove@mto.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for getting back to us, Skylar.

If I am correct the Vasquez item is in the process of being reviewed to make certain all information that should be released has been, or will be, released. I will confirm this as soon as I get confirmation from our client.

As for the "in custody" deaths to which you refer, these were analyzed for determinations whether these should be released and posted on the website. I believe that it was determined by the Department that nothing in the use of force to conduct the arrests contributed to these deaths. Again, I will ask for confirmation on these two matters.

The Romero matter is one of the “five” cases that I referred to in my Friday email and is being prepared for release of non-exempt records. It is one of the two cases not identified in your initial correspondence to the Department. The other also involves a dog bite and a partial report is on the Department’s website. Staff is also including these in their first wave of records to get out to you in October.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

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La Mesa, CA 91942

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 25, 2023 2:32 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thank you for your message and for Chula Vista P.D.’s commitment to produce the responsive records.

We have a couple of questions about the Department’s proposed plan. First, your email appears to only address the missing officer-involved-shooting incidents that we identified from the Department’s website and not the other incidents we identified in our July 14th letter, summarized again below. Please confirm that the Department will also promptly produce any responsive records for these additional incidents. These incidents are all more recent, so we expect they will take less time to produce and should not impact the other dates in your proposed timeline.

1. The Department’s website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident “300 4th Avenue” at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU’s Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department’s website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department’s possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>. Please either remove the redactions or provide a specific statutory basis for them, and if there are any additional Decisional Documents for this incident, please also produce them.

2. The Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on

October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request and must be produced. Please either produce records for these incidents or provide a reason for withholding them.

3. We discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>. Please either produce records for this incident or provide a reason for withholding them.

Second, please confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019, and that the Department did not limit its search to the incidents identified in our July 14th letter. We identified incidents that we were able to discover through publicly available information, but our list was not comprehensive, and the Department is obligated to produce records for all responsive incidents.

We request a response to these questions as soon as possible, and by no later than the end of this week, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Friday, September 22, 2023 10:43 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am

committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Friday, September 15, 2023 5:01 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:skylar@sheherhers.com)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Monday, September 11, 2023 1:02 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444

F: 619.440.4907

La Mesa Village Plaza

8100 La Mesa Boulevard, Suite 200

La Mesa, CA 91942

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---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 11, 2023 12:53 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,

Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP

560 Mission Street | San Francisco, CA 94105

Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:skylar@mtol.com)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Wednesday, August 30, 2023 12:19 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards.

--mlf--

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Wednesday, August 30, 2023 10:41 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar  
**Sent:** Thursday, August 24, 2023 9:55 AM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.



**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
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---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

**Sent:** Wednesday, August 23, 2023 4:42 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougalllawfirm.com](mailto:mfoley@mcdougalllawfirm.com)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Tuesday, August 22, 2023 6:42 PM

**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04g>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has compiled responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) [\[she/her/hers\]](mailto:Skylar.Grove@mto.com) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04g>

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**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honoré**  
Police Support Services Manager  
Chula Vista Police Department  
315 Fourth Ave., Chula Vista, CA 91910  
619-476-2310 Voice  
619-585-5745 Fax  
[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

Cc: Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

Subject: RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

From: Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

Sent: Tuesday, August 1, 2023 11:06 AM

To: Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

Cc: Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

Subject: RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP

560 Mission Street | San Francisco, CA 94105

Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04g>

---

From: Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

Sent: Tuesday, August 01, 2023 10:50 AM

To: Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

Cc: Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

Subject: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

# EXHIBIT T

Message

---

**From:** Grove, Skylar [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4456D6BC3B6F40BABC303CD13B7FB6D-BROOKSSD]  
**Sent:** 10/4/2023 12:58:53 PM  
**To:** Morgan Foley [mfoley@mcdougallawfirm.com]; Karen Rogan [KRogan@chulavistaca.gov]; Shannel Honore [shonore@chulavistapd.org]  
**CC:** Henry Martin [HMartin@chulavistapd.org]; Burrell, Wesley [Wesley.Burrell@mto.com]  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

I am writing to follow up on my below email from September 26. Please provide a response as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Grove, Skylar  
**Sent:** Tuesday, September 26, 2023 3:01 PM  
**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>  
**Cc:** Henry Martin <HMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for providing that information and looking into those issues. Can you please also confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019?

With respect to the in-custody death of Jason Watts on October 13, 2018, we've discovered records posted publicly on the San Diego County District Attorney's website that establish that this incident is disclosable under SB 1421 and SB 16: <https://www.sdcca.org/Content/MediaRelease/Watts%20ICD.pdf>. The records state that Chula Vista P.D. officers tased Mr. Watts multiple times, physically restrained him, and placed him in a maximum restraint WRAP device multiple times shortly before his death. Accordingly, such records are disclosable under Penal Code 832.7(b)(1)(A)(ii) as relating to an incident involving a use of force that resulted in death or great bodily injury. The recent attached order in *Open Vallejo v. City of Vallejo*, No. FCS057109 (Cal. Sup. Ct. May 5, 2023) confirms that these records are disclosable. In that decision, the court held that use of a taser in and of itself constitutes great bodily injury requiring disclosure where the individual who was shocked by the taser dies within 96 hours of being tased, while in custody, as is the case with Mr. Watts' death. *Id.* at 18. Please confirm that Chula Vista P.D. will include responsive records relating to the death of Mr. Watts, as well as any similar incidents that were previously withheld, in its first production.

Please respond to these questions and provide confirmation of the other issues raised in my last email as soon as possible, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 25, 2023 5:38 PM



**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you for getting back to us, Skylar.

If I am correct the Vasquez item is in the process of being reviewed to make certain all information that should be released has been, or will be, released. I will confirm this as soon as I get confirmation from our client.

As for the "in custody" deaths to which you refer, these were analyzed for determinations whether these should be released and posted on the website. I believe that it was determined by the Department that nothing in the use of force to conduct the arrests contributed to these deaths. Again, I will ask for confirmation on these two matters.

The Romero matter is one of the "five" cases that I referred to in my Friday email and is being prepared for release of non-exempt records. It is one of the two cases not identified in your initial correspondence to the Department. The other also involves a dog bite and a partial report is on the Department's website. Staff is also including these in their first wave of records to get out to you in October.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**

**Principal**

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Monday, September 25, 2023 2:32 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thank you for your message and for Chula Vista P.D.'s commitment to produce the responsive records.

We have a couple of questions about the Department's proposed plan. First, your email appears to only address the missing officer-involved-shooting incidents that we identified from the Department's website and not the other incidents we identified in our July 14th letter, summarized again below. Please confirm that the Department will also

promptly produce any responsive records for these additional incidents. These incidents are all more recent, so we expect they will take less time to produce and should not impact the other dates in your proposed timeline.

1. The Department's website identifies a 2018 incident involving a sustained finding of dishonesty against Officer Juan Vasquez (PS#18-0636) (incident "300 4th Avenue" at <https://www.chulavistaca.gov/departments/police-department/senate-bill-1421>), which appears to be responsive to the ACLU's Request No. 2, but the Department did not produce any records for this incident to the ACLU. The Department's website now posts some records for this incident, but it is not clear whether the posted records include all Decisional Documents in the Department's possession for this incident, and the posted records contain numerous lengthy redactions that appear to lack a statutory basis. See <https://www.chulavistaca.gov/home/showpublisheddocument/24115/637841696034900000>. Please either remove the redactions or provide a specific statutory basis for them, and if there are any additional Decisional Documents for this incident, please also produce them.

2. The Department reported two additional in-custody deaths to the California Department of Justice: the death of a 57-year-old White male on July 27, 2016 during the process of arrest, and the death of a 29-year-old White male on October 13, 2018 during the process of arrest. If any use of force by police contributed to either of their deaths or great bodily injury, such records are responsive to the ACLU's records request and must be produced. Please either produce records for these incidents or provide a reason for withholding them.

3. We discovered a news report of an incident that appears to be responsive to the ACLU's Request No. 5 but for which no records were produced: On or around April 7, 2015, officers hit Gary Romero with bean bags and a Taser and deployed a K-9 on him, which likely resulted in great bodily injury. See <https://www.cbs8.com/article/news/suspect-taken-down-by-k-9-in-chula-vista-standoff/509-01af27d5-95f1-4e29-94ed-c862190939c8>. Please either produce records for this incident or provide a reason for withholding them.

Second, please confirm that the Department conducted a thorough search for the full scope of records requested by the ACLU's original records request dated January 1, 2019, and that the Department did not limit its search to the incidents identified in our July 14th letter. We identified incidents that we were able to discover through publicly available information, but our list was not comprehensive, and the Department is obligated to produce records for all responsive incidents.

We request a response to these questions as soon as possible, and by no later than the end of this week, so that our client can evaluate whether they accept the Department's proposed plan.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Friday, September 22, 2023 10:43 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning, Skylar.

Thank you for the email of late Friday. I was not in the office at the time you sent this to me, and because of this week's appointments, meetings, and the need to focus on work to get agendas out for one client, and deadlines moved up for another, I didn't review this email until this morning.

We appreciate your client's willingness to provide some additional time to get the backlogged files prepared to release to your client. I can easily represent to you that the Chula Vista Police Department takes their obligation seriously, and work continues, including requiring staff to work overtime, as well as to re-direct attention to files by sworn personnel unless they are required to perform public safety work (e.g., calls for service, patrol, investigations of serious crimes, etc.). Please note that the Department is responsible for serving an estimated 279,000+ residents, and many more additional non-residents who work and shop in the city, or simply visit the city on a daily basis. Additionally, with its close proximity to the U.S.-Mexico border the Department provides law enforcement assistance to a very large transient population, which changes daily.

As mentioned, the Chula Vista Police Department has made release of the disclosable records a high priority. Unfortunately, it will require more time than your client has proposed. Coincidentally, a proposed schedule was prepared by the Department following a meeting involving command staff the day before your client's deadline – 9/19, which the Department believes identifies records that can be released on a rolling basis, beginning around the middle of October. The plan is for the Department to provide me with the documents for review prior to release and I am committed to expediting my review (estimated to take not more than a week absent unforeseen circumstances) so that each file is released as quickly as possible.

To start, the Department identifies five cases it believes can be released by the middle to end of October. Three of these cases (#17-13455, #12-11565, and #13-13475) are identified in your list, and two others had not been identified by your client and have been determined to be responsive with redactions. Staff believes that these five cases are less extensive than others as they are nearly exclusively electronic files making search and redaction efforts less intensive in the use of personnel.

Concurrent with the review of these first five cases the Department has previously committed resources to continue its review of the other 13 "pre-2012" cases (the remaining files on your list), which are nearly exclusively paper files and (generally) larger files requiring greater personnel time for review. The Department estimates a roll out schedule for these files as follows: 4 files beginning sometime in the first week or so of December (#11-06077, #10-07616, #08-06156, and #07-26646), then 3 files the first week or so in January (#07-24928, #07-17351, and #07-13543), 3 files the first week or so in February (#05-20117, #04-17542, and #03-01862), concluding with last three files (#01-07546, #01-03465, and #00-04165) the first week or so in March.

I will reiterate that I commit to any review on my part to be a high priority to avoid unnecessary delays.

Please let me know if your client is willing to accept my client's plan for the review and release of records as described above. We hope that circumstances will allow the Department to meet - or best - these self-imposed deadlines.

Your continued professional cooperation and courtesies are truly appreciated.

--mlf--

**MCDUGAL BOEHMER FOLEY**  
**LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

T: 619.440.4444

F: 619.440.4907

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delete the material from any computer. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT (619) 440-4444. Thank you.

**From:** Grove, Skylar <Skylar.Grove@mto.com>

**Sent:** Friday, September 15, 2023 5:01 PM

**To:** Morgan Foley <mfoley@mcdougallawfirm.com>; Karen Rogan <KRogan@chulavistaca.gov>; Shannel Honore <shonore@chulavistapd.org>

**Cc:** Henry Martin <HIMartin@chulavistapd.org>; Burrell, Wesley <Wesley.Burrell@mto.com>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Morgan,

Thanks for speaking with me on Tuesday. To summarize our call, you said that Chula Vista P.D. (the "Department") would like to cooperate, but you expressed concern about the timing of the productions due to limited resources. You said that the Department has responsive records for approximately 7-9 additional cases that weren't previously produced, and you proposed that the Department produce those records on a rolling basis, with a production of one case every 90 days, one at a time. You also provided assurance that the Department would notify us if it withholds any records.

We've discussed your proposal with our client, the ACLU. While the ACLU appreciates your expressed willingness to cooperate, your proposed production timeline is unreasonably long and not workable. As I've noted in prior emails, California law requires agencies to produce these types of police records within 45 days of the request, and that deadline already passed on August 28, 2023. Cal. Penal Code § 832.7(b)(11). If there are 9 additional cases, your proposed timeline wouldn't have the production completed until nearly 2.5 years after the ACLU renewed its request for these records on July 14, 2023, which is almost 20 times longer than what is required. That is unreasonable. You said on our call that the 45-day statutory deadline is impossible, but that's the law that the Department is obligated to follow. SB 1421 and SB 16 recognize the significant public interest in accessing police records involving serious uses of force and police misconduct in order to promote accountability and transparency, and agencies are required to devote the attention and resources necessary to meet their legal obligations.

That said, in an effort to compromise, the ACLU would be willing to agree to extend the 45-day statutory deadline for production if the following conditions are met:

1. The Department extend the time period of what it produces to include records dated to the present (rather than only producing records dated before January 1, 2019);
2. The Department make regular rolling productions of the responsive records;
3. The Department produce the files electronically via electronic file transfer or a download link;
4. The Department complete production of all responsive written reports within 90 days of the request, which would be a deadline of **October 12, 2023**; and
5. The Department complete production of all remaining responsive records within 180 days of the request, which would be a deadline of **January 10, 2024**.

The ACLU reserves all rights to seek appropriate relief if the Department improperly withholds records, makes improper redactions, or has other deficiencies with its productions.

This proposal would impose a shorter deadline for written reports, because those records are a higher priority for the ACLU and take less time to redact than audio or video files. This proposal would extend the deadline to complete production to be four times longer than what is statutorily required, so it would give the Department ample time to review and produce the records.

Please let us know by **Wednesday, September 20**, if the Department accepts the ACLU's proposal. If the Department does not accept it, the ACLU will consider all other options, including judicially compelling the records. As I've previously noted, if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | [www.mto.com](http://www.mto.com)

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Monday, September 11, 2023 1:02 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Skylar.

I am available most of the day, but have a city council meeting at 3:00, so I will be unavailable from 2:00 on.

Best regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley**  
**Principal**

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**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Monday, September 11, 2023 12:53 PM  
**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

Thank you for your voicemail. I am unavailable today but will call you back tomorrow.

Best,  
Skylar

**From:** Grove, Skylar

**Sent:** Wednesday, August 30, 2023 1:27 PM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley,

We have been patient, but the continued delays by Chula Vista P.D. are unacceptable. Below is a summary of Chula Vista P.D.'s repeated delays to date:

- On July 14, I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records. I spoke with Ms. Rogan by phone on August 2, and she said she would speak with the records clerk to obtain additional information about the records and then get back to me with the estimated date for producing the records.
- On August 9, Ms. Rogan said the department needed additional time and would provide the information the following week.
- The following week, on August 18, the department again delayed providing the information and said that it would provide it the following week. In my August 18 email, I pointed out that Chula Vista P.D. is out of compliance with its legal obligations and requested that the department provide the date of production no later than August 21.
- On August 22, the department purported to assert an extension that is not permitted under the PRA and said it would provide the production date on or before August 25.
- On August 23, you notified me that you will be representing the department, and said that you planned to connect with me on August 28 or 29. I provided you with times that I was available to speak on those days.
- This morning, August 30, I hadn't heard back from you, so I followed up. Now, you have said that you hope to have some updates tomorrow or Friday, seven weeks after I sent my letter.

As I noted in a prior email, California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11). More than 45 days have passed since I sent my July 14 letter identifying numerous missing records from the department's prior productions and renewing the ACLU's request for the records, and the department has not produced the responsive records or even provided the production date, as required by California law. The department is grossly out of compliance with its obligations under the PRA, SB 1421, and SB 16.

I will be out of the office on Friday, so we will need to speak tomorrow. I am available tomorrow between 9-10am, 12-1pm, or 1:30-3pm. Please let me know your availability. We hope to continue conferring with the department regarding the ACLU's records request, but we need to start seeing concrete progress by the department; we need the estimated date of production tomorrow. If Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>

**Sent:** Wednesday, August 30, 2023 12:19 PM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** Re: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove.

Thank you for reaching out to us. I have met and communicated with representatives of the Department and should have some news very soon. I am hoping in the next day or two. Will you be in the office tomorrow and Friday?

We appreciate your patience and professional courtesies in dealing with this matter.

Kind regards,

--mlf--

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Sent:** Wednesday, August 30, 2023 10:41 AM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

I am writing to follow up again regarding the ACLU's records request. Please provide a reasonable production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP

560 Mission Street | San Francisco, CA 94105

Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Grove, Skylar

**Sent:** Thursday, August 24, 2023 9:55 AM

**To:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>

**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>

**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Mr. Foley and Ms. Rogan,

Thank you for the update. I am available Monday between 1:30-3pm or Tuesday between 10:30-12:30.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

---

**From:** Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Sent:** Wednesday, August 23, 2023 4:54 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Thank you, Karen.

**Ms. Grove:** I will get started on reviewing the background of your request and the responses (i.e., communications, not release of documents) over the next 2 days, and meet with the City's representative, Ms. Honore, Monday. Hopefully we can connect after that, if you are around Monday afternoon or Tuesday.

I should note that I have received a federal jury summons that affects the next two weeks; however, I will have somebody in my office ready to step in and assist in the event that I get called to appear on one of those days.

Kind regards.

--mlf--

**MCDUGAL BOEHMER FOLEY  
LYON MITCHELL & ERICKSON**

**Morgan Foley  
Principal**

T: 619.440.4444  
F: 619.440.4907  
La Mesa Village Plaza  
8100 La Mesa Boulevard, Suite 200  
La Mesa, CA 91942

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---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 23, 2023 4:42 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Morgan Foley <[mfoley@mcdougallawfirm.com](mailto:mfoley@mcdougallawfirm.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Ms. Grove,

I'm going to be out of the office for a week and then engaged in trainings for several weeks, so attorney Morgan Foley with the McDougall Love firm will be stepping in (he's copied here) and reaching out to you to respond.



Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 22, 2023 6:42 PM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan,

When we spoke on the phone on August 2, I said that we would be happy to discuss a reasonable timeline for the production of the records, giving consideration to the volume of the records, where they are stored, and any specific challenges in locating or collecting the records. You said that you would speak with the records clerk to obtain that information and then get back to me to discuss timing.

We find it concerning that almost three weeks passed and your department did not provide any additional information about its records or produce any records. We also find it concerning that the department is claiming to assert an extension that is not permitted under the CPRA. As I noted in my separate email today (attached for reference), the maximum extension Government Code section 7922.535(b) would have permitted would have been until August 7, which passed more than two weeks ago.

That said, we are still hopeful that we can work with your department to resolve these issues, and we appreciate that you are beginning to produce records. Please provide an estimated production timeline as soon as possible.

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](mailto:she/her/hers)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04g>

---

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Tuesday, August 22, 2023 4:41 PM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>; Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good afternoon, Ms. Grove,

Responding to your email below, I was not available on Friday and most of yesterday due to previously scheduled matters. When we spoke on the phone, you had advised that your client is not willing to narrow the scope of the requests, some of which date back to 1999, with the remaining requests dating back to 2009 and 2014. Cases pre-dating 2012 are not electronic and have to be manually reviewed. When you and I spoke on the phone, I had advised absent a willingness by your client to narrow the scope of the request, that this would be a herculean task to even discern an estimated production date and that compliance could take at least 6 months for some of these requests. It was my understanding that would be sufficient and we would continue to dialogue about the status. When we were not yet ready to provide an update, we took a lawfully permissible extension of time under the CPRA. Our records clerk has complied responsive items relating to matters listed in page two of your July 14 letter. She will be providing those to you shortly.

I have an appointment this afternoon that I have to leave for, but will reach out to you tomorrow.

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Friday, August 18, 2023 2:33 PM  
**To:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>; Burrell, Wesley <[Wesley.Burrell@mto.com](mailto:Wesley.Burrell@mto.com)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Ms. Rogan and Ms. Honore,

Thank you for the update. The continued delays by the department, however, are disappointing and fall short of what is required of agencies by California law.

California law requires agencies to notify the requester of the estimated production date within 10 days of the request and to produce responsive records "promptly" under the PRA. Cal. Gov't Code §§ 7922.535(a), 7922.530(a). In particular, for these types of law enforcement records targeted by our request, an agency must produce records "at the earliest possible time and no later than 45 days from the date of a request for their disclosure." Cal. Penal Code § 832.7(b)(11).

It has been more than a month since I sent Chula Vista P.D. a letter identifying numerous missing records from its productions and renewing the ACLU's request for the records, and the 45-day statutory deadline for production is quickly approaching, and yet the department still has not produced any additional records or provided an estimated timeline for production.

We are disappointed that Chula Vista P.D. is out of compliance with its public-record obligations. No later than **this Monday, August 21**, please provide a reasonable timeline for producing the missing records. While we hope to continue conferring with the department to resolve these issues, if Chula Vista P.D. continues to refuse to comply with its legal obligations, we will be forced to consider all options, including judicially compelling production of the requested records. Please note that if the requester prevails in a PRA action, they are entitled to an award of attorney's fees and costs. Cal. Gov't Code § 7923.115(a).

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrgCPNMLnFoVywQT1k04q>

**From:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>  
**Sent:** Friday, August 18, 2023 10:10 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>; Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Good morning Skylar –

We are reviewing a large volume of responsive records and need additional time to provide you with a accurate update. I will have more information next week. We appreciate your patience.

Shannel

*Shannel*

**Shannel Honore**  
*Police Support Services Manager*  
*Chula Vista Police Department*  
*315 Fourth Ave., Chula Vista, CA 91910*  
*619-476-2310 Voice*  
*619-585-5745 Fax*  
[\*shonore@chulavistapd.org\*](mailto:shonore@chulavistapd.org)

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Sent:** Wednesday, August 9, 2023 10:47 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I'm following up to let you know that our records manager is still working on assessing the universe of records that are responsive to the request so we can then determine which categories to roll out production on first, and which ones will take longer. We are hoping to have a substantive update on that front next week. At that point, I'll update you further.

If you have questions or concerns, let me know.

Karen Rogan

Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Karen Rogan  
**Sent:** Tuesday, August 1, 2023 11:18 AM  
**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

Great! I'm free at 130 tomorrow. I will call you. Is the phone number in your signature the best way to reach you at that time?

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305

---

**From:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>  
**Sent:** Tuesday, August 1, 2023 11:06 AM  
**To:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>  
**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>  
**Subject:** RE: SB1421 ACLU Letter of July 14 - follow up/request to discuss

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Hi Karen,

I'm happy to discuss the request. Are you available tomorrow sometime before 2:30pm?

Best,  
Skylar

Skylar B. Grove (formerly Brooks) ([she/her/hers](#)) | Munger, Tolles & Olson LLP  
560 Mission Street | San Francisco, CA 94105  
Tel: 415.512.4088 | [Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com) | <https://protect-us.mimecast.com/s/9JrqCPNMLnFoVywQT1k04q>

**From:** Karen Rogan <[KRogan@chulavistaca.gov](mailto:KRogan@chulavistaca.gov)>

**Sent:** Tuesday, August 01, 2023 10:50 AM

**To:** Grove, Skylar <[Skylar.Grove@mto.com](mailto:Skylar.Grove@mto.com)>

**Cc:** Shannel Honore <[shonore@chulavistapd.org](mailto:shonore@chulavistapd.org)>; Henry Martin <[HMartin@chulavistapd.org](mailto:HMartin@chulavistapd.org)>

**Subject:** SB1421 ACLU Letter of July 14 - follow up/request to discuss

Hi Skylar,

I am just following up on my previous call to you. I was hoping we would set up a time to talk this week. We'd like to discuss our position re: the original response and narrowing the request for an updated response. Let me know if you have any availability this week to talk.

Regards,

Karen Rogan  
Assistant City Attorney  
City of Chula Vista  
276 4th Avenue  
Chula Vista, CA 91910  
Ph: (619) 409-5816  
Fax: (619) 476-5305