

**CITY OF ALAMEDA**  
**Memorandum**

**From:** Alan M. Cohen, Assistant City Attorney

**To:** Honorable Members of the Open Government Commission

**Date:** April 19, 2022

**Re:** Respondent City of Alameda's Position Statement Regarding  
Complainant Erin Fraser's Sunshine Ordinance Complaint, dated April 13, 2022

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**I. INTRODUCTION:**

Complainant Mr. Fraser's Sunshine Ordinance Complaint is both untimely and moot. As Complainant admits the operative Public Records Act request which forms the basis for his Sunshine Ordinance Complaint was emailed to the City on April 19, 2021. It requested disclosure under Alameda Municipal Code Section 2-92.9, a provision of the Sunshine Ordinance that requires disclosure of records in a shortened timeframe where the need for the record is reasonably justified on the facts of the situation, such as a hearing scheduled the next day.

Mr. Fraser's California Public Records Act (CPRA) request sought a variety of data connected with the death of Mario Gonzalez. As the Commission may be aware, Mr. Gonzalez passed away on April 19, 2021 during an interaction with the Alameda Police Department. Mr. Fraser's request was one of the multiple inquiries the City received in the days and weeks following the incident. Mr. Fraser's April 19, 2021 CPRA request demanded production in a shortened time frame because of the heightened public interest. Mr. Fraser's conclusory assertion about heightened public interest was never a reasonable justification for immediate disclosure of the incident data. The phrase "reasonable justification" implies more than a conclusory assertion of need ("time is of the essence"). It requires a factual showing. His April 19, 2021 CRPA did not contain anything of the sort nor did it seek disclosable public records. Mr. Fraser was advised of this fact within two days of his inquiry, on April 21, 2021, when the City provided a written response with supporting legal authorities explaining why it was compelled to deny his request. (See Exhibit 1)

The City's April 21, 2021 determination letter advised him that the Alameda County District Attorney and the Alameda County Sheriff's Office had just begun their investigations into the incident. To avoid interfering or harming those investigations, the City, except for a very limited release, would be withholding information until those investigations concluded. The City's response was timely and consistent with the CPRA's requirements for withholding records of critical incidents. (See, Penal Code Section 832.7(b) and Government Code Section 6254(f)(4) [law enforcement records documenting an in-custody death may be withheld during an active criminal investigation].

As Mr. Fraser acknowledges, he sent several additional emails throughout the month of April 2021 disputing the City's determination; on April 22, 2021 and April 24, 2021. (See Exhibit 2). The emails were not new CPRA requests. They reiterated his April 19, 2021 request and argued that he was entitled to data from the Mario Gonzalez incident. The City followed up a few days later with a link to all of the publicly released documents and, no less than twelve times thereafter, it wrote and explained why it could not release additional data during the active criminal investigation.

A year later, in this Complaint, Mr. Fraser again reiterates his April 2021 arguments, albeit in nine separate Claims. All of his Claims ultimately derive from his April 2021 CPRA request and all stem from alleged violations of the Sunshine Ordinance which purportedly occurred almost one-year ago. Notwithstanding the fact that it is indisputably lawful for the City to withhold information about a critical incident during a criminal investigation, even if there had been a violation of the Sunshine Ordinance, Mr. Fraser's right to relief, if any, expired long ago and is now time-barred.

Finally, the Complaint is moot as all responsive records were ultimately released on April 12, 2022. As the March 30, 2022 transmittal letter from the District Attorney to the Alameda Police Department ("APD") (attached to the Complaint as Exhibit J) stated, a copy of the report was being provided to APD in advance of its final public release. The March 30, 2022 transmittal letter expressly notified the City that the report would be released no earlier than five days from March 30, 2022. On April 7, 2022, once the City became aware that the District Attorney had released its findings it notified Mr. Fraser that additional information would be forthcoming. On April 12, 2022, it released its records. (See Exhibits 3- 4). The City's obligation to produce the records in question does not ripen upon receiving a pro-forma advance copy of the District Attorney's report. It ripens when the District Attorney publicly announces her findings. Accordingly, there is no longer a dispute for the Commission to resolve. See, Government Code Section 6254(f)(4) and Penal Code Section 832.7(b). (video, audio and other records of a critical incident may be withheld until the completion of criminal investigation or proceeding). The Complaint must therefore be rejected.

## II. BACKGROUND

The Sunshine Ordinance complaint currently before the Open Government Commission ("OGC") is presented by Eric Fraser. On April 19, 2021, Mr. Fraser submitted a Public Records Act request for records pertaining to the death of Mario Gonzalez on April 19, 2021. The CPRA request sought the following:

"a copy of all records relating to Case Number 21-01762, from and including April 19, 2021 going forward. To be clear, I request all records created relating to the incident described in Case Number 21-01762, whether they are currently in existence, or not. I will follow-up if and when I wish to cease receiving records related to Case Number 21-01762. Because "records" is broadly defined by the Cal. Gov't Code for purposes of the Public Records Act, my request is intended to include body cam footage, Mobile Digital Terminal messages, notes, calendar appointments, mobile phone messages (whether SMS, MMS, or sent via another application such as WhatsApp), and any other item meeting the definition of "record".

Case Number 21-01762 relates to today's death of a person in APD custody, and there is great public interest in this information. Time is of the essence. I respectfully request that the City begin producing records related to this request within the next 30 days for this reason." (See, Exhibit C to the Complaint.)

The City of Alameda issued its determination letter to Mr. Fraser on April 21, 2021 indicating that because a criminal investigation had just been initiated by the District Attorney and County Sheriff, except for a very limited release of information to the public, responsive records would not be disclosed until those investigations had concluded. (See Complaint, Exhibit F) As it explained, Government Code Sections 6254(f)(4) and Penal Code Section 832.7 (b) did make police records involving a critical incident publicly disclosable. Both statutes, however, explicitly allow a City to withhold disclosure while an administrative or criminal investigation was pending.

In accordance with Government Code Section 6254(f)(4) and Penal Code Section 832.7, the City in its April 21, 2021 determination letter provided Mr. Fraser with its specific basis for delaying disclosure and advised him that premature disclosure of the requested records could prejudice the ongoing investigations and/or substantially interfere with their successful completion. The City promised to update Mr. Fraser when the investigation completed, but no later than June 4, 2021. In the interim, it advised that a certain Body Worn Camera footage, redacted to protect the privacy of decedent, witnesses and other third-parties would be released in the next few weeks.

Mr. Fraser disputed the City's determination to withhold records. On April 22, 2021 and April 24, 2021, he wrote, arguing that he did not want analysis, he wanted raw data. (See, Exhibit 2). On April 27, 2021, the City again responded to Mr. Fraser by providing him with a weblink to those materials it deemed could be released without interfering with the investigation.

Mr. Fraser admits that he was regularly notified that items were being withheld because their disclosure could interfere with the completion of the District Attorney's criminal investigation and potentially interfere with the testimony of parties and witnesses. In fact, between April 19, 2021 and April 7, 2022, Complainant received no less than 12 updates from the City. (See, Exhibits 1-5)

On April 12, 2022, following the public release of the final report by the Alameda County District Attorney, the City released all responsive documents to Mr. Fraser and the public by sending a link to the audio, video and written documents connected with Case Number 21-01762.

The City's April 12, 2022 determination provided:

The publicly disclosable documents responsive to your request for records relating to the April 19, 2021 incident involving Mario Gonzalez have now been released by the City of Alameda. These documents have been made available through the following hyperlink:

<https://www.alamedaca.gov/Shortcut-Content/News-Media/Alameda-County-DA-finds-no-criminal-liability-in-the-tragic-death-of-Mario-Gonzalez>

As the City has previously advised, some of the materials have been redacted or withheld to protect the personal information of third parties and Mr. Gonzalez's right to medical privacy. See, Penal Code Section 832.7(b)(6)(A)(personal data or information); Penal Code Section 832.7(b)(6)(B) (anonymity of complainants,

victims, and witnesses); . Cal. Penal Code Section 832.7(b)(6)((C) (confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy); and Penal Code Section 832.7(b)(7) (personal identifying information of witnesses including juveniles).

As is custom and practice, staff reached out to Mr. Fraser in an effort to informally resolve his complaint. Despite the City's ongoing full compliance with all applicable laws and its complete release of non-privileged materials prior to the filing of this complaint, Mr. Fraser continued to refuse to withdraw his meritless complaint.

### **III. ARGUMENT:**

#### **1. *Complainant's Sunshine Ordinance complaint is time barred.***

On April 13, 2022, nearly a year after filing the CPRA request at issue, Mr. Fraser filed a nine-claim Complaint with the City alleging Sunshine Ordinance violations stemming from his interactions with the City in the immediate aftermath of the Mario Gonzalez incident.

Claims One, Two and Four contend that notwithstanding the active criminal investigation, Alameda Municipal Code Section 2-92.9(a) (release of public records in a shortened time frame) and Government Code Section 6253.9(a) (electronic records) required the City to disclose its raw data on the Mario Gonzalez incident no later than Mr. Fraser's self-imposed deadline of May 18, 2021. Claim Three appears to assert that the City violated Alameda Municipal Code Section 2-92.2(g) because it did not rebut his April 22 and 24, 2021 arguments about why the City should not withhold data during the investigation. Claim Five incorrectly asserts that the City under Government Code Section 6254(f) was required to release arrest log or call for service information about the incident in response to his April 19, 2021 email. Claims Six through Eight incorrectly contend that the City unjustifiably withheld information about the incident without an adequate explanation and did not respond to Mr. Fraser's April 2021 requests in a timely manner. Finally, Claim Nine asks the Commission to award Mr. Fraser costs and attorney's fees, which of course is outside the Commissions express jurisdiction. All of these claims are untimely and without substantive merit.

Although the CPRA does not provide for a statute of limitations, the City's Sunshine Ordinance does so provide. Under the CPRA, the City has 10 days from the date of receiving a complaint to respond. See Alameda Municipal Code (AMC), Section 2-92.2 ("Every 'Custodian of Records' shall following receipt of a request for a Public Record, respond to such request within the time frames and in the manner set forth in the Public Records Act, except as otherwise provided for by this article."); Calif. Government Code, Section 6253(c) ("Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor.").

Under the Sunshine Ordinance (Section 2-93.2), a complainant has 15 days from the alleged violation to file a complaint. The following key facts are not in dispute:

- Complainant requested records on April 19, 2021 demanding their production in 30 days.
- The City issued a determination denying the request on April 21, 2021.
- Complainant disputed the City's withholding decision by emailing the City on April 22 and April 24, 2021.
- The City provided a further response on April 27, 2021.
- Even if the April 24, 2021 email is construed as a new CPRA Request, the City's ten-day response to window expired on May 4, 2021.
- Complainant did not file his complaint until April 13, 2022, 326 days after the alleged violation.

Accordingly, even if the Commission were to accept Mr. Fraser's assertion that the City did not formally respond to the April 22, 2021 and April 24, 2021 inquiries (which the City disputes), at the very latest Mr. Fraser had 15 days from May 4, 2021 to file a complaint alleging that the City had failed to respond to him--to then file a Sunshine Ordinance complaint. Because Mr. Fraser waited not 15 days, not 30 days but 326 days to challenge the City's determination, his April 13, 2022 Complaint is untimely and the Commission must reject it. Page 17 of Complainant's Position Paper concedes this point as follows stating, "[n]evertheless, Complainant concedes that the Open Government Commission may not have jurisdiction to hear such violations of state and local law older than 15 days."

2. **Notwithstanding the untimeliness of the April 13, 2022 Complaint, neither the Sunshine Ordinance nor the CPRA require the City to release raw data of a critical incident in a shortened timeframe while a criminal investigation is underway.**

Claims One, Two and Four contend that notwithstanding the active criminal investigation, Alameda Municipal Code Section 2-92.9(a) (release of public records in a shortened time frame) and Government Code Section 6253.9(a) (electronic records) required the City to disclose its raw data on the Mario Gonzalez incident no later than Mr. Fraser's self-imposed deadline of May 18, 2021.

Complainant asserts that Section 2.92.9(a) of the Alameda Municipal Code provides in pertinent part that a Custodian of Records shall make good faith efforts to comply within a shortened timeframe that has been reasonably justified by a records requester by the facts of his or her situation e.g. the requestor needs the documents for a hearing the next day. He, however, has not established a violation of this subsection. The plain language of the subsection requires more than a factually devoid justification for the shortened timeframe. The request must describe contain facts which support the need for a shortened time frame. Mr. Fraser's April 2021 CPRA request stated only "[t]ime is of the essence, I respectfully request that the City begin producing records related to this request within the next 30 days for this reason". (See, Exhibit C to the Complaint) What facts, such as a pending hearing, or some other reasonably justified need for the release of the documents were proffered by Mr. Fraser? There is no denying that there was public interest in the incident but the City's ordinance requires the records to reasonably justify the need for an expedited release based on the "facts of his or her situation". To this day, one year later, Mr. Fraser has not articulated the facts of his situation nor met his burden of demonstrating a reasonable justification for releasing raw data of a critical incident during active criminal investigations.

Nonetheless, and consistent with the Ordinance the City responded to his request for a shortened time frame by advising him that it could not comply because the records he was seeking were, at that time, not disclosable public records. As the City advised Mr. Fraser then, as a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act (CPRA). (See, Gov. Code, Section 6250 et seq.) Gov. Code, Section 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation remain exempt from disclosure indefinitely. (Id. at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

Most significantly, however, the City followed applicable state law in responding to Complainant's request. Although recent state law expanded what is disclosable in the realm of critical incidents, it provides that a local agency may delay the disclosure of such records where there is an active investigation of such an incident. Penal Code Section 832.7(b) allows for the delay in disclosing any records that may be encompassed in an active criminal or administrative investigation of a critical incident. (Pen. Code Section 832.7, subd. (b)(7)<sup>1</sup> provided that if a public agency delays disclosure of records related to a critical incident after 60 days from the date of the incident, it must, “at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.” (Pen. Code Section 832.7, subd. (b)(7)(A)(ii).)

In the present case, all of the City's monthly correspondence provided Mr. Fraser with the specific basis for the delay in disclosure. It regularly informed him that when District Attorney's investigation of the incident concluded, the raw data (redacted to protect witness and victim privacy rights as permitted by Penal Code Section 832.7) would be released. Ultimately, on April 7, 2022, when the City of Alameda was informed that the District Attorney had completed its investigation and the report had been finalized for public release, the City released its data - five days later on April 12, 2022. The City fully complied with all applicable laws by properly delaying disclosure pursuant to the provisions of Penal Code Section 832.7, subdivision (b)(7)(A)(ii) until the prosecutorial professionals had completed their duties. There is no provision in the Sunshine Ordinance or in State law that requires a different outcome.

There is similarly no merit in the Complainant's contention that either under the Sunshine Ordinance or the Public Records Act, he is entitled to the release of data in its raw, original form. The plain language of both Government Code Section 6253.9 and Penal Code Section 832.7 belies such a construction. Government Code Section 6253.9(a)(2) makes clear that what he is entitled to is the data in a format used by the agency to create copies for its own use or for provision to other agencies. Cal. Gov't Code Section

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<sup>1</sup> In 2022, PC 832.7(b)(7) was renumbered as (b)(8) without any substantive change.

6253.9(a)(2). For example, Mr. Fraser was not entitled to the hard drives containing the original Body Worn Camera data in 2021 and he is not entitled to them now. What he is entitled to is the data in a format used by the agency to create copies for its own use or for the consumption of other agencies. This rule makes perfect sense in the context of a large database maintained by the local agency. The Department is allowed to extract the records from that database and provide them in the format in which they are actually used. Anything other than this rule of reason would "jeopardize or compromise the security or integrity of the original record or any proprietary software in which it is maintained." See Government Section 6253.9 Penal Code Section 832.7, similarly, contradicts the Mr. Fraser's overly expansive construction of the production of electronic records. Section 832.7 specifies that following the completion of a criminal investigation, the agency is not required to release the raw, unredacted records. Penal Code Section 832.7(b)(6)(B) allows redaction of the data to protect the anonymity of complainants, victims, and witnesses. Penal Code Section 832.7(b)(6)(C) allows redactions to protect confidential medical, financial, or other information which would cause an unwarranted invasion of personal privacy; and Penal Code Section 832.7(b)(7) allows the agency to redact personal identifying information of witnesses including juveniles.

Finally, there is no merit to Mr. Fraser's contention that the City violated either Government Code Section 6254(f)(1) (arrest log information) or Government Code Section 6254(f)(2) (log information about calls for service). Government Code Section 6254(f)(1) requires the disclosure of certain information about arrestees. Similarly, Government Code Section 6254(f)(2) requires disclosure of information about calls for service. The disclosure obligations of both sections is restricted by the sentence in Government Code Section 6254(f) immediately preceding them, namely: "Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, **except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation.** The City did release basic information about the incident in the immediate aftermath which was substantially compliant with both sections. The City plainly had the discretion to refrain from releasing further information while a criminal investigation into the incident was pending. (See Penal Code Section 832.7(b). Moreover, Mr. Fraser's request for such information is well beyond the time limit under the Sunshine Ordinance for filing a Complaint. Moreover, Mr. Fraser long ago received the information in the form of weblinks to the City's press releases issued in the weeks and months following this tragic death.

IV. CONCLUSION:

The Sunshine Ordinance, the Government Code, the Penal Code and the public interest in a fair, impartial and unobstructed criminal investigation required caution in what could and ultimately was released in the aftermath of Mr. Gonzalez's death. The City was permitted and indeed required to withhold production of responsive information during the active criminal investigation. As required, the City regularly reassessed its decision to withhold information and regularly notified Mr. Fraser that the items were being withheld because their disclosure could interfere with the testimony of parties and witnesses and/or prejudice the completion of the District Attorney's criminal investigation. In fact, between April 19, 2021 and April 7, 2022, Complainant received no less than 12 updates from the City. On April 12, 2022, following the public release of the final report by the Alameda County District Attorney, the City released all responsive

documents to Mr. Fraser and the public by sending a link to the audio, video and written documents connected with Case Number 21-01762.

The Complaint here is untimely, meritless and moot. The record reflects the City acted diligently, lawfully and within its sound discretion in withholding raw investigatory materials until the District Attorney completed its investigation. For the foregoing reasons, Staff recommends that the OGC reject the complaint in its entirety and find the complaint to be "unfounded."

**Exhibit 1**

**From:** Lisa Cooper  
**Sent:** Wednesday, April 21, 2021 3:35 PM  
**To:** 'elfraser@protonmail.com'  
**Cc:** Lara Weisiger  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The City has received your California Public Records Act Request for records related to Case Number 21-01762.

As a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.) Gov. Code, § 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely. (Id. at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

While AB748 and SB1421 created exemptions to this general rule, the matter remains active, open, under investigation and under the control and direction of the Alameda County District Attorney and the Alameda County Sheriff's Department. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials at this time. Because disclosure of these materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings, the Alameda Police Department has determined that at this time the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Government Code Section 6254(f)(4) and PC 822.7(b)(7) Government Code Section 6255.

The City is, however, preparing some material, including Body Worn Camera footage for public release. Some of these materials will need to be redacted to protect the privacy rights of the decedent and third party, non-police officer witnesses. We expect some material to be available within the next week to two weeks. To the extent you have additional questions or concerns about any of the administrative or criminal proceedings arising out of this incident, you may contact the Alameda County District Attorney. We will update you as materials become available but no later than Thursday June 4, 2021 consistent with Government Code 6254(f)(4)(A)(i).

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com'  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your April 20, 2021 California Public Records Act request, attached, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions ("PRA") provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets like this one. (See, e.g., *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper  
Paralegal  
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(510) 747-4764  
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**From:** Lara Weisiger  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,  
I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.  
Thanks,  
Lara

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** E. Fraser <elfraser@protonmail.com>  
**Sent:** Tuesday, April 27, 2021 11:37 AM  
**To:** Lisa Cooper  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Ms. Cooper,

The City's excuse for delaying production of this request was that an investigation is ongoing. Yet, the City has released at least some information (the body camera footage) to outside parties (the family of Mr. Gonzalez). Hence, it is reasonable to infer that the fact gathering portion of the investigation has ceased. Therefore, the City has no excuse to delay further.

Please send me the body camera footage, calls for service, and other objective information without further delay.

-Erin Fraser

----- Original Message -----

On Saturday, April 24th, 2021 at 8:15 AM, E. Fraser wrote:

Madam Clerk and Ms. Cooper,

Two non-legal thoughts.

First, the City claims in its press release "The City is committed to full transparency and accountability in the tragic death of Mario Gonzalez." Yet, the City is denying release of any records. Thus, it seems the presser is disingenuous. Or, if it is a genuine reflection of the City's intent, then follow through and produce the records I requested.

Second, Ms. Cooper's email appears to suggest that I requested ongoing investigation records. Such records may have been included in my request because of the broad nature of my request, but I am not very interested in the police analysis or investigation (which is being conducted by outside agencies anyway). I want the raw information (911 and dispatch calls, body cam footage, etc.) which includes no police or law enforcement analysis. If there was genuine confusion on this point, I apologize for my lack of clarity. Of course, you can always ask a clarifying question as opposed to simply stalling or denying that the records should be produced.

-Erin Fraser

On Wed, Apr 21, 2021 at 3:34 PM, Lisa Cooper <[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)> wrote:

Mr. Fraser,

The City has received your California Public Records Act Request for records related to Case Number 21-01762.

As a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.) Gov. Code, § 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely. (Id. at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

While AB748 and SB1421 created exemptions to this general rule, the matter remains active, open, under investigation and under the control and direction of the Alameda County District Attorney and the Alameda County Sheriff's Department. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials at this time. Because disclosure of these materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings, the Alameda Police Department has determined that at this time the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Government Code Section 6254(f)(4) and PC 822.7(b)(7) Government Code Section 6255.

The City is, however, preparing some material, including Body Worn Camera footage for public release. Some of these materials will need to be redacted to protect the privacy rights of the decedent and third party, non-police officer witnesses. We expect some material to be available within the next week to two weeks. To the extent you have additional questions or concerns about any of the administrative or criminal proceedings arising out of this incident, you may contact the Alameda County District Attorney. We will update you as materials become available but no later than Thursday June 4, 2021 consistent with Government Code 6254(f)(4)(A)(i).

Regards, Lisa

Lisa K. Cooper

Paralegal

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com'  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your April 20, 2021 California Public Records Act request, attached, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions (“PRA”) provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets like this one. (*See, e.g., Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

\*\*\*\*\*

\*

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**From:** Lara Weisiger

**Sent:** Tuesday, April 20, 2021 8:58 AM

**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper

**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,

I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.

Thanks,

Lara

**From:** E. Fraser [[elfraser@protonmail.com](mailto:elfraser@protonmail.com)]

**Sent:** Monday, April 19, 2021 11:50 PM

**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>

**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Thursday, April 7, 2022 6:00 PM  
**Subject:** Mario Gonzalez

The City of Alameda writes to advise you that on the evening of April 7, 2022, it was advised that the Alameda County District Attorney had completed its investigation into the April 19, 2021 incident involving Mario Gonzalez and publicly released its findings. Accordingly, the Alameda Police Department has again reassessed its earlier decision to withhold certain documents, video records, and other information arising from the April 19, 2021 incident. In light of the conclusion of the District Attorney's investigation, the City will be releasing all responsive and publicly disclosable information to the public early next week. Please be advised that some of the materials have been redacted to protect the personal information of third parties and Mr. Gonzalez's right to medical privacy . See, Penal Code Section 832.7(b)(6) and Penal Code 832.7(b)(7).

Regards,

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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## Exhibit 4

**From:** Lisa Cooper  
**Sent:** Tuesday, April 12, 2022 2:43 PM  
**Subject:** Mario Gonzalez

Good afternoon,

The publicly disclosable documents responsive to your request for records relating to the April 19, 2021 incident involving Mario Gonzalez have now been released by the City of Alameda. These documents have been made available through the following hyperlink:

<https://www.alamedaca.gov/Shortcut-Content/News-Media/Alameda-County-DA-finds-no-criminal-liability-in-the-tragic-death-of-Mario-Gonzalez>

As the City has previously advised, some of the materials have been redacted or withheld to protect the personal information of third parties and Mr. Gonzalez's right to medical privacy . See, Penal Code § 832.7(b)(6)(A)(personal data or information); Penal Code § 832.7(b)(6)((B) (anonymity of complainants, victims, and witnesses); Cal. Penal Code § 832.7(b)(6)((C) (confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy); and Penal Code § 832.7(b)(7) (personal identifying information of witnesses including juveniles).

Regards,

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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\*\*\*\*\*

**From:** Lisa Cooper  
**Sent:** Monday, March 7, 2022 2:16 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** Public Records Request (Case Number 21-01762) Update 4

Good afternoon,

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents, video records, and other information arising from the April 19, 2021 incident involving Mario Gonzalez. See, Government Code Section 6254(f)(4)(A)(ii) and Penal Code Section 832.7(b)(7)(A)(ii).

As we previously advised on February 3, 2022, the Alameda County District Attorney's Office has not yet determined whether to file criminal charges related to the use of force. Penal Code Section 832.7(b)(7)(A)(ii) allows an agency to withhold records or information, if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against the officer or officer(s) who used force. The District Attorney's investigation remains active and ongoing and it has not yet issued a charging determination. Because disclosure of the investigation material could prejudice the potential testimony of both potential parties and witnesses in a criminal enforcement proceeding, the Alameda Police Department will continue to withhold all investigative material that has not yet been publicly released, See Penal Code Section 832.7(b)(7)(A)(ii).

Finally, the investigation files contain over 1000 files comprising 65.1 gigabytes of information. Consistent with Penal Code Section 832.7(b)(6)-(7), the Department will need to individually review these records to ensure that the privacy of witnesses, and other private citizen third parties are protected. Accordingly, at this time, the Department believes that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code Section 6254 (f)(4), Penal Code Section 822.7(b)(7), Gov. Code Section 6255. The Department will reassess its decision as facts become available to it but in no event, no later than April 7, 2022.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

---

**From:** Lisa Cooper  
**Sent:** Thursday, January 6, 2022 2:16 PM  
**To:** 'E. Fraser' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Cc:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** Public Records Request (Case Number 21-01762) Update 2

Dear Requestor,

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents, video records, and other information arising from the April 19, 2021 incident involving Mario Gonzalez. See, Government Code Section 6254(f)(4)(A)(ii) and Penal Code Section 832.7(b)(7)(A)(ii).

As we have previously advised, the Alameda County District Attorney's Office has not yet determined whether to file criminal charges related to the use of force. Penal Code Section 832.7(b)(7)(A)(ii) allows an agency to withhold records or information, if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against the officer or officer(s) who used force. The District Attorney's investigation remains active and ongoing and it has not yet issued a charging determination. Because disclosure of the investigation material could prejudice the potential testimony of both potential parties and witnesses in a criminal enforcement proceeding, the Alameda Police Department will continue to withhold all investigative material that has not yet been publicly released, See Penal Code Section 832.7(b)(7)(A)(ii).

Finally, the investigation files contain over 1000 files comprising 65.1 gigabytes of information. Consistent with Penal Code Section 832.7(b)(6)-(7), the Department will need to individually review these records to ensure that the privacy of witnesses, and other private citizen third parties are protected. Accordingly, at this time, the Department believes that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code Section 6254 (f)(4), Penal Code Section 822.7(b)(7), Gov. Code Section 6255. The Department will reassess its decision as facts become available to it but in no event, no later than February 5, 2022.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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\*\*\*\*\*

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Thursday, February 3, 2022 3:54 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** Public Records Request (Case Number 21-01762) Update 3

Good afternoon,

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents, video records, and other information arising from the April 19, 2021 incident involving Mario Gonzalez. See, Government Code Section 6254(f)(4)(A)(ii) and Penal Code Section 832.7(b)(7)(A)(ii).

As we have previously advised, the Alameda County District Attorney's Office has not yet determined whether to file criminal charges related to the use of force. Penal Code Section 832.7(b)(7)(A)(ii) allows an agency to withhold records or information, if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against the officer or officer(s) who used force. The District Attorney's investigation remains active and ongoing and it has not yet issued a charging determination. Because disclosure of the investigation material could prejudice the potential testimony of both potential parties and witnesses in a criminal enforcement proceeding, the Alameda Police Department will continue to withhold all investigative material that has not yet been publicly released, See Penal Code Section 832.7(b)(7)(A)(ii).

Finally, the investigation files contain over 1000 files comprising 65.1 gigabytes of information. Consistent with Penal Code Section 832.7(b)(6)-(7), the Department will need to individually review these records to ensure that the privacy of witnesses, and other private citizen third parties are protected. Accordingly, at this time, the Department believes that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code Section 6254 (f)(4), Penal Code Section 822.7(b)(7), Gov. Code Section 6255. The Department will reassess its decision as facts become available to it but in no event, no later than March 7, 2022.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

---

**From:** Lisa Cooper  
**Sent:** Thursday, January 6, 2022 2:16 PM  
**To:** 'E. Fraser' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Cc:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** Public Records Request (Case Number 21-01762) Update 2

Dear Requestor,

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents, video records, and other information arising from the April 19, 2021 incident involving Mario Gonzalez. See, Government Code Section 6254(f)(4)(A)(ii) and Penal Code Section 832.7(b)(7)(A)(ii).

As we have previously advised, the Alameda County District Attorney's Office has not yet determined whether to file criminal charges related to the use of force. Penal Code Section 832.7(b)(7)(A)(ii) allows an agency to withhold records or information, if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against the officer or officer(s) who used force. The District Attorney's investigation remains active and ongoing and it has not yet issued a charging determination. Because disclosure of the investigation material could prejudice the potential testimony of both potential parties and witnesses in a criminal enforcement proceeding, the Alameda Police Department will continue to withhold all investigative material that has not yet been publicly released, See Penal Code Section 832.7(b)(7)(A)(ii).

Finally, the investigation files contain over 1000 files comprising 65.1 gigabytes of information. Consistent with Penal Code Section 832.7(b)(6)-(7), the Department will need to individually review these records to ensure that the privacy of witnesses, and other private citizen third parties are protected. Accordingly, at this time, the Department believes that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code Section 6254 (f)(4), Penal Code Section 822.7(b)(7), Gov. Code Section 6255. The Department will reassess its decision as facts become available to it but in no event, no later than February 5, 2022.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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\*\*\*\*\*

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

---

Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Wednesday, December 15, 2021 3:45 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762) - Update - CORRECTION

Hello,

Please see corrections in bold below.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

\*\*\*\*\*

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---

**From:** Lisa Cooper  
**Sent:** Wednesday, December 15, 2021 11:35 AM  
**To:** 'E. Fraser' <elfraser@protonmail.com>  
**Cc:** City Clerk <CLERK@alamedaca.gov>  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762) - Update

Good afternoon,

The link below contains the City's recent press release regarding the autopsy and coroner's reports concerning Mario Gonzalez. The press release contains links to the Coroner's Investigator's Report and the Autopsy Report.

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents video records and other information arising from the April 19, 2021 incident involving Mario Gonzalez. See, Government Code, section 6254(f)(4)(A)(ii) and Penal Code, section 832.7(b)(7)(A)(ii).

While the report from the Alameda County **Sheriff's** Office's Coroner's Bureau has been disclosed, the Alameda County District Attorney's Office has not yet determined whether to file criminal charges related to the use of force. Penal Code, section 832.7(b)(7)(A)(ii) allows an agency to withhold

records or information, if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against the officer or officer(s) who used force. The Alameda County Sheriff's Office Department only recently provided its investigation materials to the District Attorney on Friday December 10, 2021. The District Attorney will need to review these materials and determine whether it requires supplemental information. As permitted by Penal Code, section 832.7(b)(7)(A)(ii), the Department believes that the District Attorney should be provided with a reasonable amount of time to review the information in this matter and make its determination on whether to charge the involved police officers. Moreover, the City's own independent administrative investigation into the incident is not complete. Penal Code, section 832.7(b)(7)(C) allows a department to delay disclosure until 30 days after the close of any criminal investigation into the officers use of force.

Finally, the investigation files contain over 1000 files comprising 65.1 gigabytes of information. Consistent with Penal Code, section 832.7(b)(5), the Department will need to individually review these records to ensure that the privacy of witnesses, and other private citizen third parties are protected. Accordingly, at this time, the Department believes that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, section 6255. The Department will reassess its decision as facts become available to it but in no event, no later than January. 6, 2022.

<https://www.alamedaca.gov/Shortcut-Content/News-Media/Statement-from-Police-Chief-Nishant-Joshi>

Regards,

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 27, 2021 4:05 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The link below contains all of the materials the City has publically released. If and when additional materials are released we will supplement our response. Redactions were performed consistent with Government Code section 6254(c) (right to privacy).

<https://www.alamedaca.gov/Shortcut-Content/News-Media/City-releases-body-worn-camera-footage-of-in-custody-death-of-Mario-Gonzalez>

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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\*\*\*\*\*

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Tuesday, April 27, 2021 11:37 AM  
**To:** Lisa Cooper  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Ms. Cooper,

The City's excuse for delaying production of this request was that an investigation is ongoing. Yet, the City has released at least some information (the body camera footage) to outside parties (the family of Mr. Gonzalez). Hence, it is reasonable to infer that the fact gathering portion of the investigation has ceased. Therefore, the City has no excuse to delay further.

Please send me the body camera footage, calls for service, and other objective information without further delay.

-Erin Fraser

----- Original Message -----

On Saturday, April 24th, 2021 at 8:15 AM, E. Fraser <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)> wrote:

Madam Clerk and Ms. Cooper,

Two non-legal thoughts.

First, the City claims in its press release "The City is committed to full transparency and accountability in the tragic death of Mario Gonzalez." Yet, the City is denying release of any records. Thus, it seems the presser is disingenuous. Or, if it is a genuine reflection of the City's intent, then follow through and produce the records I requested.

Second, Ms. Cooper's email appears to suggest that I requested ongoing investigation records. Such records may have been included in my request because of the broad nature of my request, but I am not very interested in the police analysis or investigation (which is being conducted by outside agencies anyway). I want the raw information (911 and dispatch calls, body cam footage, etc.) which includes no police or law enforcement analysis. If there was genuine confusion on this point, I apologize for my lack of clarity. Of course, you can always ask a clarifying question as opposed to simply stalling or denying that the records should be produced.

-Erin Fraser

On Wed, Apr 21, 2021 at 3:34 PM, Lisa Cooper <[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)> wrote:

Mr. Fraser,

The City has received your California Public Records Act Request for records related to Case Number 21-01762.

As a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.) Gov. Code, § 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely. (Id. at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

While AB748 and SB1421 created exemptions to this general rule, the matter remains active, open, under investigation and under the control and direction of the Alameda County District Attorney and the Alameda County Sheriff's Department. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials at this time. Because disclosure of these materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings, the Alameda Police Department has determined that at this time the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Government Code Section 6254(f)(4) and PC 822.7(b)(7) Government Code Section 6255.

The City is, however, preparing some material, including Body Worn Camera footage for public release. Some of these materials will need to be redacted to protect the privacy rights of the decedent and third party, non-police officer witnesses. We expect some material to be available within the next week to two weeks. To the extent you have additional questions or concerns about any of the administrative or criminal proceedings arising out of this incident, you may contact the Alameda County District Attorney. We will update you as materials become available but no later than Thursday June 4, 2021 consistent with Government Code 6254(f)(4)(A)(i).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your April 20, 2021 California Public Records Act request, attached, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions ("PRA") provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets like this one. (See, e.g., *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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\*\*\*\*\*

---

**From:** Lara Weisiger  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,

I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.

Thanks,

Lara

---

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM

**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>

**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Thursday, November 4, 2021 2:04 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762) - Follow up 4

Good afternoon,

The Alameda Police Department has again considered and reassessed its decision to withhold certain documents video records and other information arising from the April 19, 2021 incident involving Mario Gonzales. See, Government Code, section 6254(f)(4)(A)(ii) and Penal Code section 832.7(b)(7)(A)(ii).

As we have previously advised, investigations into the incident by the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation remain active and open. Among the information investigators are awaiting is a report from the Alameda County Sheriff's Office's Coroner's Bureau. Withholding potentially responsive material at this time remains necessary to avoid substantially interfering with the multiple investigations into the incident. Accordingly, the Department has again determined that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, section 6255.

Further, as the Department previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254(c)).

In the interim, unless the investigations conclude earlier, we will provide another update in thirty days. Requestors seeking information about the status of the Coroner's report are advised to contact the Alameda County Sheriff's Office's Coroner's Bureau.

Regards,

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

\*\*\*\*\*  
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**From:** Lisa Cooper  
**Sent:** Thursday, July 29, 2021 4:17 PM  
**To:** 'E. Fraser' <elfraser@protonmail.com>  
**Cc:** City Clerk <CLERK@alamedaca.gov>  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The Alameda Police Department has again considered and reassessed its decision to withhold certain video information arising from the April 19, 2021 incident involving Mario Gonzales. See, Government Code, section 6254(f)(4)(A)(ii).

As we have previously advised, investigations into the incident by the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation remain active and open. Withholding potentially responsive material at this time remains necessary to avoid substantially interfering with the multiple investigations into the incident. Accordingly, the Department has again determined that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

Further, as the Department previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

In the interim, unless the investigations conclude earlier, we will provide another update in thirty days.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
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(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Thursday, July 1, 2021 2:02 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Consistent with the requirements of Government Code, section 6254(f)(4)(A)(ii) , the Alameda Police Department has reassessed its decision to withhold certain video information associated with the April 19, 2021 incident involving Mario Gonzales.

In our previous correspondence, we informed you that the video information as well as other records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 could not be released because disclosure would substantially interfere with the successful completion of an ongoing investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. The Department is continuing in its review and redaction of video information arising out of this incident. As we previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

Active and open investigations under the control and direction of the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation are continuing. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the Department has determined that it must continue to withhold material responsive to your request. The Department has concluded that public disclosure of these materials would substantially interfere with the successful completion of the investigations and/or enforcement proceedings. Accordingly, the Department has determined the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

We will update you as the investigation continues and to advise if and when additional video information may be made public.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Thursday, June 3, 2021 9:49 AM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Previously, in response to your request for public records concerning Mario Gonzales, we informed you those records could not be released at that time because they relate to an ongoing law enforcement investigation. Those records not released included certain records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 because disclosing those materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. Our response did indicate, however, that some materials would be available for release by the first part of June and, in any event, we would update you by June 4, 2021 concerning your request. This is that update.

As before, the City is continuing in its review and redaction of video information that is relevant to the April 19, 2021 incident involving Mr. Gonzales. As stated before, the redactions are necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

That incident remains an active and open investigation under the control and direction of the Alameda County District Attorney's Office and the Alameda County Sheriff's Office. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials to your request at this time because disclosure of such materials at this time would substantially interfere with the successful completion of the investigations and/or enforcement proceedings. Accordingly, the Alameda Police Department has determined the public interest in non-disclosure clearly outweighs the public interest in disclosure. Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

We will update you as the investigation continues and when the video information may be made public consistent with Gov. Code, section 6254(f)(4)(A)(ii).

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 27, 2021 4:05 PM  
**To:** 'E. Fraser'

**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The link below contains all of the materials the City has publically released. If and when additional materials are released we will supplement our response. Redactions were performed consistent with Government Code section 6254(c) (right to privacy).

<https://www.alamedaca.gov/Shortcut-Content/News-Media/City-releases-body-worn-camera-footage-of-in-custody-death-of-Mario-Gonzalez>

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Tuesday, April 27, 2021 11:37 AM  
**To:** Lisa Cooper  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Ms. Cooper,

The City's excuse for delaying production of this request was that an investigation is ongoing. Yet, the City has released at least some information (the body camera footage) to outside parties (the family of Mr. Gonzalez). Hence, it is reasonable to infer that the fact gathering portion of the investigation has ceased. Therefore, the City has no excuse to delay further.

Please send me the body camera footage, calls for service, and other objective information without further delay.

-Erin Fraser

----- Original Message -----

On Saturday, April 24th, 2021 at 8:15 AM, E. Fraser <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)> wrote:

Madam Clerk and Ms. Cooper,

Two non-legal thoughts.

First, the City claims in its press release "The City is committed to full transparency and accountability in the tragic death of Mario Gonzalez." Yet, the City is denying release of any records. Thus, it seems the presser is disingenuous. Or, if it is a genuine reflection of the City's intent, then follow through and produce the records I requested.

Second, Ms. Cooper's email appears to suggest that I requested ongoing investigation records. Such records may have been included in my request because of the broad nature of my request, but I am not very interested in the police analysis or investigation (which is being conducted by outside agencies anyway). I want the raw information (911 and dispatch calls, body cam footage, etc.) which includes no police or law enforcement analysis. If there was genuine confusion on this point, I apologize for my lack of clarity. Of course, you can always ask a clarifying question as opposed to simply stalling or denying that the records should be produced.

-Erin Fraser

On Wed, Apr 21, 2021 at 3:34 PM, Lisa Cooper <[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)> wrote:

Mr. Fraser,

The City has received your California Public Records Act Request for records related to Case Number 21-01762.

As a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.) Gov. Code, § 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely. (Id. at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

While AB748 and SB1421 created exemptions to this general rule, the matter remains active, open, under investigation and under the control and direction of the Alameda County District Attorney and the Alameda County Sheriff's Department. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive

materials at this time. Because disclosure of these materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings, the Alameda Police Department has determined that at this time the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Government Code Section 6254(f)(4) and PC 822.7(b))(7) Government Code Section 6255.

The City is, however, preparing some material, including Body Worn Camera footage for public release. Some of these materials will need to be redacted to protect the privacy rights of the decedent and third party, non-police officer witnesses. We expect some material to be available within the next week to two weeks. To the extent you have additional questions or concerns about any of the administrative or criminal proceedings arising out of this incident, you may contact the Alameda County District Attorney. We will update you as materials become available but no later than Thursday June 4, 2021 consistent with Government Code 6254(f)(4)(A)(i).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your April 20, 2021 California Public Records Act request, attached, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions (“PRA”) provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets like this one. (See, e.g., *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lara Weisiger  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,

I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.

Thanks,

Lara

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Monday, October 4, 2021 2:52 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The Alameda Police Department has again considered and reassessed its decision to withhold certain video information arising from the April 19, 2021 incident involving Mario Gonzales. See, Government Code, section 6254(f)(4)(A)(ii).

As we have previously advised, investigations into the incident by the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation remain active and open. Withholding potentially responsive material at this time remains necessary to avoid substantially interfering with the multiple investigations into the incident. Accordingly, the Department has again determined that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

Further, as the Department previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

In the interim, unless the investigations conclude earlier, we will provide another update in thirty days.

Regards, Lisa  
Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501

---

**From:** Lisa Cooper  
**Sent:** Thursday, July 29, 2021 4:17 PM  
**To:** 'E. Fraser' <elfraser@protonmail.com>  
**Cc:** City Clerk <CLERK@alamedaca.gov>  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The Alameda Police Department has again considered and reassessed its decision to withhold certain video information arising from the April 19, 2021 incident involving Mario Gonzales. See, Government Code, section 6254(f)(4)(A)(ii).

As we have previously advised, investigations into the incident by the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation remain

active and open. Withholding potentially responsive material at this time remains necessary to avoid substantially interfering with the multiple investigations into the incident. Accordingly, the Department has again determined that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

Further, as the Department previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

In the interim, unless the investigations conclude earlier, we will provide another update in thirty days.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
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**From:** Lisa Cooper  
**Sent:** Thursday, July 1, 2021 2:02 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Consistent with the requirements of Government Code, section 6254(f)(4)(A)(ii) , the Alameda Police Department has reassessed its decision to withhold certain video information associated with the April 19, 2021 incident involving Mario Gonzales.

In our previous correspondence, we informed you that the video information as well as other records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 could not be released because disclosure would substantially interfere with the successful completion of an ongoing investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. The Department is continuing in its review and redaction of video information arising out of this incident. As we previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

Active and open investigations under the control and direction of the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation are continuing. To avoid

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We will update you as the investigation continues and to advise if and when additional video information may be made public.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
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**From:** Lisa Cooper  
**Sent:** Thursday, June 3, 2021 9:49 AM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Previously, in response to your request for public records concerning Mario Gonzales, we informed you those records could not be released at that time because they relate to an ongoing law enforcement investigation. Those records not released included certain records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 because disclosing those materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. Our response did indicate, however, that some materials would be available for release by the first part of June and, in any event, we would update you by June 4, 2021 concerning your request. This is that update.

As before, the City is continuing in its review and redaction of video information that is relevant to the April 19, 2021 incident involving Mr. Gonzales. As stated before, the redactions are necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

That incident remains an active and open investigation under the control and direction of the Alameda County District Attorney's Office and the Alameda County Sheriff's Office. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials to your request at this time because disclosure of such materials at this time would substantially interfere with the successful completion of the investigations and/or enforcement proceedings. Accordingly, the Alameda Police Department has determined the public interest in non-disclosure clearly outweighs the public interest in disclosure. Gov. Code, section 6254(f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

We will update you as the investigation continues and when the video information may be made public consistent with Gov. Code, section 6254(f)(4)(A)(ii).

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
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**Sent:** Tuesday, April 27, 2021 4:05 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The link below contains all of the materials the City has publically released. If and when additional materials are released we will supplement our response. Redactions were performed consistent with Government Code section 6254(c) (right to privacy).

<https://www.alamedaca.gov/Shortcut-Content/News-Media/City-releases-body-worn-camera-footage-of-in-custody-death-of-Mario-Gonzalez>

Regards, Lisa

Lisa K. Cooper  
Paralegal

City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Tuesday, April 27, 2021 11:37 AM  
**To:** Lisa Cooper  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Ms. Cooper,

The City's excuse for delaying production of this request was that an investigation is ongoing. Yet, the City has released at least some information (the body camera footage) to outside parties (the family of Mr. Gonzalez). Hence, it is reasonable to infer that the fact gathering portion of the investigation has ceased. Therefore, the City has no excuse to delay further.

Please send me the body camera footage, calls for service, and other objective information without further delay.

-Erin Fraser

----- Original Message -----

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Madam Clerk and Ms. Cooper,

Two non-legal thoughts.

First, the City claims in its press release "The City is committed to full transparency and accountability in the tragic death of Mario Gonzalez." Yet, the City is denying release of any records. Thus, it seems the presser is disingenuous. Or, if it is a genuine reflection of the City's intent, then follow through and produce the records I requested.

Second, Ms. Cooper's email appears to suggest that I requested ongoing investigation records. Such records may have been included in my request because of the broad nature of my request, but I am not very interested in the police analysis or investigation (which is being conducted by outside agencies anyway). I want the raw information (911 and dispatch calls, body cam footage, etc.) which includes no police or law enforcement analysis. If there was genuine confusion on

this point, I apologize for my lack of clarity. Of course, you can always ask a clarifying question as opposed to simply stalling or denying that the records should be produced.

-Erin Fraser

On Wed, Apr 21, 2021 at 3:34 PM, Lisa Cooper <[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)> wrote:

Mr. Fraser,

The City has received your California Public Records Act Request for records related to Case Number 21-01762.

As a general rule, law enforcement investigative files are not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.) Gov. Code, § 6254, subd. (f) exempts “[r]ecords of . . . investigations conducted by, or records of intelligence information or security procedures of . . . any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency . . . for correctional, law enforcement or licensing purposes . . .” from disclosure under the CPRA. (See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337.) Once an investigation has begun, all materials that relate to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely. (*Id.* at pp. 355, 361-362.) Video records, including body camera footage, to the extent any exist, are considered part of the investigative file and not subject to disclosure under the CPRA. (See, *Haynie v. Superior Court* (2001) 26 Cal. 4th 1061).

While AB748 and SB1421 created exemptions to this general rule, the matter remains active, open, under investigation and under the control and direction of the Alameda County District Attorney and the Alameda County Sheriff's Department. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials at this time. Because disclosure of these materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings, the Alameda Police Department has determined that at this time the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Government Code Section 6254(f)(4) and PC 822.7(b)(7) Government Code Section 6255.

The City is, however, preparing some material, including Body Worn Camera footage for public release. Some of these materials will need to be redacted to protect the privacy rights of the decedent and third party, non-police officer witnesses. We expect some material to be available within the next week to two weeks. To the extent you have additional questions or concerns about any of the administrative or criminal proceedings arising out of this incident, you may

contact the Alameda County District Attorney. We will update you as materials become available but no later than Thursday June 4, 2021 consistent with Government Code 6254(f)(4)(A)(i).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your April 20, 2021 California Public Records Act request, attached, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions (“PRA”) provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets like this one. (See, e.g., *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper

Paralegal

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**From:** Lara Weisiger  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,

I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.

Thanks,

Lara

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**From:** E. Fraser [[elfraser@protonmail.com](mailto:elfraser@protonmail.com)]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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Madam Clerk,

Please see the attached request.

- Erin Fraser

**From:** Lisa Cooper  
**Sent:** Thursday, July 29, 2021 4:17 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The Alameda Police Department has again considered and reassessed its decision to withhold certain video information arising from the April 19, 2021 incident involving Mario Gonzales. See, Government Code, section 6254(f)(4)(A)(ii).

As we have previously advised, investigations into the incident by the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation remain active and open. Withholding potentially responsive material at this time remains necessary to avoid substantially interfering with the multiple investigations into the incident. Accordingly, the Department has again determined that the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

Further, as the Department previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

In the interim, unless the investigations conclude earlier, we will provide another update in thirty days.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Thursday, July 1, 2021 2:02 PM  
**To:** 'E. Fraser'

**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Consistent with the requirements of Government Code, section 6254(f)(4)(A)(ii) , the Alameda Police Department has reassessed its decision to withhold certain video information associated with the April 19, 2021 incident involving Mario Gonzales.

In our previous correspondence, we informed you that the video information as well as other records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 could not be released because disclosure would substantially interfere with the successful completion of an ongoing investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. The Department is continuing in its review and redaction of video information arising out of this incident. As we previously concluded, the redactions in the publicly disclosed videos remain necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

Active and open investigations under the control and direction of the Alameda County District Attorney's Office, the Alameda County Sheriff's Office and the City's own internal investigation are continuing. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the Department has determined that it must continue to withhold material responsive to your request. The Department has concluded that public disclosure of these materials would substantially interfere with the successful completion of the investigations and/or enforcement proceedings. Accordingly, the Department has determined the public interest in non-disclosure clearly outweighs the public interest in disclosure. See, Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

We will update you as the investigation continues and to advise if and when additional video information may be made public.

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Thursday, June 3, 2021 9:49 AM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

Previously, in response to your request for public records concerning Mario Gonzales, we informed you those records could not be released at that time because they relate to an ongoing law enforcement investigation. Those records not released included certain records that otherwise would not be exempt from disclosure under AB 748 and SB 1421 because disclosing those materials would substantially interfere with the successful completion of the investigation and/or enforcement proceedings. As such, the public interest of non-disclosure outweighed the public interest in disclosure. Our response did indicate, however, that some materials would be available for release by the first part of June and, in any event, we would update you by June 4, 2021 concerning your request. This is that update.

As before, the City is continuing in its review and redaction of video information that is relevant to the April 19, 2021 incident involving Mr. Gonzales. As stated before, the redactions are necessary to protect the privacy rights of involved persons. (Gov. Code, section 6254 (c)).

That incident remains an active and open investigation under the control and direction of the Alameda County District Attorney's Office and the Alameda County Sheriff's Office. To avoid prejudicing these ongoing investigations or interfering with the testimony of parties and witnesses, the City is withholding responsive materials to your request at this time because disclosure of such materials at this time would substantially interfere with the successful completion of the investigations and/or enforcement proceedings. Accordingly, the Alameda Police Department has determined the public interest in non-disclosure clearly outweighs the public interest in disclosure. Gov. Code, section 6254 (f)(4), Penal Code, section 822.7(b)(7), Gov. Code, Section 6255.

We will update you as the investigation continues and when the video information may be made public consistent with Gov. Code, section 6254(f)(4)(A)(ii).

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 27, 2021 4:05 PM  
**To:** 'E. Fraser'  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Mr. Fraser,

The link below contains all of the materials the City has publically released. If and when additional materials are released we will supplement our response. Redactions were performed consistent with Government Code section 6254(c) (right to privacy).

<https://www.alamedaca.gov/Shortcut-Content/News-Media/City-releases-body-worn-camera-footage-of-in-custody-death-of-Mario-Gonzalez>

Regards, Lisa

Lisa K. Cooper  
Paralegal  
City of Alameda  
2263 Santa Clara Avenue, Room #280  
Alameda, CA 94501  
(510) 747-4764  
[lcooper@alamedacityattorney.org](mailto:lcooper@alamedacityattorney.org)

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**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Tuesday, April 27, 2021 11:37 AM  
**To:** Lisa Cooper  
**Cc:** City Clerk  
**Subject:** RE: [EXTERNAL] Public Records Request (Case Number 21-01762)

Ms. Cooper,

The City's excuse for delaying production of this request was that an investigation is ongoing. Yet, the City has released at least some information (the body camera footage) to outside parties (the family of Mr. Gonzalez). Hence, it is reasonable to infer that the fact gathering portion of the investigation has ceased. Therefore, the City has no excuse to delay further.

Please send me the body camera footage, calls for service, and other objective information without further delay.

-Erin Fraser

----- Original Message -----

On Saturday, April 24th, 2021 at 8:15 AM, E. Fraser <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)> wrote:

Madam Clerk and Ms. Cooper,

Two non-legal thoughts.

First, the City claims in its press release "The City is committed to full transparency and accountability in the tragic death of Mario Gonzalez." Yet, the City is denying release of any records. Thus, it seems the presser is disingenuous. Or, if it is a genuine reflection of the City's intent, then follow through and produce the records I requested.

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-Erin Fraser

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Regards, Lisa

Lisa K. Cooper

Paralegal

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**From:** Lisa Cooper  
**Sent:** Tuesday, April 20, 2021 9:03 AM  
**To:** 'elfraser@protonmail.com' <[elfraser@protonmail.com](mailto:elfraser@protonmail.com)>  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

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Regards, Lisa

Lisa K. Cooper

Paralegal

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**From:** Lara Weisiger  
**Sent:** Tuesday, April 20, 2021 8:58 AM  
**To:** Rita Dharmani ; Randy Fenn ; Alan Cohen ; Lisa Cooper  
**Subject:** FW: [EXTERNAL] Public Records Request (Case Number 21-01762)

Hi Again,

I assume this is a Police case number, but if not please let me know and I will try to figure out the correct department.

Thanks,

Lara

**From:** E. Fraser [<mailto:elfraser@protonmail.com>]  
**Sent:** Monday, April 19, 2021 11:50 PM  
**To:** City Clerk <[CLERK@alamedaca.gov](mailto:CLERK@alamedaca.gov)>  
**Subject:** [EXTERNAL] Public Records Request (Case Number 21-01762)

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Madam Clerk,

Please see the attached request.

- Erin Fraser