

ANTIOCH POLICE DEPARTMENT

Dr. Steven A. Ford, Chief of Police



September 12, 2022

VIA EMAIL

Allen D. Payton
101 H Street, Suite 3
Antioch, CA 94509
editor@antiochherald.com

RE: Response to CPRA Request Dated August 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 dated September 2, 2022, wherein you requested:

1. Body cam footage, from 10/3/21 incident at the home of council member Torres-Walker, residing at [REDACTED] Gary Ave.

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: Body cam footage, from 10/3/21 incident at the home of council member Torres-Walker, residing at [REDACTED] Gary Ave.

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

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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 [REDACTED] Gary Ave. Reports of a loud party in the area and 5-6 shots heard.

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

Sincerely,

A handwritten signature in blue ink that reads "A. Nelson".

Amanda Nelson

Police Records Supervisor