

From: Scott Morris <scott.morris@gmail.com> 15-Apr-2020 12:09
To: City Clerk <clerk@alamedaca.gov>
Subject: Public records request: APD arrest info
Attachments: INTERNET (3991 bytes)
MESSAGE HTML (3535 bytes)

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

From: LARA WEISIGER <lweisiger@alamedaca.gov>

15-Apr-2020 14:27

To: Rita Dharmani <rdharmani@alamedaca.gov>, Florence Lopez <flopez@alamedaca.gov>, PAUL ROLLERI
<prolleri@alamedaca.gov>

CC: City Clerk <clerk@alamedaca.gov>

Subject: FW: Public records request: APD arrest info

Attachments: MESSAGE HTML (7246 bytes)

Hi,
Can your department please respond to this request?
Thanks,
Lara

From: Scott Morris [mailto:scott.morris@gmail.com]
Sent: Wednesday, April 15, 2020 12:09 PM
To: City Clerk <CLERK@alamedaca.gov>
Subject: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,
I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,
Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

From: Rita Dharmani <rdharmani@alamedaca.gov>

15-Apr-2020 14:33

To: LARA WEISIGER <lweisiger@alamedaca.gov>

CC Florence Lopez <flopez@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>, PAUL ROLLERI
<prolleri@alamedaca.gov>

Subject: RE: Public records request: APD arrest info

Attachments: INTERNET (1841 bytes)

MESSAGE HTML (11530 bytes)

Hi Lara,

Yes I will respond to this request

Rita

Rita Dharmani

Records Supervisor

Alameda Police Department

Ph.: 510-337-8412

rdharmani@alamedaca.gov

CONFIDENTIALITY NOTICE: This transmittal is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this transmittal is not the intended recipient or the employee or agent responsible for delivering the transmittal to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited.

From: LARA WEISIGER

Sent: Wednesday, April 15, 2020 2:28 PM

To: Rita Dharmani; PAUL ROLLERI; Florence Lopez

Cc: City Clerk

Subject: FW: Public records request: APD arrest info

Hi,

Can your department please respond to this request?

Thanks,

Lara

From: Scott Morris [mailto:scott.morris@gmail.com]

Sent: Wednesday, April 15, 2020 12:09 PM

To: City Clerk CLERK@alamedaca.gov

Subject: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

#xD;

From: LARA WEISIGER <lweisiger@alamedaca.gov> 15-Apr-2020 14:33

To: Rita Dharmani <rdharmani@alamedaca.gov>

Subject: RE: Public records request: APD arrest info

Attachments: INTERNET (1645 bytes)

MESSAGE HTML (12340 bytes)

Thanks, Rita!

From: Rita Dharmani

Sent: Wednesday, April 15, 2020 2:33 PM

To: LARA WEISIGER <LWEISIGER@alamedaca.gov>

Cc: City Clerk <CLERK@alamedaca.gov>; Florence Lopez <FLOPEZ@alamedaca.gov>; PAUL ROLLERI <PROLLERI@alamedaca.gov>

Subject: RE: Public records request: APD arrest info

Hi Lara,

Yes I will respond to this request.

Rita

Rita Dharmani

Records Supervisor

Alameda Police Department

Ph.: 510-337-8412

rdharmani@alamedaca.gov

CONFIDENTIALITY NOTICE This transmittal is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If the reader of this transmittal is not the intended recipient or the employee or agent responsible for delivering the transmittal to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited

From: LARA WEISIGER

Sent: Wednesday, April 15, 2020 2:28 PM

To: Rita Dharmani; PAUL ROLLERI; Florence Lopez

Cc: City Clerk

Subject: FW: Public records request: APD arrest info

Hi,

Can your department please respond to this request?

Thanks,

Lara

From: Scott Morris [<mailto:scott.morris@gmail.com>]

Sent: Wednesday, April 15, 2020 12:09 PM

To: City Clerk <CLERK@alamedaca.gov>

Subject: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

From: Alan Cohen <acohen@alamedacityattorney.org>

27-Apr-2020 18:32

To: scott.morris@gmail.com <scott.morris@gmail.com>

CC: Lisa Cooper <lcooper@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>

BCC:

Subject: Public records request: APD arrest info

Attachments: INTERNET (219 bytes)

MESSAGE HTML (15349 bytes)

Arrests 0413 0426.pdf (184969 bytes)

Dear Mr Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020.

While the City can provide you with certain, non-exempt information regarding non-juvenile arrests made during the two weeks preceding this response, historical arrest data is generally not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.)

The CPRA includes a specific exemption from disclosure for "[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, or any investigatory or security files compiled . . . 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)

While Government Code Section 6254(f)(1) - (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. *See, County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website: – www.alamedaca.gov/police - Review Crime Activity - Daily Activity Log. The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non-juveniles for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rules of Court 5 552; and Penal Code sections 11167 and 11167.5 (disclosure of records containing information about juveniles is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy rights of third parties, including the victim. *See*, Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law]; *See, also* Penal Code Section 293

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential

and privileged information Any unauthorized review, use, disclosure or distribution is prohibited If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments Thank you

From: Scott Morris [<mailto:scott.morris@gmail.com>]

Sent: Wednesday, April 15, 2020 12:09 PM

To: City Clerk <CLERK@alamedaca.gov>

Subject: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

[@oakmorr](https://twitter.com/oakmorr)
scottmorris.news

ALAMEDA POLICE DEPARTMENT

Adult Arrest Log

Arrest Date: April 13, 2020 – April 26, 2020

20-01613

Arrest Location: BUENA VISTA AV

Arrest Date / Time: 4/13/2020 1:24:18 AM

Arrestee:

Race: W Sex: F Age: 19

DOB:

Height: 502 Weight: 240

Residence:

Charge(s): 273.5 (A) PC INFLICT CORPORAL INJURY ON SPOUSE/COHAB 09 Other Assaults

Summary: During an argument, (SUS) threw (VIC) to the ground which caused visible injuries.

20-01621

Arrest Location: 2000 GRAND ST

Arrest Date / Time: 4/13/2020 7:19:00 PM

Arrestee:

Race: W Sex: M Age: 34

DOB:

Height: 507 Weight: 168

Residence:

Charge(s): 647 (F) PC DISORDERLY CONDUCT:INTOX DRUG WITH ALCOHOL 23 Drunkenness

Summary: ARR was contacted on a public sidewalk and found to be too intoxicated to care for his own safety or the safety of others.

20-01627

Arrest Location: 2070 CLINTON AV

Arrest Date / Time: 4/14/2020 1:19:05 PM

Arrestee:

Race: W Sex: M Age: 58

DOB:

Height: 508 Weight: 185

Residence:

Charge(s): 594 (A)(2) PC VANDALISM DAMAGE PROPERTY 14 Vandalism 594 (A)(2) PC

Summary: SUS maliciously damaged hospital property.

20-01631

Arrest Location: 1151 PACIFIC MARINA

Arrest Date / Time: 4/14/2020 6:46:54 PM

Arrestee:

Race: W Sex: M Age: 43

DOB:

Height: 511 Weight: 180

Residence:

Charge(s): 11350 (A) HS POSSESS NARCOTIC CNTL SUB - MISD 18 Drug Abuse Violations
466 PC POSSESS/ETC BURGLARY TOOLS 26 All Other Offenses 466 PC
485 PC APPROPRIATE LOST PROPERTY [OVER \$950] 13 Stolen Property.
1203.2 PC MISD PROBATION VIOLATION 26 All Other Offenses 1203.2 PC

Summary: CIT was in possession of a controlled substance

20-01643

Arrest Location: ROBERT DAVEY JR DR &
PUDDINGSTONE RD

Arrest Date / Time: 4/15/2020 5:39:00 PM

Arrestee:

Race: B Sex: M Age: 28

DOB:

Height: 507 Weight: 190

Residence:

Charge(s): 459 PC BURGLARY: FIRST DEGREE - Unlawful Entry/Not Forced 05b. Burglary -
Breaking & Entering: b. Unlawful Entry Not Forced 459 PC
1203.2 PC FELONY FELONY PROBATION VIOLATION 26 All Other Offenses

Summary: ARR entered VIC's home without permission and took personal property. ARR was also
in violation of his active felony probation (burglary).

20-01646

Arrest Location: 1719 BAY ST

Arrest Date / Time: 4/15/2020 7:31:33 PM

Arrestee:

Race: H Sex: M Age: 28

DOB:

Height: 507 Weight: 150

Residence:

Charge(s): 1203.2 PC FELONY FELONY PROBATION VIOLATION 26 All Other Offenses
11377(A) HS POSS CONTROLLED SUBSTANCE - MISD 18 Drug Abuse Violations

Summary: SUS was contacted after reportedly looking into unoccupied vehicles. SUS was found in
possession of suspected methamphetamine, in violation of his probation terms.

20-01647

Arrest Location: 2060 FAIRMONT DR

Arrest Date / Time: 4/16/2020 3:50:00 PM

Arrestee:

Race: B Sex: M Age: 28

DOB:

Height: 509 Weight: 160

Residence:

Charge(s): 211 PC ROBBERY: FIRST DEGREE - d. Strong Arm 03d. Robbery:
148 (A)(1) PC OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY
166 (A)(4) PC CONTEMPT OF COURT: DISOBEY COURT ORDER/ETC

Summary: ARR stole merchandise from VAB by force.

20-01655

Arrest Location: 2681 BLANDING AV

Arrest Date / Time: 4/16/2020 9:27:00 AM

Arrestee:

Race: W Sex: M Age: 24

DOB:

Height: 602 Weight: 175

Residence:

Charge(s): 484 (A) PC PETTY THEFT: PERSONAL PROPERTY \$950 AND UNDER 06i.
Larceny/Theft

Summary: ARR stole merchandise from VAB.

From: Scott Morris <scott.morris@gmail.com> 27-Apr-2020 18:39
To: Alan Cohen <acohen@alamedacityattorney.org>
Subject: Re: Public records request: APD arrest info
Attachments: INTERNET (4203 bytes)
MESSAGE HTML (16575 bytes)

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

Is the city's position here that it doesn't retain any record of the people arrested by its Police Department for more than 14 days?

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Dear Mr Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020

While the City can provide you with certain, non-exempt information regarding non-juvenile arrests made during the two weeks preceding this response, historical arrest is data is generally not subject disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.)

The CPRA includes a specific exemption from disclosure for "[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, or any investigatory or security files compiled . . . 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.)

While Government Code Section 6254(f)(1) (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. See, *County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website: – www.alamedaca.gov/police - Review Crime Activity Daily Activity Log The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non juveniles for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rules of Court 5.552; and Penal Code sections 11167 and 11167.5 (disclosure of records containing information about juveniles is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy rights of third parties, including the victim. See, Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law]; See, also Penal Code Section 293.

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]
Sent: Wednesday, April 15, 2020 12:09 PM
To: City Clerk <CLERK@alamedaca.gov>
Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris

Writer/Reporter

(510) 871 5114

[@oakmorr](#)

[scottmorris.news](#)

From: Scott Morris <scott.morris@gmail.com>

27-Apr-2020 19:34

To: Alan Cohen <acohen@alamedacityattorney.org>

CC: Lisa Cooper <lcooper@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (4219 bytes)

MESSAGE HTML (17652 bytes)

***** CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Resending to all recipients

Hi,

No, I see the problem. You are citing *County of Los Angeles v Superior Court*, an outdated precedent that does not have jurisdiction and has since been overturned.

Please see *FREDERICKS v. City of San Diego* which found the Kusar decision relied on an old version of the statute and has since been amended to remove the "current" language "On their face, the disclosure requirements in section 6254, subdivision (f)(2), for "the time, substance and location of all complaints or requests for assistance received" by a state or local law enforcement agency, and the responses thereto, are expansive. There is no basis in the plain language of the statute to read into it any 60-day limitation on access to disclosable information."

Given that, there is certainly no basis to read a 14-day limitation either. Please release the requested records without further delay.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

[@oakmorr](#)
[scottmorris news](#)

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote

Dear Mr. Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions

and parole or probation holds " Your request seeks information for the period covering Feb 1, 2020, through April 15, 2020.

While the City can provide you with certain, non exempt information regarding non juvenile arrests made during the two weeks preceding this response, historical arrest is data is generally not subject disclosure under the California Public Records Act (CPRA) (Gov Code, § 6250 et seq)

The CPRA includes a specific exemption from disclosure for "[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 , or any .investigatory or security files compiled 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.)

While Government Code Section 6254(f)(1) (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. *See, County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website: – www.alamedaca.gov/police - Review Crime Activity Daily Activity Log The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non juveniles for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rules of Court 5.552; and Penal Code sections 11167 and 11167.5 (disclosure of records containing information about juveniles is prohibited) We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy rights of third parties, including the victim See, Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law]; *See, also* Penal Code Section 293.

Feel free to contact me, should you have any questions about this determination I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If

you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]

Sent: Wednesday, April 15, 2020 12:09 PM

To: City Clerk <CLERK@alamedaca.gov>

Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris

Writer/Reporter

(510) 871-5114

@oakmorr

scottmorris news

From: Alan Cohen <acohen@alamedacityattorney.org>

29-Apr-2020 17:24

To: Scott Morris <scott.morris@gmail.com>

CC: Lisa Cooper <lcooper@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>

Yibin Shen <yshen@alamedacityattorney.org>, PAUL ROLLERI <prolleri@alamedaca.gov>, Rita Dharmani
BCC:

Attachments: INTERNET (447 bytes)

MESSAGE HTML (29666 bytes)

Mr Morris,

Thank you for your response. The City is confident that the authorities it cited in its April 27, 2020 determination letter remain settled law. Your Public Records Act request was for the type of information described in Government Code Section 6254(f)(1); namely for information on every individual arrested by the City of Alameda between February 1, 2020 and April 15, 2020.

The authority to place temporal limitations on the disclosure of historical arrest information discussed in the Second District Court of Appeal's decision in *County of Los Angeles v Superior Court (Kusar)* (1993) 18 Cal App. 4th 588 remains settled law. The Fourth District Court of Appeal decision in *Fredericks v. Superior Court of San Diego County* (2015) 233 Cal App 4th 209 did not overrule *Kusar* nor could it have.

Moreover, the issue in *Fredericks* related to a request for information on "complaints and/or requests for assistance" under Government Code 6254(f)(2). As the Fourth District said in *Fredericks*, *Kusar*, in which the arrest information sought involved Government Code 6254(f)(1), should not be read as establishing a time limitation for disclosures under Government Code 6254(f)(2). Disclosure of information derived from citizen complaints under Government Code 6254(f)(2) raises different legal and policy concerns than does the release of historical information about arrestees.

The City's press log of arrest records is only retained for a short period of time. The unredacted disclosure of historical arrest records would interfere with an individual's constitutional and statutory privacy rights. Given that this data would have to be extracted from the City's investigation reports, the Department would have to undertake a complicated, time consuming review, redaction, and production process to arrange for the release of nonexempt information. The public interest in disclosure of historical arrest data is not outweighed by the potential privacy concerns of third parties and the fiscal and workload burdens imposed on the City by this request. (See, Government Code Section 6255)

Nevertheless, as an accommodation, the City will review its records for responsive information that falls within the 30 day period preceding your request. Because this information will need to be extracted from a database and redacted for exempt information, the City will require an additional 14 days to process your request. (See Government Code Section 6253) Accordingly, our updated response will be provided to you no later than **May 11, 2020**.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris <scott.morris@gmail.com>
Date: Monday, April 27, 2020 at 7:34 PM
To: Alan Cohen <acohen@alamedacityattorney.org>

Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>

Subject: Re Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Resending to all recipients:

Hi,

No, I see the problem. You are citing County of Los Angeles v. Superior Court, an outdated precedent that does not have jurisdiction and has since been overturned.

Please see FREDERICKS v. City of San Diego which found the Kusar decision relied on an old version of the statute and has since been amended to remove the "current" language. "On their face, the disclosure requirements in section 6254, subdivision (f)(2), for "the time, substance and location of all complaints or requests for assistance received" by a state or local law enforcement agency, and the responses thereto, are expansive. There is no basis in the plain language of the statute to read into it any 60-day limitation on access to disclosable information."

Given that, there is certainly no basis to read a 14-day limitation either. Please release the requested records without further delay.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris news

#xD;

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Dear Mr. Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020.

While the City can provide you with certain, non exempt information regarding non juvenile arrest made during the two week preceding this response, historical arrest data is generally not subject disclosure under the California Public Record Act (CPRA) (Gov Code, § 6250 et seq)

The CPRA includes a specific exemption from disclosure for "[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, or any investigatory or security files compiled . . . 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.)

While Government Code Section 6254(f)(1) - (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. See, *County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website: – www.alamedaca.gov/police - Review Crime Activity - Daily Activity Log. The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non juvenile for the period of April 13, 2020 through April 25, 2020. Juvenile arrest are exempt from disclosure under Government Code section 6254(k) [record exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rule of Court 5.552; and Penal Code section 11167 and 11167.5 (disclosure of record containing information about juvenile is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy right of third parties, including the victim. See, Government Code section 6254(k) [record exempt or prohibited from disclosure pursuant to federal or state law]; See, also Penal Code Section 293.

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]
Sent: Wednesday, April 15, 2020 12:09 PM
To: City Clerk <CLERK@alamedaca.gov>
Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb 1, 2020, through the date of this request, April 15, 2020

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

From: Scott Morris <scott.morris@gmail.com>

29-Apr-2020 17:39

To: Alan Cohen <acohen@alamedacityattorney.org>

CC: Lisa Cooper <lcooper@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (4348 bytes)

MESSAGE HTML (30184 bytes)

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Alan,

This is hardly settled law as it is a highly irregular practice by the city of Alameda and relies on court decision from the 2nd District, which does not apply to the city of Alameda.

Kusar relies on an old version of the statute, which contained the word "contemporaneous" that has since been removed. There is no time limitation in the text of 6254f, which should be your only guidance in this matter, not inapplicable court decisions:

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

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds

Please release the complete record as requested

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

On Wed, Apr 29, 2020 at 5:24 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Mr Morris,

Thank you for your response. The City is confident that the authorities it cited in its April 27, 2020 determination letter remain settled law. Your Public Records Act request was for the type of information described in Government Code Section 6254(f)(1); namely for information on every individual arrested by the City of Alameda between February 1, 2020 and April 15, 2020.

The authority to place temporal limitations on the disclosure of historical arrest information discussed in the Second District Court of Appeal's decision in *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal App. 4th 588 remains settled law. The Fourth District Court of Appeal decision in *Fredericks v. Superior Court of San Diego County* (2015) 233 Cal App 4th 209 did not overrule *Kusar* nor could it have.

Moreover, the issue in *Fredericks* related to a request for information on "complaints and/or requests for assistance" under Government Code 6254(f)(2). As the Fourth District said in *Fredericks, Kusar*, in which the arrest information sought involved Government Code 6254(f)(1), should not be read as establishing a time limitation for disclosures under Government Code 6254(f)(2). Disclosure of information derived from citizen complaints under Government Code 6254(f)(2) raises different legal and policy concerns than does the release of historical information about arrestees.

The City's press log of arrest records is only retained for a short period of time. The unredacted disclosure of historical arrest records would interfere with an individual's constitutional and statutory privacy rights. Given that this data would have to be extracted from the City's investigation reports, the Department would have to undertake a complicated, time consuming review, redaction, and production process to arrange for the release of nonexempt information. The public interest in disclosure of historical arrest data is not outweighed by the potential privacy concerns of third parties and the fiscal and workload burdens imposed on the City by this request. (See, Government Code Section 6255)

Nevertheless, as an accommodation, the City will review its records for responsive information that falls within the 30 day period preceding your request. Because this information will need to be extracted from a database and redacted for exempt information, the City will require an additional 14 days to process your request. (See Government Code Section 6253) Accordingly, our updated response will be provided to you no later than **May 11, 2020**.

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris <scott.morris@gmail.com>
Date: Monday, April 27, 2020 at 7:34 PM
To: Alan Cohen <acohen@alamedacityattorney.org>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Resending to all recipients

Hi,

No, I see the problem. You are citing *County of Los Angeles v Superior Court*, an outdated precedent that does not have jurisdiction and has since been overturned.

Please see [FREDERICKS v. City of San Diego](#) which found the Kusar decision relied on an old version of the statute and has since been amended to remove the "current" language. "On their face, the disclosure requirements in section 6254, subdivision (f)(2), for "the time, substance and location of all complaints or requests for assistance received" by a state or local law enforcement agency, and the responses thereto, are expansive. There is no basis in the plain language of the statute to read into it any 60-day limitation on access to disclosable information."

Given that, there is certainly no basis to read a 14-day limitation either. Please release the requested records without further delay.

Thanks,

Scott

Scott Morris

Writer/Reporter

(510) 871 5114

[@oakmorr](#)

[scottmorris.news](#)

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Dear Mr Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020

While the City can provide you with certain, non-exempt information regarding non-juvenile arrests made during the two weeks preceding this response, historical arrest data is generally not subject disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.)

The CPRA includes a specific exemption from disclosure for "[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, or any investigatory or security files compiled . . . 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)

While Government Code Section 6254(f)(1) - (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained See, *County of Los Angeles v Superior Court* (1993) 18 Cal App 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record (*Id*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website www.alamedaca.gov/police Review Crime Activity - Daily Activity Log. The Department makes this information available to the public for a period of 14 days Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency "

I have attached a copy of the Department's arrest log for non juveniles for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rules of Court 5.552; and Penal Code sections 11167 and 11167.5 (disclosure of records containing information about juveniles is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy rights of third parties, including the victim. See, Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law]; See, also Penal Code Section 293.

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]
Sent: Wednesday, April 15, 2020 12:09 PM
To: City Clerk <CLERK@alamedaca.gov>
Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb. 1, 2020, through the date of this request, April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions.

Thanks,

Scott

Scott Morris

Writer/Reporter

(510) 871 5114

@oakmorr

scottmorris.news

From: Alan Cohen <acohen@alamedacityattorney.org>

30-Apr-2020 14:59

To: Scott Morris <scott.morris@gmail.com>

Attachments: INTERNET (447 bytes)

MESSAGE HTML (68694 bytes)

No, the City's position is that the information you seek (historical arrest data) is not subject to disclosure under the PRA. The City publishes its arrest log data for two weeks and anything beyond that is as a general rule not subj

Alan M Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice This e mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda . It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you

From: Scott Morris <scott.morris@gmail.com>
Date: Monday, April 27, 2020 at 6:39 PM
To: Alan Cohen <acohen@alamedacityattorney.org>
Subject: Re: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

Is the city's position here that it doesn't retain any record of the people arrested by its Police Department for more than 14 days?

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Dear Mr. Morri ,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of

release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020.

While the City can provide you with certain, non-exempt information regarding non-juvenile arrests made during the two weeks preceding this response, historical arrest information is generally not subject to disclosure under the California Public Records Act. (CPRA) (Gov. Code, § 6250 et seq.)

The CPRA includes a specific exemption from disclosure for "[r]ecord of investigation conducted by, or record of intelligence information or security procedure of any state or local police agency, or any such investigatory or security file compiled by any other state or local police agency, or any investigatory or security file compiled for correctional, law enforcement or licensing purpose" (Gov. Code, § 6254, subd. (f)); See, also *Williams v. Superior Court* (1993) 5 Cal. 4th 337. Once an investigation has begun, all material that relates to the investigation and are thus properly included in the file remain exempt from disclosure indefinitely (*Id.* at pp. 355, 361-362).

While Government Code Section 6254(f)(1) - (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. See, *County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Records Counter and Alameda Police Department website: – www.alamedaca.gov/police – Review Crime Activity - Daily Activity Log. The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amounts are set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non-juvenile for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [record exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rule of Court 5.552; and Penal Code section 11167 and 11167.5 (disclosure of record containing information about juvenile is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy right of third parties, including the victim. See, Government Code section 6254(k) [record exempt or prohibited from disclosure pursuant to federal or state law]; See, also Penal Code Section 293.

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755

acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]

Sent: Wednesday, April 15, 2020 12:09 PM

To: City Clerk <CLERK@alamedaca.gov>

Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments

unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb 1, 2020, through the date of this request, April 15, 2020

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

From: Scott Morris <scott.morris@gmail.com>

12-May-2020 13:03

To: Alan Cohen <acohen@alamedacityattorney.org>

CC: Lisa Cooper <lcooper@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (4362 bytes)

MESSAGE HTML (5146 bytes)

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Alan,

This response remains incomplete and your reasoning is based on an outdated decision from a court that has no authority here. I submitted the same request in every other jurisdiction in the county. None of them made the unreasonable arguments you've made here and nearly all have provided the requested records in full by now I've submitted a complaint to the city's Open Government Commission.

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

On Tue, May 12, 2020 at 12:45 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Hi Mr Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>

13-May-2020 15:48

To: Scott Morris <scott.morris@gmail.com>

CC: Lisa Cooper <lcooper@alamedacityattorney.org>, LARA WEISIGER <lweisiger@alamedaca.gov>

Subject: Public records request: APD arrest info

Attachments: INTERNET (1964 bytes)

MESSAGE HTML (8249 bytes)

arrests 0201 - 03-28[1].pdf (2943522 bytes)

Mr Morris,

As I promised in our telephone conversation, I am forwarding the City's third and final Alameda Police Department generated report containing a list of historical arrest information for the period of February 1, 2020 and March 28, 2020. This along with the previous two sets of documents I emailed you contains the complete set of data from the City's public arrest logs for the February 1, 2020 and April 15, 2020, time period outlined in your original Public Record's Act request.

The City has voluntarily agreed to generate this information to avoid further administrative entanglements. We, however, remain committed to striking a reasonable balance between the public's right to know and the arrestee's constitutional and statutory right's to privacy which were at the heart of both the *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal. App. 4th 588 and *Fredericks v. Superior Court of San Diego County* (2015) 233 Cal App 4th 209 decisions.

Please feel free to contact me should you have any additional questions.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Tuesday, May 12, 2020 at 12:45 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request APD arrest info

Hi Mr Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.



ALAMEDA POLICE DEPARTMENT

Adult Arrest Log

Arrest Date: Saturday, February 01, 2020

20-00559

Arrest Location: Park St

Arrest Date / Time: 2/1/2020 2:06:27 AM

Arrestee:

Race: H Sex: M Age: 27

DOB:

Height: 511 Weight: 188

Residence:

Charge(s): 537 (A)(1) PC DEFRAUDING AN INNKEEPER [\$ OR LESS] 11 Fraud 537 (A)(1) PC
148 (A)(1) PC OBSTRUCT/RESIST/ETC PUBLIC/PEACE OFFICER/EMERGENCY 26
All Other Offenses 148 (A)(1) PC
647 (F) PC DISORDERLY CONDUCT:INTOX DRUG WITH ALCOHOL 23 Drunkenness
647 (F) PC

Summary: ARR was intoxicated in a public place and was unable to care for his own safety.

20-00565

Arrest Location: Otis Dr / Glenwood Isle

Arrest Date / Time: 2/1/2020 9:07:16 PM

Arrestee:

Race: B Sex: M Age: 32

DOB:

Height: 506 Weight: 140

Residence:

Charge(s): 148 (A) PC OBSTRUCTS/RESISTS PUBLIC OFFICER/ETC 26 All Other Offenses 148
(A) PC

Summary: ARR physically resisted police officers during a lawful traffic detention.

20-00566

Arrest Location: Clement Av / Elm St

Arrest Date / Time: 2/1/2020 10:52:20 PM

Arrestee:

Race: B Sex: M Age: 22

DOB:

Height: 600 Weight: 160

Residence:

Charge(s): OWRNT OUTSIDE WARRANT 00 Not Applicable OWRNT

Summary: ARR was taken into custody for an outstanding arrest warrant.

ALAMEDA POLICE DEPARTMENT

Adult Arrest Log

Arrest Date: Sunday, February 02, 2020

20-00570

Arrest Location: HIGH ST / OTIS DR

Arrest Date / Time: 2/2/2020 10:22:00 AM

Arrestee:

Race: B Sex: M Age: 51

DOB:

Height: 511 Weight: 190

Residence:

Charge(s): OUTFELWRNT OUTSIDE FELONY WARRANT 26 All Other Offenses OUTFELWRNT

Summary: ARR entered VAB with the intent to steal and took loss without paying.

20-00578

Arrest Location: 1600 BLOCK OF LINCOLN AVE

Arrest Date / Time: 2/2/2020 9:18:38 PM

Arrestee:

Race: H Sex: M Age: 27

DOB:

Height: 507 Weight: 150

Residence:

Charge(s): 23152 (A) VC DUI ALCOHOL 21 Driving Under the Influence 23152 (A) VC

Summary: ARR operated a motor vehicle while intoxicated.

20-00579

Arrest Location: BROADWAY

Arrest Date / Time: 2/2/2020 10:20:00 PM

Arrestee:

Race: H Sex: M Age: 50

DOB:

Height: 508 Weight: 146

Residence:

Charge(s): 273.5 (A) PC INFLICT CORPORAL INJURY ON SPOUSE/COHAB - FELONY 04
273.5 (A) PC

Summary: SUS battered VIC causing visible injury.

ALAMEDA POLICE DEPARTMENT

Adult Arrest Log

Arrest Date: Thursday, February 06, 2020

20-00621

Arrest Location: 730 BUENA VISTA AV

Arrest Date / Time: 2/6/2020 12:16:02 AM

Arrestee:

Race: B Sex: M Age: 27

DOB:

Height: 510 Weight: 180

Residence:

Charge(s): 11377(A) HS POSS CONTROLLED SUBSTANCE - MISD 18 Drug Abuse Violations
11377(A) HS
11364 (A) HS POSSESS PARAPHERNALIA 18 Drug Abuse Violations 11364 (A) HS
4461 (A) VC IMPROP USE/ETC REG UNAUTH 26 All Other Offenses 4461 (A) VC

Summary: CIT was in possession of suspected methamphetamine.

20-00632

Arrest Location: BLANDING AV

Arrest Date / Time: 2/6/2020 6:29:00 PM

Arrestee:

Race: W Sex: F Age: 45

DOB:

Height: 506 Weight: 200

Residence:

Charge(s): 11364.1 (A) HS POSSESS UNLAWFUL PARAPHERNALIA 18 Drug Abuse Violations
11364.1 (A) HS

Summary: During a probation search of SUS, narcotic paraphernalia was located on her person.

20-00633

Arrest Location: SANDCREEK WY

Arrest Date / Time: 2/6/2020 8:15:00 PM

Arrestee:

Race: W Sex: M Age: 61

DOB:

Height: 508 Weight: 165

Residence:

Charge(s): WARRANT LOCAL LOCAL WARRANT 26 All Other Offenses WARRANT LOCAL
11364 (A) HS POSSESS PARAPHERNALIA 18 Drug Abuse Violations 11364 (A) HS
11377(A) HS POSS CONTROLLED SUBSTANCE - MISD 18 Drug Abuse Violations
11377(A) HS

Summary: ARR had a warrant out for his arrest.

ALAMEDA POLICE DEPARTMENT

Adult Arrest Log

Arrest Date: Friday, February 07, 2020

19-06502

Arrest Location: 2100 MARTIN LUTHER KING JR WAY

Arrest Date / Time: 2/7/2020 10:07:00 AM

Arrestee:

Race: H Sex: F Age: 31

DOB:

Height: 506 Weight: 140

Residence:

Charge(s): 459.5 (A) PC SHOPLIFTING 06c. Larceny/Theft c. Shoplifting 459.5 (A) PC

Summary: Unknown SUS entered VAB, fled with loss without paying.

20-00635

Arrest Location: WEBSTER ST

Arrest Date / Time: 2/7/2020 12:44:27 AM

Arrestee:

Race: W Sex: M Age: 55

DOB:

Height: 510 Weight: 146

Residence:

Charge(s): 11377(A) HS POSS CONTROLLED SUBSTANCE - MISD 18 Drug Abuse Violations
11377(A) HS

Arrestee:

Race: W Sex: M Age: 34

DOB:

Height: 509 Weight: 196

Residence:

Charge(s): 11364 (A) HS POSSESS PARAPHERNALIA 18 Drug Abuse Violations 11364 (A) HS
1203.2 PC FELONY FELONY PROBATION VIOLATION 26 All Other Offenses 1203.2
PC FELONY

Summary: SUS-1 was in possession of suspected methamphetamine.

From: Scott Morris <scott.morris@gmail.com>

13-May-2020 15:54

To: Alan Cohen <acohen@alamedacityattorney.org>

CC: Lisa Cooper <lcooper@alamedacityattorney.org>, LARA WEISIGER <lweisiger@alamedaca.gov>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (4494 bytes)

MESSAGE HTML (10056 bytes)

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Thanks for releasing the records. But as I indicated in our phone conversation, if the city wants to avoid administrative entanglements, it should follow the letter of the statute and not go looking for decisions in appellate courts with no authority here to deny access to public documents, as all other cities in the region have done without making me get into an argument over what is ultimately a really simple request.

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

[@oakmorr](#)
[scottmorris news](#)

On Wed, May 13, 2020 at 3:49 PM Alan Cohen <acohen@alamedacityattorney.org> wrote

Mr. Morris,

As I promised in our telephone conversation, I am forwarding the City's third and final Alameda Police Department generated report containing a list of historical arrest information for the period of February 1, 2020 and March 28, 2020. This along with the previous two sets of documents I emailed you contains the complete set of data from the City's public arrest logs for the February 1, 2020 and April 15, 2020, time period outlined in your original Public Record's Act request.

The City has voluntarily agreed to generate this information to avoid further administrative entanglements. We, however, remain committed to striking a reasonable balance between the public's right to know and the arrestee's constitutional and statutory right's to privacy which were at the heart of both the *County of Los Angeles v Superior Court (Kusar)* (1993) 18 Cal App 4th 588 and *Fredericks v Superior Court of San Diego County* (2015) 233 Cal.App.4th 209 decisions.

Please feel free to contact me should you have any additional questions

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Tuesday, May 12, 2020 at 12:45 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

Hi Mr. Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501

(510) 747 4755

acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org> 13-May-2020 16:54

To: Scott Morris <scott.morris@gmail.com>

BCC: Alan Cohen <acohen@alamedacityattorney.org>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (768 bytes)

MESSAGE HTML (16358 bytes)

Thanks for the call Over the next few days, I'll see if I can come up with a policy we all can live with I appreciate your discussing this matter with me.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris <scott.morris@gmail.com>
Date: Wednesday, May 13, 2020 at 3:54 PM
To: Alan Cohen <acohen@alamedacityattorney.org>
Cc: Lisa Cooper <lcooper@alamedacityattorney.org>, Lara Weisiger <LWEISIGER@alamedaca.gov>
Subject: Re Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Thanks for releasing the records. But as I indicated in our phone conversation, if the city wants to avoid administrative entanglements, it should follow the letter of the statute and not go looking for decisions in appellate courts with no authority here to deny access to public documents, as all other cities in the region have done without making me get into an argument over what is ultimately a really simple request.

Scott

Scott Morris
Writer/Reporter
(510) 871 5114

@oakmorr
scottmorris.news

On Wed, May 13, 2020 at 3:49 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Mr Morris,

As I promised in our telephone conversation, I am forwarding the City's third and final Alameda Police Department generated report containing a list of historical arrest information for the period of February 1, 2020

and March 28, 2020 This along with the previous two sets of documents I emailed you contains the complete set of data from the City's public arrest logs for the February 1, 2020 and April 15, 2020, time period outlined in your original Public Record's Act request

The City has voluntarily agreed to generate this information to avoid further administrative entanglements We, however, remain committed to striking a reasonable balance between the public's right to know and the arrestee's constitutional and statutory right's to privacy which were at the heart of both the *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal. App. 4th 588 and *Fredericks v. Superior Court of San Diego County* (2015) 233 Cal App 4th 209 decisions

Please feel free to contact me should you have any additional questions

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Tuesday, May 12, 2020 at 12:45 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re Public records request APD arrest info

Hi Mr Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice This e mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda . It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information Any unauthorized review, use, disclosure or distribution is prohibited If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any

attachments and destroy any copies, if any, of the original message and attachments Thank you

From: Scott Morris <scott.morris@gmail.com>

13-May-2020 18:47

To: Alan Cohen <acohen@alamedacityattorney.org>

CC: Lisa Cooper <lcooper@alamedacityattorney.org>, LARA WEISIGER <lweisiger@alamedaca.gov>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (4627 bytes)

MESSAGE HTML (10056 bytes)

*** **CAUTION:** This email message is coming from a non City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Thanks for releasing the records. But as I indicated in our phone conversation, if the city wants to avoid administrative entanglements, it should follow the letter of the statute and not go looking for decisions in appellate courts with no authority here to deny access to public documents, as all other cities in the region have done without making me get into an argument over what is ultimately a really simple request.

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

On Wed, May 13, 2020 at 3:49 PM Alan Cohen <acohen@alamedacityattorney.org> wrote

Mr. Morris,

As I promised in our telephone conversation, I am forwarding the City's third and final Alameda Police Department generated report containing a list of historical arrest information for the period of February 1, 2020 and March 28, 2020. This along with the previous two sets of documents I emailed you contains the complete set of data from the City's public arrest logs for the February 1, 2020 and April 15, 2020, time period outlined in your original Public Record's Act request.

The City has voluntarily agreed to generate this information to avoid further administrative entanglements. We, however, remain committed to striking a reasonable balance between the public's right to know and the arrestee's constitutional and statutory right's to privacy which were at the heart of both the *County of Los Angeles v Superior Court (Kusar)* (1993) 18 Cal App 4th 588 and *Fredericks v Superior Court of San Diego County* (2015) 233 Cal.App.4th 209 decisions.

Please feel free to contact me should you have any additional questions

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747 4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Tuesday, May 12, 2020 at 12:45 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

Hi Mr. Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please feel free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you.

Alan M. Cohen

Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501

(510) 747 4755

acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Alan Cohen <acohen@alamedacityattorney.org>

14-May-2020 09:15

To: Scott Morris <scott.morris@gmail.com>

CC: Lisa Cooper <lcooper@alamedacityattorney.org>, City Clerk <clerk@alamedaca.gov>

BCC: Alan Cohen <acohen@alamedacityattorney.org>

Subject: Re: Public records request: APD arrest info

Attachments: INTERNET (504 bytes)

MESSAGE HTML (77180 bytes)

Hi Mr Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice This e mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda . It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information Any unauthorized review, use, disclosure or distribution is prohibited If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments Thank you

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Wednesday, April 29, 2020 at 5:24 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

Mr. Morris,

Thank you for your response. The City is confident that the authorities it cited in its April 27, 2020 determination letter remain settled law Your Public Records Act request was for the type of information described in Government Code Section 6254(f)(1); namely for information on every individual arrested by the City of Alameda between February 1, 2020 and April 15, 2020

The authority to place temporal limitations on the disclosure of historical arrest information discussed in the Second District Court of Appeal's decision in *County of Los Angeles v. Superior Court (Kusar)* (1993) 18 Cal. App 4th 588 remains settled law The Fourth District Court of Appeal decision in *Fredericks v Superior Court of San Diego County* (2015) 233 Cal.App.4th 209 did not overrule *Kusar* nor could it have.

Moreover, the issue in *Fredericks* related to a request for information on "complaints and/or requests for assistance" under Government Code 6254(f)(2) As the Fourth District said in *Fredericks, Kusar*, in which the arrest information sought involved Government Code 6254(f)(1) should not be read as establishing a time limitation for disclosures under Government Code 6254(f)(2) Disclosure of information derived from citizen complaints under Government Code 6254(f)(2) raises different legal and policy concerns than does the release of historical information about arrestees

The City's press log of arrest records is only retained for a short period of time The unredacted disclosure of historical arrest records would interfere with an individual's constitutional and statutory privacy rights. Given that

this data would have to be extracted from the City's investigation reports, the Department would have to undertake a complicated, time-consuming review, redaction, and production process to arrange for the release of nonexempt information. The public interest in disclosure of historical arrest data is not outweighed by the potential privacy concerns of third parties and the fiscal and workload burdens imposed on the City by this request (See, Government Code Section 6255)

Nevertheless, as an accommodation, the City will review its records for responsive information that falls within the 30 day period preceding your request. Because this information will need to be extracted from a database and redacted for exempt information, the City will require an additional 14 days to process your request (See Government Code Section 6253.) Accordingly, our updated response will be provided to you no later than **May 11, 2020**.

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris <scott.morris@gmail.com>
Date: Monday, April 27, 2020 at 7:34 PM
To: Alan Cohen <acohen@alamedacityattorney.org>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Resending to all recipients:

Hi,

No, I see the problem. You are citing *County of Los Angeles v. Superior Court*, an outdated precedent that does not have jurisdiction and has since been overturned.

Please see [FREDERICKS v. City of San Diego](#) which found the Kusar decision relied on an old version of the statute and has since been amended to remove the "current" language. "On their face, the disclosure requirements in section 6254, subdivision (f)(2), for "the time, substance and location of all complaints or requests for assistance received" by a state or local law enforcement agency, and the responses thereto, are expansive. There is no basis in the plain language of the statute to read into it any 60-day limitation on access to disclosable information."

Given that, there is certainly no basis to read a 14-day limitation either. Please release the requested records without further delay.

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

On Mon, Apr 27, 2020 at 6:32 PM Alan Cohen <acohen@alamedacityattorney.org> wrote:

Dear Mr. Morris,

The City of Alameda Police Department is in receipt of your public records request to the City of Alameda City Clerk for "[t]he full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds." Your request seeks information for the period covering Feb. 1, 2020, through April 15, 2020.

While the City can provide you with certain, non-exempt information regarding non-juvenile arrests made during the two weeks preceding this response, historical arrest data is generally not subject to disclosure under the California Public Record Act (CPRA) (Gov. Code, § 6250 et seq.).

The CPRA includes a specific exemption from disclosure for "[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, or any investigatory or security files compiled . . . 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.)

While Government Code Section 6254(f)(1) - (3) does require the disclosure of specified information about arrests, arrestees, and complaints to which law enforcement personnel respond, the subdivision is only applicable to those requests made contemporaneously with the creation of the record in which the requested information is contained. *See, County of Los Angeles v. Superior Court* (1993) 18 Cal. App. 4th 588. Beyond current and contemporaneous information, an arrest record becomes criminal history (Penal Code 13300) and is no longer a public record. (*Id.*)

The current and contemporaneous information prepared by the City of Alameda is available at the Public Police Record Counter and Alameda Police Department website www.alamedaca.gov/police. Review Crime Activity Daily Activity Log. The Department makes this information available to the public for a period of 14 days. Some of the information such as the date/time of booking might be available through Alameda County since that is where the booking occurs. The bail amount is set by the Judicial Council and implemented by Alameda County and not the arresting officer or agency."

I have attached a copy of the Department's arrest log for non-juveniles for the period of April 13, 2020 through April 25, 2020. Juvenile arrests are exempt from disclosure under Government Code section 6254(k) [records exempt or prohibited from disclosure pursuant to federal or state law] and California Welfare and Institutions Code Section 827, California Rules of Court 5.552; and Penal Code sections 11167 and 11167.5 (disclosure of records containing information about juveniles is prohibited). We have also redacted information where disclosure is also prohibited to the extent disclosure would infringe upon the statutory and constitutional privacy rights of third parties, including the victim. *See, Government Code section 6254(k)* [records exempt or prohibited from disclosure pursuant to federal or state law]; *See, also Penal Code Section 293.*

Feel free to contact me, should you have any questions about this determination. I am working remotely during the pandemic so if you wish to discuss, please advise on the best time for me to contact you.

Alan M. Cohen
Assistant City Attorney

City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda . It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.

From: Scott Morris [<mailto:scott.morris@gmail.com>]

Sent: Wednesday, April 15, 2020 12 09 PM

To: City Clerk <CLERK@alamedaca.gov>

Subject: Public records request APD arrest info

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

*** **CAUTION:** This email message is coming from a non-City email address. Do not click links or open attachments unless you trust the sender and know the content is safe. Please contact the Help Desk with any questions. ***

Hi,

I'd like to request the following public records:

Please provide the following information from Feb 1, 2020, through the date of this request, April 15, 2020

The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Let me know if you have any questions

Thanks,

Scott

Scott Morris
Writer/Reporter
(510) 871-5114

@oakmorr
scottmorris.news

REDACTED

From: Alan Cohen <acohen@alamedacityattorney.org>
Date: Tuesday, May 12, 2020 at 12:45 PM
To: Scott Morris <scott.morris@gmail.com>
Cc: City Clerk <CLERK@alamedaca.gov>, Lisa Cooper <lcooper@alamedaca.gov>
Subject: Re: Public records request: APD arrest info

Hi Mr. Morris,

As promised in my April 29, 2020 email, I am producing the supplemental disclosure of APD arrest log information which the Department extracted in response to your request. Please free to contact me if you have any questions or concerns. As I have mentioned, I am working remotely so if you wish to discuss please let me know when to contact you,

Alan M. Cohen
Assistant City Attorney
City of Alameda
2263 Santa Clara Avenue, Room #280
Alameda, CA 94501
(510) 747-4755
acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda . It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments.
Thank you.

<arrests 0201 - 03-28[1].pdf>

From: Lara Weisiger <lweisiger@alamedaca.gov>

19-May-2020 10:54

To: Bryan Schwartz (bryan@bryanschwartzlaw.com) <bryan@bryanschwartzlaw.com>

Subject: FW: OGC Complaint and Best Practices for Disclosure of Police Logs

Attachments: MESSAGE HTML (5926 bytes)

Hi Bryan,

Staff has worked out an agreement with Scott Morris about his complaint (below), so a hearing will not be scheduled for June 1st.

Thanks,

Lara

From: Alan Cohen

Sent: Monday, May 18, 2020 4:00 PM

To: Scott Morris <scott.morris@gmail.com>

Cc: Lara Weisiger <lweisiger@alamedaca.gov>; Lisa Cooper <lcooper@alamedacityattorney.org>

Subject: OGC Complaint and Best Practices for Disclosure of Police Logs

Hi Scott,

Thanks for speaking with me today on the Open Government Commission/Police Log issue. Confirming that you agreed to put the OGC Complaint on hold for 30 to 60 days while you and I work together on a retention/disclosure policy. I will continue to reach out to other police departments, and you agreed to put me in touch with the attorney you've been working with. I appreciate your cooperativeness and look forward to working with you as to develop a policy that balances the public's right to know with the privacy rights of arrestees.

Very Truly Yours,

Alan M. Cohen

Assistant City Attorney

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4755

acohen@alamedacityattorney.org

Confidentiality Notice: This e-mail message, including any attachments, is sent by the Office of the City Attorney for the City of Alameda. It is being sent for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail, delete the message and any attachments and destroy any copies, if any, of the original message and attachments. Thank you.
