



POLICE TRANSPARENCY GUIDE

F A C
FIRST AMENDMENT COALITION

SheppardMullin

Police Transparency Guide

A handbook on accessing police misconduct and use-of-force records
and audio/video recordings of critical incidents in California

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Available online:

<https://firstamendmentcoalition.org/police-transparency-guide/>

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This Guide is for information purposes only. It is not intended to constitute legal advice and does not form an attorney-client relationship.

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Introduction

For decades, California was one of the most secretive states when it came to information about police misconduct. Privacy protections adopted in the 1970s made officer personnel records largely off-limits to the public, and the California Supreme Court further restricted public access in 2006.

In 2019, two transparency laws pierced this veil of secrecy in significant ways. The passage of Senate Bill 1421 and Assembly Bill 748 resulted in part from a sustained public outcry over police brutality and racial inequities in the criminal justice system, and in particular the 2018 police killing of Stephon Clark, an unarmed Black man in Sacramento. Demonstrations on the streets of the state's capital city shifted the balance of influence from police leaders to the public, which demanded accountability.

SB1421 requires the release of several categories of records related to misconduct and use of force, while AB 748 requires release of video and audio recordings of critical incidents. Together, these laws significantly expand public access to police misconduct records under the California Public Records Act.

When the laws were enacted, police unions turned to the courts, mounting challenges to keep information under wraps. News organizations and transparency advocates, including the First Amendment Coalition, formed the resistance and obtained critical court decisions protecting the public's access. Additionally, affirmative cases have produced key rulings and led to the release of scores of records.

Our Police Transparency Guide helps you exercise your right to know. The guide's anchoring document, a Legal Compendium authored by Tenaya Rodewald of Sheppard, Mullin, Richter & Hampton, provides a detailed overview of the key statutes and relevant court cases. The guide also contains an in-depth FAQ and two sample request letters to seek records and recordings.

FAC's resources don't end there. Members of the press and public can use our free [Legal Hotline](#) to get your questions answered by a team of open-government lawyers. Reporters on deadline can contact the FAC team directly at FAC@firstamendmentcoalition.org or (415) 460-5060.

Legal Compendium

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Introduction

Two bills passed the California Legislature in 2018 that significantly broadened the public's right of access to information about state and local police officers. One, Senate Bill 1421, substantially increased the public's right to get records about police misconduct and serious uses of force. The second, Assembly Bill 748, similarly opened up public access to video and audio recordings relating to police uses of force and other critical incidents. Both bills went into effect in 2019.

The following guide explains in some detail each of these laws, along with relevant court rulings, and also explains what records the public has a right to see. **Section I** is about police misconduct and use-of-force files, and **Section II** is about video and audio recordings, such as dash cam and body cam footage.

The public can access these records under the California Public Records Act. For the basics on how the CPRA works, refer to [FAC's primer](#). As for timing: under the CPRA, the government is generally required to respond to a request for records within 10 days. The time for responding can be extended by the agency for an additional 14 days (for a total of 24 days).

I. Files About Police Misconduct and Other Critical Incidents

In 2018 the California Legislature enacted [SB 1421](#) which amended [Penal Code section 832.7\(b\)](#) ("Section 832.7(b)"). The Legislature enacted SB 1421 to greatly expand public access to records concerning police uses of force and serious misconduct. As the Legislature explained:

"The public has a right to know all about serious police misconduct, as well as about officer-involved shootings and other serious uses of force. Concealing crucial public safety matters such as officer violations of civilians' rights, or inquiries into deadly use of force incidents, undercuts the public's faith in the legitimacy of law enforcement, makes it harder for tens of thousands of hardworking peace officers to do their jobs, and endangers public safety." [S.B. 1421](#), §1(b).

The law went into effect on January 1, 2019, and makes the records about the following types of conduct by state and local law enforcement officers (referred to in the law as "**peace officers or custodial officers**") available under the California Public Records Act ("CPRA"):

1. **officer-involved shootings** (Section 832.7(b)(1)(A)(i));
2. uses of force resulting in **great bodily injury** or death (Section 832.7(b)(1)(A)(ii)),
3. **sustained findings** that an officer committed **sexual assault** as defined in Section 832.7(b)(1)(B); and

4. **sustained findings** that an officer committed **dishonesty** as described in Section 832.7(b)(1)(C).

A. Definitions

Each of the boldfaced terms above has a special meaning in the law, and those definitions are important for determining what is, and what is not, a public record. These terms have the following meanings:

1. Peace officers and custodial officers (“officers”)

Section 832.7(b) covers records related to the above-listed four categories of incidents involving “peace officers or custodial officers.” Peace officers include police officers, officers of sheriff’s departments, California Highway Patrol officers, officers of specialized policing agencies such as those for ports, and many other types of law enforcement personnel. Penal Code sections [830 to 830.15](#) detail numerous categories of “peace officers.” Peace officers also include correctional officers, e.g., prison guards for state prisons, and other employees of the California Department of Corrections and Rehabilitation such as parole and probation officers. Custodial officers are employees of city or county law enforcement agencies that maintain custody of prisoners in local detention facilities. Penal Code sections [831 and 831.5](#) explain the types of individuals who are custodial officers.

For simplicity, peace officers and custodial officers are referred to as “officers” below.

2. Officer-involved shootings

An agency must disclose records relating to **any incident in which an officer discharged a firearm at a person**. Records relating to such incidents must be disclosed even if nobody was hit or injured. See Section 832.7(b)(1)(A)(i). A shooting incident does not have to be investigated by an agency for the records to be released. Similarly, the agency does not need to have made any findings that an officer violated policy or any law for records to be released. Rather, any record relating to **the report**, or investigation, or findings concerning the incident must be released. See Section 832.7(b)(1)(A).

3. Use of force resulting in death or great bodily injury

An agency must disclose records relating to any incident in which an officer’s use of force resulted in death, or in “great bodily injury.” See Section 832.7(b)(1)(A)(ii). The term “great bodily injury” is defined in California law as “a significant or substantial physical injury.” See, e.g., Pen. Code, § [12022.7\(f\)](#).

The term “great bodily injury” has been interpreted broadly by the California courts. See *People v. Washington*, 210 Cal.App.4th 1042, 1047-1048 (2012) (“some physical pain or damage, such as lacerations, bruises, or abrasions” constitutes great bodily injury); *People v. Jung*, 71 Cal.App.4th 1036, 1042 (1999) (same); *People v. Wallace*, 14 Cal.App.4th 651, 665-666 (1993) (cuts and burns from being flex-tied, burning sensation from an insecticide-like substance were great bodily injury); *People v. Bustos*, 23 Cal.App.4th 1747, 1755 (1994) (multiple abrasions, lacerations, and contusions were great bodily injury); *People v. Corona*, 213 Cal.App.3d 589 (1989) (a swollen jaw, bruises to head and neck and sore ribs were “great bodily injury”); *People v. Sanchez*, 131 Cal.App.3d 718 (1982) (multiple abrasions and lacerations to victim’s back and bruising of eye and cheek were “great bodily injury”) disapproved on other grounds in *People v. Escobar*, 3 Cal.4th 740, 751, fn. 5 (1992); *People v. Jaramillo*, 98 Cal.App.3d 830, 836–837

(1979) (multiple contusions, swelling and discoloration of the body, and extensive bruises were “great bodily injury” was great bodily injury).

A different term, “serious bodily injury,” is defined somewhat more narrowly in California law, and can be interpreted as requiring more severe injuries than “great bodily injury.” However, in drafting SB 1421 the Legislature specifically rejected use of the term “serious bodily injury” and instead chose to use the term “great bodily injury.” See [SB 1421 Senate Floor Analysis dated August 31, 2018](#) at page 2. Furthermore, at least two trial courts have rejected agency attempts to use the more narrow definition of “serious bodily injury” when responding to requests for records under Section 832.7(b). See *Richmond Police Officers’ Association v. City of Richmond*, Case No. MSN19-0169 (Contra Costa Sup. Ct. July 31, 2020); *The Sacramento Bee, et al., v. Sacramento Co. Sheriff’s Dept.*, No. 34-2019-80003062 (Sacramento Sup. Ct., Nov. 8, 2019). These courts have held that “great bodily injury” under Section 832.7(b) must be interpreted broadly and consistently with the broad interpretations under *People v. Washington*, and the cases listed above.

Therefore, in responding to requests for records under Section 832.7(b), agencies should interpret “great bodily injury” broadly, and in line with the broad scope of “great bodily injury” applied by the California courts.

As with shooting incidents, a use of force resulting in great bodily injury does *not* have to be investigated by an agency for the records to be released. Similarly, the agency does *not* need to have made any findings that an officer violated policy or any law for records to be released. Rather any record relating to *the report*, or investigation, or findings concerning the incident must be released. See Section 832.7(b)(1)(A).

4. Sustained findings of sexual assault

Under Section 832.7(b), an agency must release any records relating to an incident in which a “sustained finding” was made that an officer engaged in sexual assault involving a member of the public. See Section 832.7(b)(1)(B).

A “sustained finding” means a final determination by the agency, hearing officer, or other applicable investigating agency, following an investigation and opportunity for an administrative appeal, that the actions of the officer violated law or department policy. See Penal Code § [832.8\(b\)](#). As at least one trial court has held that once a sustained finding has been made, an agency must disclose the records *even if* the agency later decides to drop the sustained finding, or enters into a settlement agreement with the officer to drop the sustained finding. See *Richmond Police Officers’ Association v. City of Richmond*, Case No. MSN19-0169 (Contra Costa Sup. Ct. July 31, 2020). In other words, an agency cannot make an agreement with an officer that would hide a sustained finding from disclosure.

“Sexual assault” is broadly defined under Section 832.7(b) as including instances when a police officer propositions a member of the public or engages in a sexual act with a member of the public while on duty:

“sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

See Section 832.7(b)(1)(B)(ii). As one trial court summarized, the statute defines sexual assault as including “[1] Nonconsensual sexual acts or propositions, whether committed on or off the job; and [2] Sexual acts or propositions committed on the job, whether or not consensual (or claimed to be consensual).” *Richmond Police Officers’ Association v. City of Richmond*, Case No. MSN19-0169 (Contra Costa Sup. Ct. July 31, 2020).

5. Sustained findings of dishonesty

Finally, Section 832.7(b) requires disclosure of records relating to an incident in which a sustained finding was made of dishonesty by an officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

Thus, the law covers at least two types of incidents: (a) incidents in which an officer engaged in dishonesty related to reporting, investigation, or prosecution of a crime committed by anyone; and (b) incidents in which an officer engaged in dishonesty related to reporting of, or investigation of misconduct by, another officer. As with sexual assault, in order for the records to become disclosable, there must be a sustained finding that the officer committed dishonesty falling into one of these categories.

B. Scope of records that must be released in response to a request under Section 832.7(b)

Section 832.7(b) requires disclosure of a broad array of records. As explained above, it requires the disclosure of any records relating to the report, or investigation, or findings for any officer involved shooting, or any use of force resulting in great bodily injury or death. Similarly, it requires the disclosure of any record related to an incident resulting in a sustained finding of sexual assault or dishonesty.

Section 832.7(b) further explains that the records which must be released include “all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to” anyone who determines whether the officer’s action was consistent with law or policy or determines whether to file charges against the officer; and records related to “what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident.” See Section 832.7(b)(2).

It does not matter which agency initially created the records—if an agency has in its possession records subject to disclosure under Section 832.7, it must disclose them even if it did not initially create them and/or the records pertain to officers from a different agency. See *Becerra v. Superior Court*, 44 Cal. App. 5th 897, 920 (2020).

C. Incidents that occurred and records created before January 1, 2019

SB 1421 applies irrespective of when the incident occurred or the records were created. Thus, an agency must release records under Section 832.7(b) even if the records were created, or the incident occurred, prior to January 1, 2019, when the amendments to Section 832.7(b) came into effect. See *Walnut Creek Police Officers’ Ass’n v. City of Walnut Creek*, 33 Cal. App. 5th 940, 941 (2019).

D. Requester costs for recordings, including edited or redacted body cam or dash cam video

Just as with other categories of other records disclosable under the CPRA, the government may charge only for the direct costs of duplicating records or the direct costs of providing the records in electronic form. Of particular importance, the California Supreme Court held that agencies may not charge a requester for the agency's costs of redacting the records at issue (particularly responsive audio and video records). See *Nat'l Lawyers Guild v. City of Hayward*, 9 Cal. 5th 488, 506-507 (2020). Rather, the agency may only charge for the direct costs of duplicating records or the direct costs of providing the records in electronic form. Therefore, a requester should be able to obtain these records (including any existing audio or video recordings) for a minimal cost.

II. Recordings of Police Shootings and Use-of-Force Incidents

AB 748 amended the CPRA to require the disclosure of audio and video records of "critical incidents." The amendment, to add Government Code Section 6254(f)(4) ("Section 6254(f)(4)"), allows the public and press to access a significantly broader range of recordings than was previously available.

Although most commonly thought of as providing for the release of police "body cam" or "dash cam" videos, Section 6254(f)(4) is not limited to such videos but instead applies to any "video or audio recording that relates to a critical incident." Thus, records such as bystander videos that end up in the possession of the government should be subject to Section 6254(f)(4)'s disclosure requirements.

A. Records that Can Be Obtained Under Section 6254(f)(4)

Except in the relatively narrow circumstances described below, Section 6254(f)(4) requires agencies to disclose audio and video records of "critical incidents." A "critical incident" is: (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer; or (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

In other words, Section 6254(f)(4) provides for release of video and audio recordings of the same types of officer-involved shooting and use of force incidents for which records must be released under Penal Code section 832.7(b). As under Section 832.7(b), agencies should interpret the term "great bodily injury" broadly, and consistently with the broad manner in which California courts have interpreted the term.

Section 6254(f)(4) allows an agency to withhold audio and video recordings of critical incidents in the following limited circumstances.

B. Withholding based on active investigation

An agency may withhold a recording for 45 days or longer from the date agency "knew or reasonably should have known about the incident" *only if* releasing the recording would substantially interfere with an active criminal or administrative investigation. However, the longer the agency withholds the recording, the higher the burden on the agency to justify delaying disclosure. Thus, an agency may only withhold a recording for up to 45 days, *if*, based on the facts and circumstances depicted in the recording, disclosure would substantially

interfere with an active investigation, such as by endangering the safety of a witness or a confidential source. The agency must provide a written explanation to the requester of the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and must also provide the estimated date of disclosure. To withhold a recording for longer than 45 days, the agency faces a more substantial burden, and must provide a new written notice every 30 days. See Sections 6254(f)(4)(A)(i) and (ii).

C. Redaction or withholding based on privacy expectation

An agency may redact or withhold a recording if the agency demonstrates, on the facts of the particular case, that the public interest in withholding the recording clearly outweighs the public interest in disclosure *because* the release of the recording would violate the reasonable expectation of privacy of someone depicted in the recording. Sections 6254(f)(4)(B). There are a number of limitations for invoking this exception.

First, the agency must provide a written explanation to the requester of the specific expectation of privacy at issue and the public interest served by withholding the recording.

Second, whenever possible, the agency is required to redact the recording "including blurring or distorting images or audio, to obscure those specific portions of the recording" to protect the privacy interest at stake. The agency may only withhold the recording entirely if the agency demonstrates that a privacy interest cannot adequately be protected through redaction. Furthermore, when redacting a recording, the agency is not permitted to interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording and cannot not otherwise edit or alter the recording.

Even when a recording is entirely withheld because of a privacy interest, the person whose privacy is being protected (or their surviving family) can still obtain a copy of the recording (except where it would substantially interfere with an active criminal or administrative investigation, in which case the provisions above concerning active investigations apply). See Section 6254(f)(4)(B)(ii).

As noted above, agencies may *not* charge for its own costs in redacting the records at issue. See *Nat'l Lawyers Guild v. City of Hayward*, 9 Cal. 5th 488, 506-507 (2020).

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FAQ

Obtaining police misconduct and use-of-force records and recordings in California

What types of police personnel records are open to the public?

A 2019 California law known as Senate Bill 1421 requires police agencies to release four categories of police personnel records:

- **Officer-involved shootings:** Records related to the discharge of a firearm by an officer, regardless of whether anyone was struck or whether the shooting was considered justified under department policy or the law;
- **Any use of force** that caused great bodily injury or death;
- **Sexual assault:** Records related to instances of sexual assault against a member of the public. “Sexual assault” is broadly defined to include propositioning a member of the public, or the commission of a sexual act, while on duty. Records of sexual assault allegations are available only when the employing agency has “sustained” those allegations; and
- **Official dishonesty:** Records relating to an officer’s acts of dishonesty during the investigation, reporting, or prosecution of crime or police misconduct — only when an allegation was “sustained” by the employing agency or an oversight entity such as the state Attorney General.

How do I request personnel records?

You can use our [sample letter](#) to generate a written request to submit to the police department, sheriff’s office, state attorney general’s office or other law enforcement agency that employs the officer in question or any other agency you think may have related records. While the law does not require a request for records to be submitted in writing, we recommend it.

Can I see a police officer’s entire personnel file?

No, but you are entitled to records relating to the categories of misconduct listed above.

Who has a right to see these records?

Any member of the public can request records under the California Public Records Act. You do not need to be a journalist or lawyer, or even a resident of California.

Can I make my request anonymously?

Yes.

How long does an agency have to respond to a records request? An agency must respond to a request within 10 calendar days. In unusual circumstances, it can give itself an extension of 14 calendar days. The agency’s response must include (a) whether it will or will not provide records and (b) if it is not going to provide records, the specific CPRA exemptions the agency believes allow it to withhold the records you seek.

Can an agency withhold the name of an officer involved in a shooting? The name of an officer in an officer-involved shooting generally must be disclosed immediately unless there is a credible threat to officer safety. Generalized threats do not suffice. Rather, the agency must show there is “a specific, articulable, and particularized reason to believe that disclosure of the [name] would pose a significant danger to the physical safety” of a specific officer.

Can I access officer body cam or dash cam videos?

Yes, a 2019 law called Assembly Bill 748 requires police agencies to release recordings of “critical incidents,” as defined in that law. For a thorough discussion of what is accessible, see Section B of our [Legal Compendium](#). You can use this sample [request letter](#) to seek recordings.

What does it cost to obtain police personnel records or videos?

Under the CPRA, government agencies generally can charge a requester only for the “direct cost of duplication,” so fees should be minimal. An agency may not charge a requester for the cost of reviewing or redacting records, including body cam or dash cam videos.

How quickly can I get officer body cam or dash cam videos?

The general rule is that agencies are required to release video or audio files just as they are required to release any records under the CPRA — “promptly.” However, an agency may delay the release of video or audio files for 45 days or longer if releasing the recordings would “substantially interfere with an active criminal or administrative investigation,” such as by endangering the safety of a witness or a confidential source. If this is the case, the agency must provide a written explanation of how they believe the release would “substantially interfere with” an active investigation.

Can an agency withhold information while an internal affairs or administrative investigation is pending?

In the case of records relating to officer-involved shootings and uses of force resulting in great bodily injury, if an agency initiates an administrative investigation, an agency may delay disclosing records for 180 days or until the agency determines whether the use of force or shooting did or did not violate agency policy (whichever is shorter). In any event, the agency may be obligated to release the audio/video recordings of the incident sooner than this under Government Code Section 6254(f)(4). (See Section B of our [Legal Compendium](#).) For records relating to allegations of sexual assault or dishonesty, agencies must release records only after allegations are “sustained” during an investigation.

I want to know if a particular officer has ever been punished for excessive use of force, sexual assault or lying. How would I go about finding out?

Submit a CPRA request to the officer’s employing agency, asking for any records including his/her name that involve accusations of excessive force, sexual assault or lying.

What kind of information can agencies lawfully withhold or redact? Agencies can lawfully redact some personal information such as home addresses, telephone numbers or the identities of family members of officers. But they must release the names and work-related information of officers. Agencies can also redact information that would reveal the identities of complainants and witnesses, as well as confidential medical and financial information.

Where do I send my records request?

You make the request to the agency that employs the officer. However, an outside agency (such as the local district attorney’s office) may be involved in investigating the incident such as a police-involved shooting or allegation of misconduct. You are also entitled to records maintained or created by any outside agency.

Do I have to know an officer’s name to make a request?

No. You can ask an agency for all records about any and all of its officers' conduct that would be disclosable under the Public Records Act. However, if you are seeking information about a specific officer, it helps to have the name. It will also help speed the process of getting records if you narrow your request as much as possible by requesting certain date ranges or certain types of misconduct. Note that the CPRA requires agencies to assist requesters to identify the records they seek, including by explaining the agency's recordkeeping systems and ways in which a request can be modified to better target the information the requester wants.

Is the sheriff or police chief subject to the public records act?

Yes, all California sheriffs and police chiefs are subject to the CPRA.

Are campus police subject to California's open-records laws?

If they are employed by a government agency, yes. Private security officers may not be subject to the CPRA, depending on how and whether they are supervised by government agencies.

Are there laws other than the CPRA that might help me obtain police records? Yes. Some California cities have local Sunshine Ordinances that create additional rights of access and enforcement mechanisms. If an officer is employed by an agency in a city with a strong Sunshine Ordinance, familiarizing yourself with it and citing it in your request letter can be useful.

What if an agency denies my request, or if it fails to respond within the required time?

The only way to enforce the CPRA is to file a lawsuit. But there are steps you can take to advocate for yourself, short of that. Mark the agency's deadline to respond on your calendar. If the agency has not responded by that date, follow up immediately to demand that they do so, and keep following up until they comply. If an agency denies your request for reasons that do not appear to comply with the law, tell them that and ask them to explain their withholding. There is no formal appeal process under California law, but it can be productive to explain to an agency why their response does not comply with the law and insist that they do. If you are a journalist, consider writing a story or editorial about transparency issues you encounter.

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Sample Public Records Act request letter seeking information about police conduct accessible under SB 1421

Date

Name and title **[of the official/agency with custody of the records]**

Name of Agency

Address

RE: Public Records Act Request

Dear _____,

I am requesting access to records in possession or control of the **[insert government entity]** pursuant to the California Public Records Act, Government Code section 6250 et seq., Article I, section 3(b) of the California Constitution, and California Penal Code sections 832.7 and 832.8. The specific records I seek are listed below. As used herein, “records” includes “public records” and “writings” as those terms are defined at Government Code section 6252(e) & (g), and includes but is not limited by the items set forth in Penal Code section 832.7(b)(2).

[If you are seeking records about a specific officer and/or incident, name the officer and/or describe that incident as precisely as possible]

[If you are seeking records about a certain category of incident, you can use one or more of the following:

- 1. Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;**
- 2. Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death or great bodily injury;**
- 3. Incidents in which there was a sustained finding of dishonesty by any peace officer or custodial officer;**
- 4. Incidents in which there was a sustained finding of sexual assault by a peace officer or custodial officer involving a member of the public]**

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released. If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that you notify me of the reasons for the determination not later than 10 days from your receipt of this request. Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that

the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records."

In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible. If I can provide any clarification that will help expedite your attention to my request, please contact me at **[provide phone or email address]**, pursuant to Government Code § 6253.1. Because I **[explain any role in the incident at issue — e.g., if you are a relative of an individual harmed, etc -- or if you represent a nonprofit public interest organization that intends to distribute this information]** I request that you waive any fees. *North Cty. Parents Ass'n v. Dep't of Ed.*, 23 Cal. App. 4th 144, 148 (1994); Cal. Gov. Code §6253(e). In any event, to the extent records responsive to my request include audio or video recordings, chargeable fees for such recordings are limited to "direct costs of duplication," and cannot include time spent reviewing or redacting any recordings that are covered by my request. *Nat'l Lawyers Guild v. City of Hayward*, 9 Cal. 5th 488, 506-507 (2020). Finally, I ask that you notify me of any duplication costs exceeding \$xx before you duplicate the records so that I may decide which records I want copied.

Thank you for your timely attention to this matter.

Sincerely,
[NAME]

Sample Public Records Act request letter for audio /video recordings of Critical Incidents under AB 748

Date

Name and title **[of the official/agency with custody of the records]**

Name of Agency

Address

RE: Public Records Act Request

Dear _____,

I am requesting access to records in possession or control of the **[insert government entity]** pursuant to the California Public Records Act, Government Code section 6250 et seq., including but not limited to Section 6254(f)(4), and Article I, section 3(b) of the California Constitution. The specific records I seek are listed below.

[If you are seeking recordings involving a specific officer and/or incident, name the officer and/or describe that incident as precisely as possible, and specify that you want access to recordings pursuant to California Government Code section 6254(f)(4).]

[If you are seeking recordings of a certain category of incident, you can use one or both of the following, and specify that you want access to recordings pursuant to California Government Code section 6254(f)(4):

- 1. Incidents involving the discharge of a firearm at a person by a peace officer or custodial officer;**
- 2. Incidents in which the use of force by a peace officer or custodial officer against a person resulted in death or great bodily injury]**

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released. If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that you notify me of the reasons for the determination not later than 10 days from your receipt of this request. Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records."

In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

If I can provide any clarification that will help expedite your attention to my request, please contact me at **[provide phone or email address]**, pursuant to Government Code § 6253.1. Because I **[explain any role in the incident at issue — e.g., if you are a relative of an individual harmed, etc — or if you represent a nonprofit public interest organization that intends to distribute this information]** I request that you waive any fees. *North Cty. Parents Ass'n v. Dep't of Ed.*, 23 Cal. App. 4th 144, 148 (1994); Cal. Gov. Code §6253(e). In any event, chargeable fees for recordings like those I seek are limited to “direct costs of duplication,” and cannot include time spent reviewing or redacting the recordings. *Nat'l Lawyers Guild v. City of Hayward*, 9 Cal. 5th 488, 506-507 (2020). Thank you for your timely attention to this matter.

Sincerely,

[NAME]