

RECEIVED
JUL 11 2018

City of Alameda



CITY OF ALAMEDA
CITY CLERK'S OFFICE

OPEN GOVERNMENT COMMISSION
2263 Santa Clara Avenue, Suite 380
Alameda, CA 94501
(510) 747-4800

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: ALAMEDA POLICE DEPARTMENT
1) KAREN FRECCERO #411 RECORDS

Name of individual contacted at Department or Commission: 2) ALICIA REDDY BADGE #33
3) MIKE AGOSTA BADGE #S-11

- Alleged violation of public records access.
- Alleged violation of public meeting. Date of meeting: _____

Sunshine Ordinance Section: SECTION 2-93, SPECIFICALLY SECTION 2-93.7
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

*SEE ATTACHED LETTER; THE COPY OF MY CALIFORNIA PUBLIC RECORDS REQUEST; THE COPY OF MY ALAMEDA POLICE DEPARTMENT PERSONNEL COMPLAINT REPORT AND A COPY OF ALAMEDA MUNICIPAL CODE 2-93.7.

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: JAMES LOGAN HOWLEY Address: _____

Telephone No: (614) 361-0158 E-mail Address: james.howley75@yahoo.com

Date: 11 JULY 18 James J. Howley
Signature

Dear Open Government Commission,

On June 27, 2018, I received a response letter to Public Records Act Request I submitted to the Alameda Police Department on June 18, 2018, from Alameda's Chief Litigation Counsel, Alan M. Cohen. In regard to my request for copies of body camera footage/audio, etc, from the February 18, 2018 incident in which Alameda Police officers subjected me to excessive force, Mr. Cohen stated:

“the California Public Records Act includes a specific exemption from disclosure for law enforcement investigative files; namely ‘records 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 state or local police agency...for correctional, law enforcement or licensing....’ (Gov. Code 6254, subd.(f); 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.).

This violates Alameda Municipal Code 2-93.7: “Sunshine Ordinance Supersedes Other Local Law - The provisions of this Sunshine Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply”.

According to this code, it appears as if Mr. Cohen's citing is inaccurate. Thank you for your time and attention to this matter.

Signed,


James Logan Howley

11 JULY 18

City of Alameda • California



June 27, 2018

James Logan Howley
330 Westline Drive #B424
Alameda, CA 94501

Re: Public Records Act Request to the Alameda Police Department

Dear Mr. Howley:

On June 18, 2018, the Alameda Police Department received your California Public Records Act (CPRA) Request for:

1. "...copies of any and all content, including but not limited to: all of the officers' body camera footage and any related audio; any and all dash cam video and related audio; dispatcher logs; police reports; internal memos; and any and all related departmental policies from the incident/s involving James Howley (Case #18-940/Resisting arrest) that occurred on Sunday, February 18, 2018 at the following locations: my home address 330 Westline Drive #B424, Alameda CA 94501; Alameda Hospital 2070 Clinton Avenue Alameda CA 94501; and John George Psychiatric Hospital, 2060 Fairmont Drive San Leandro CA 94578."
2. "...any and all information related to the quantity, date and outcome of any and all complaints made against Office Kevin Campi #30; Officer Jeannette Cazares #85 and Officer Sara Cardona #11."

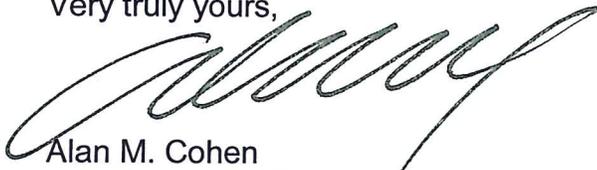
Both categories of records you seek are exempt from disclosure under the California Public Records Act. With regard to the first category of records you seek, the California Public Records Act includes a specific exemption from disclosure for law enforcement investigative files; namely ["r]ecords of . . . 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"

(Gov. Code, § 6254, subd. (f)); *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.).

With regard to the second category of records you seek, under Penal Code section 832.7, peace officer personnel records are confidential and may not be disclosed absent compliance with the noticed motion procedures outlined in Evidence Code sections 1043 through 1047. Pursuant to Evidence Code section 1043(b)(3), a motion to discover police personnel records must be supported by an affidavit which shows good cause and sets forth the materiality of the requested information to the subject matter involved in the pending litigation. Since none of the procedures necessary for the City to disclose Officers Campi, Cazares, and Cardona's personnel files have been complied with, no records can be disclosed.

Please feel free to call me if you have any questions.

Very truly yours,



Alan M. Cohen
Chief Litigation Counsel
City of Alameda

James Logan Howley
330 Westline Drive #B424
Alameda, CA 94501

18 June 18

Sgt. Mike Agosta
Alameda Police Department
1555 Oak Street
Alameda, CA 94501

RECEIVED
JUN 18 2018
BY: *JLH* # 411 RECORDS

Dear Sgt. Agosta,

This is a request under the California Public Records Act 6250 et seq. and my request is two-fold.

1. I request copies of any and all content, including but not limited to: all of the officers' body camera footage and any related audio; any and all dash cam video and related audio; dispatcher logs; police reports; internal memos; and any and all related departmental policies from the incident/s involving James Howley (Case #18-940/Resisting arrest) that occurred on Sunday, February 18, 2018 at the following locations: my home address 330 Westline Drive #B424, Alameda CA 94501; Alameda Hospital 2070 Clinton Avenue Alameda CA 94501; and John George Psychiatric Hospital, 2060 Fairmont Drive San Leandro CA 94578.

2. Please include any and all information related to the quantity, date and outcome of any and all complaints made against Officer Kevin Campi #30; Officer Jeannette Cazares #85 and Officer Sara Cardona #11.

Signed,



James Logan Howley
(614) 361-0158



ALAMEDA POLICE DEPARTMENT

PERSONNEL COMPLAINT REPORT

RECEIVED
JUN 18 2018

BY: #33

CITIZEN/ EXTERNAL

INTERNAL

18 JUN 18 - FILED

DATE & TIME 18 FEB 18 @ 330A-400A - INCIDENT		COMPLAINTEE LOG	
NAME (REPORTING PARTY) JAMES LOGAN HOWLEY		SEX M	RACE WH
ADDRESS 330 WESTLINE DR #B424		AGE 42	DOB 01/15/75
RELATIONSHIP OF REPORTING PARTY TO VICTIM OF MISCONDUCT:		HOME PHONE (614) 961-0158	
VICTIM OF MISCONDUCT (IF OTHER THAN REPORTING PARTY):		BUSINESS PHONE	
ADDRESS		VICTIMS HOME PHONE	
BUSINESS (NAME /ADDRESS)		VICTIMS BUSINESS PHONE	

DESCRIPTION OF COMPLAINT (BE SPECIFIC, INCLUDE DATE, TIME AND LOCATION)

ON SUNDAY FEB 18, 2018 AT @ 3:30-4AM INSIDE MY HOME AT 330 WESTLINE DR. #B424 OFFICER KEVIN CAMPI (#30) AND OFFICER JEANNETTE CAZERES (#85) FORCED ME TO THE GROUND USING EXCESSIVE FORCE AND ONE OF THE OFFICERS UNNECESSARILY TASED ME TWICE; CAUSING ME PHYSICAL PAIN, ELICITING BODILY INJURY AND PHYSICAL WOUNDS. APD WAS CALLED TO MY HOME BY ONE OF MY FRIENDS FOR A HEALTH + WELLNESS CHECK BUT THROUGH THEIR LACK OF COMMAND OF TEMPER, ALL 3 OFFICERS NAMED BELOW BEHAVED AS IF THEY HAD BEEN CALLED TO ARREST ME. AFTER AN APPROXIMATE 12 HOUR STAY AT JOHN GEORGE I WAS BOOKED INTO SANTA RITA AND CHARGED WITH RESISTING ARREST.

(USE ADDITIONAL PAPER IF NECESSARY)

WITNESS NAME	SEX	RACE	AGE	DOB	HOME PHONE
ADDRESS	BUSINESS NAME/ADDRESS			BUSINESS PHONE	
WITNESS NAME	SEX	RACE	AGE	DOB	BUSINESS PHONE
ADDRESS	BUSINESS NAME/ADDRESS			BUSINESS PHONE	
ANYONE ARRESTED NAME JAMES LOGAN HOWLEY	ADDRESS SAME AS ABOVE			REPORT # 18-940	
SUBJECT OF COMPLAINT (IDENTITY OF OFFICER OR EMPLOYEE COMMITTING ACT)					
NAME KEVIN CAMPI (#30)	CAR/BADGE NUMBER 85	DESCRIPTION APD		RACE	
NAME JEANNETTE CAZERES	CAR/BADGE NUMBER 11	DESCRIPTION APD		RACE	
NAME SARA CARDONA	CAR/BADGE NUMBER	DESCRIPTION		RACE	

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE.

THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

I UNDERSTAND AND IT IS MY DESIRE THAT THIS COMPLAINT BE INVESTIGATED DILIGENTLY. I ALSO UNDERSTAND THAT IN SOME CASES I MAY BE CONTACTED IN ORDER TO CLARIFY SOME OF MY STATEMENTS.

SIGNATURE OF REPORTING PARTY <i>James Logan Howley</i>	SIGNATURE OF PARENT (IF R/P UNDER 18 YRS.)
WAS ANY PARTY OR WITNESS TO THE COMPLAINT DETAINED OR INTERVIEWED BY THE POLICE? _____	WHO? _____
DISTRIBUTION: ORIGINAL: CAPTAIN, BUREAU OF SERVICES, COPY: INSPECTIONAL SERVICES	R/P _____
COMPLAINT REC'D BY: OFFICER: _____	DATE: _____ TIME: _____
<input type="checkbox"/> PHONE <input type="checkbox"/> MAIL <input type="checkbox"/> PERSON <input type="checkbox"/> OTHER	

Only the City Council shall be responsible for the administration and coordination of the provisions of the Alameda Sunshine Ordinance, except to the extent that the City Manager carries out the responsibilities described in Section 2-92.2.

(Ord. No. 3036 N.S., § 1, 11-1-2011)

2-93.5 - Declaration by and Training Requirements for Form 700 Filers.

All City employees and officials who are required to file FPPC Form 700 shall sign an annual affidavit or declaration stating under penalty of perjury that they have read the Sunshine Ordinance and have attended, or will attend when next offered, a training session on the Sunshine Ordinance, to be held at least every third year, provided (a) newly hired employees and newly elected or appointed officials shall within six (6) months of their hire, election or appointment either attend a training session or review the tape of the most recent training session and (b) additional training session shall be provided when there are substantive amendments to the Sunshine Ordinance. The Alameda City Attorney's Office with the assistance of the Commission shall provide the training, which training session will be taped.

(Ord. No. 3036 N.S., § 1, 11-1-2011; Ord. No. 3151 N.S., § 16, 4-19-2016)

2-93.6 - Annual Public Report.

The Commission shall prepare an annual report to be placed on the City's website and made generally publicly available in printed form of alleged violations of the Ordinance brought to its attention during the previous calendar year. The report shall identify the nature of the alleged violation, the relief sought by each petition, the disposition or current status thereof and the location of all records relevant to each petition. With advance notice to City Clerk's Office, the Commission may also request a tally of records requests for statistical or comparative purposes.

(Ord. No. 3036 N.S., § 1, 11-1-2011)

2-93.7 - Sunshine Ordinance Supersedes Other Local Laws.

The provisions of this Sunshine Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply.