

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 Supplemental Position Statement Regarding Complainant Erin Fraser's Sunshine Ordinance Complaint, dated April 13, 2022

As requested, Respondent City of Alameda, hereby submits its responses to the questions propounded by the Open Government Commission on Thursday, May 5, 2022. Respondent welcomes the opportunity to provide further input to the Commission and both Mr. Cohen and Chief Joshi will be available on May 18, 2022 to answer any additional questions.

Question 1: The APD receives and collects "records" in a variety of formats depending on the types of media such as documents, data, audio, video, etc. Please provide a list of formats that APD routinely uses in the course of business to store the original record of the various media.

Answer: The Alameda Police Department uses several systems. Sun Ridge System Inc. is the reporting and computer aided dispatch system. It can produce PDF documents for most inputs. Axon Inc. provides a digital software solution for video recordings as well as photographs and audio recordings. These are our most used sources of media. Body Worn Camera is recorded in the field an MPEG file then uploaded to [Evidence.com](https://evidence.com). Dispatch recordings are generally recorded as wav files. Police reports and other written information are prepared in a Sun Ridge Systems Inc proprietary database and then produced to requestors or outside agencies as a PDF.

Question 2: If it is possible to respond without breaching the attorney/client privilege or disclosing attorney work product, can you identify which custodians of records (names or groups of individual City employees) were informed of the Complainant's PRA request in the process of collecting potentially responsive records? Put another way: To whom did the City reach out to in requesting that individual employees provide responsive records to the City for the City's analysis of whether such records were responsive to Complainant's request?

Answer: Mr. Fraser's April 19, 2021, California Public Records Act Request was emailed to the City Clerk at 11:50 p.m. on April 19, 2021. Thereafter, Alameda Police Department Command staff, including the Captains of Administrative and Field Services, the records custodian for the Alameda Police Department and the City Attorney's Office were advised of the request. Records were then collected by the Department and forwarded to the City Attorney's Office to determine the applicability of

any exemptions. In addition, during the applicable period information was requested and collected by the outside agencies charged with investigating the incident.

Question 3: Were the actions of City employee Charlie Clemmens investigated by the Sheriff's department as a participant in the case since he did participate in subduing Mr. Gonzalez?

Answer: The City Attorney's Office declines to comment on the scope of the Alameda County Sheriff's Office investigation. Responsive information is not within the purview of Mr. Fraser's Complaint or relevant to the Commission's responsibility to provide advice and recommendations to the City Attorney and City Manager.

Question 4: If so, then why were the records redacted pertaining to his participation, thereby resulting in the withholding of entire records?

Answer: Because Respondent is unclear which records the Commission is referring to, it cannot fully respond to this question. As detailed more fully in its Position Statement, the Alameda County Sheriff's Office and the Alameda County District Attorney's Office independently determined and controlled the scope of the external investigations into the incident. Pursuant to Penal Code Section 832.7, the City was compelled to withhold information to avoid interfering with or endangering the successful completion of the third-party investigations.

Question 5: Can you describe the steps that were taken to request personal emails by PD employees pertaining to the case?

Answer: See, response to question 2. During the active investigations, the City was committed to ensuring that there was no interference in the process and complied with any and all requests for evidence from the investigatory bodies. The City is informed and believes that during the investigations, participants were asked about all of their communications about the incident and there was no responsive information. Had there been communications, those communications would have been recovered as evidence. Furthermore, the Department conducted a diligent search and made a reasonable inquiry under the parameters of the Critical Incident Protocols.

Question 6: Can you describe the steps that were taken to review internal PD terminal messages pertaining to the case?

Answer: See, response to question 2. The Department conducted a diligent search and made a reasonable inquiry under the parameters of the Critical Incident Protocols. The City is informed and believes that during the investigations, participants were asked about all of their communications about the incident and there was no responsive information. Had there been communications, those communications would have been recovered as evidence.