

# ANTIOCH POLICE DEPARTMENT

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Dr. Steven A. Ford, Chief of Police



October 12, 2022

## **VIA EMAIL**

Allen D. Payton

[editor@antiochherald.com](mailto:editor@antiochherald.com)

## **RE: Response to CPRA Request Dated September 12, 2022**

**After consult with the office of the City Attorney, the following determination has been made:**

Dear Mr. Payton:

This letter is in response to your Request for Public Records, wherein you requested the following documents:

1. Any and all reports by any and all Antioch Police officers who responded to any and all calls for service at Tamisha Torres-Walker's home (at --- Gary Avenue in Antioch, California) on Oct. 3, 2021.
2. Any other Antioch Police call for service at any other time at Tamisha Torres-Walker's current or any other, previous Antioch home(s) from Jan. 1, 2020, through Sept. 12, 2022.

As an initial matter, please note that the CPRA does not require the City to create new records tailored to the demand. (Gov. Code, § 6252, subd. (e); *Rosenthal v. Hansen* (1973) 34 Cal.App.3d 754, 758 [no obligation to produce non-existent public records to be prepared in the future]; see also, *American Small Bus. League v. U.S. Small Bus. Admin.* (9th Cir. 2010) 623 F.3d 1052, 1053 [same under federal Freedom of Information Act]; *Elec. Memories & Magnetics Corp. v. U.S.* (C.D. Cal. 1977) 431 F.Supp. 356, 360.1) Additionally, any records that were not generated and are not in the possession of, or maintained by the City do not constitute "public records in the possession of the agency," pursuant to Government Code section 6252(e).

Public Records Act Request No. 1: Any and all reports by any and all Antioch Police officers who responded to any and all calls for service at Tamisha Torres-Walker's home (at --- Gary Avenue in Antioch, California) on Oct. 3, 2021.

Consistent with its obligation under the CPRA, the City advises it has conducted a reasonable search and determined that we possess identifiable records that fall within the scope of your request. The City further advises that it has determined that the requested records are statutorily exempt from disclosure pursuant to: (1) Government Code § 6254(a), as "[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business"; (2) Government Code § 6254(f), as

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“[r]ecords of complaints to, or investigations conducted by, ... any state or local police agency, or any investigatory or security files compiled by any other state or local police agency”; (3) Government Code § 6254(k), as “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege,” because the records are privileged under the attorney-client privilege, the attorney work product privilege and/or the deliberative process privilege, the closed session privilege; and (4) Government Code sections 6254.3 and 6254.21 as home address, telephone number, and birth dates of public employees/elected or appointed officials. Consistent with its obligation under the CPRA, the City provides the following information:

## **10/3/21 12:27 am at 508 Gary Ave. Reports of a loud party in the area and 5-6 shots heard.**

Public Records Act Request No. 2: Any other Antioch Police call for service at any other time at Tamisha Torres-Walker’s current or any other, previous Antioch home(s) from Jan.1, 2020, through Sept.12, 2022.

Consistent with its obligation under the CPRA, the City advises it has conducted a reasonable search and determined that we possess identifiable records that fall within the scope of your request. The City further advises that it has determined that the requested records are statutorily exempt from disclosure pursuant to: (1) Government Code § 6254(a), as “[p]reliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business”; (2) Government Code § 6254(f), as “[r]ecords of complaints to, or investigations conducted by, ... any state or local police agency, or any investigatory or security files compiled by any other state or local police agency”; (3) Government Code § 6254(k), as “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege,” because the records are privileged under the attorney-client privilege, the attorney work product privilege and/or the deliberative process privilege, the closed session privilege; and (4) Government Code sections 6254.3 and 6254.21 as home address, telephone number, and birth dates of public employees/elected or appointed officials. Consistent with its obligation under the CPRA, the City provides the following information:

- 10/5/21 5:30 pm at --- Gary Ave. Reports of someone riding a dirt bike up and down the street.
- 10/3/21 1:35 am at --- Gary Ave. Reports the vehicle that fired shots earlier had returned and several people got out of the vehicle with flashlights.
- 10/3/21 12:27 am at --- Gary Ave. Reports of a loud party in the area and 5-6 shots heard.
- 10/2/21 6:46 pm at --- Gary Ave. Reports a group of people drinking alcohol in front of this location, and driving dirt bikes up and down the street.
- 10/2/21 5:38 pm at --- Gary Ave. Reports people riding dirt bikes on the street and popping wheelies.
- 8/29/21 4:21 pm at --- Gary Ave. Reports disturbance amongst guests and one refusing to leave. Related to loud music calls and also a dog being let out.

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- 8/21/21 2:00 pm at --- Gary Ave. Reports loud music came back on after officers drove by.
- 8/21/21 1:34 pm at --- Gary Ave. Reports loud music coming from a parked vehicle.
- 8/23/21 8:04 pm at --- Gary Ave. Reports a group of juveniles riding quads and dirt bikes and then gathering at this location.
- 3/20/21 7:31 pm at --- Gary Ave. Reports subjects from this residence riding a quad on the sidewalk.
- 6/10/20 8:37 pm at --- Gary Ave. Reports of fireworks coming from the backyard of this location.

The following person is responsible for this determination after consult with the office of the City Attorney:  
AMANDA NELSON, POLICE RECORDS SUPERVISOR.

Sincerely,

[Redacted Signature]

Amanda Nelson

Police Records Supervisor