

STAND FOR JUSTICE

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February 18, 2016

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CITY OF ANAHEIM

VIA MAIL & ELECTRONIC MAIL

Chief Raul Quezada
Anaheim Police Department
425 S. Harbor Blvd.
Anaheim, CA 92705
rquezada@anaheim.net

RE: Public Records Act Request

Dear Chief Quezada:

I write to request the release of public records from the Anaheim Police Department (“APD” or “the Department”) pursuant to the California Public Records Act (CPRA), California Government Code Sections 6250 to 6270 and article 1 section 3(b) of the California Constitution¹.

I seek copies of all records² in your office’s possession, regardless of who wrote them relating to the shooting death on Tuesday, February 9, 2016 of Gustavo Najera:

- 1) The number of APD officers involved in the incident.;
- 2) The name, badge number or unique ID, age, years on the force, gender and race/ethnicity of each officer who fired on Mr. Najera;

¹ The federal courts have similarly recognized a common law right of public access to government documents, although the parameters of the right have not been clearly established. In *Nixon v. Warner Communications, Inc.* (1978) 435 U.S. 589, the court observed that “the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” (*Id.* at p. 597, fns. omitted.)

² The term “records” as used in this request is defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Cal. Govt. Code § 6252, subsection (e). “Writing” is defined as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” Cal. Govt. Code § 6252 (g).

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*deceased

- 3) Number of times shots fired (by each officer and in total);
- 4) For each officer who fired on Mr. Najera, the job classification and assignment of that officer.

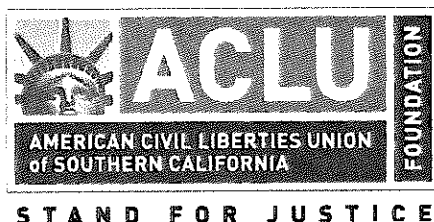
The records requested are not confidential under California law because they do not pertain to “employee advancement, appraisal, or discipline,” or “complaints, or investigations of complaints.” Cal. Pen. Code §§ 832.7, 832.8. “Under [Cal. Gov. Code 6254(f)], when a shooting by a peace officer occurs during an arrest or in the course of responding to a complaint or request for assistance and when the officer's name is recorded as one of the ‘factual circumstances’ of the incident, disclosure of the officer's name is generally required.” *Long Beach Police Officers Ass’n v. City of Long Beach*, 59 Cal. 4th 59, 72 (2014) (citation omitted).

All records requested above are subject to the CPRA because the CPRA applies to “any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics” (Govt. Code, § 6252, subd. (e)), unless a specific statutory exemption applies (Govt. Code, § 6255, subd. (a); see Govt. Code, §§ 6254 et seq., 6276 et seq.).

“This definition is intended to cover every conceivable kind of record that is involved in the governmental process Only purely personal information unrelated to ‘the conduct of the public's business’ could be considered exempt from this definition” (Assem. Statewide Information Policy Com., Final Rep. (Mar. 1970) 1 Assem. J. (1970 Reg. Sess.) appen. p. 9; accord, *Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 288, fn. 3 [64 Cal. Rptr. 3d 661, 165 P.3d 462]).

Please respond to this request in ten days, either by providing the requested information or providing a written response setting forth the specific legal authority on which you rely in failing to disclose each requested record, or by specifying a date in the near future to respond to the request. See Cal. Gov't Code § 6255. Pursuant to section 6253, please disclose all reasonably segregable non-exempt information from any portions of records you claim are exempt from disclosure.

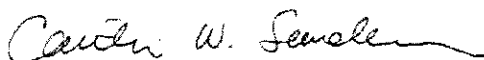
If any records requested above are available in electronic format, please make them available in electronic format, as provided in Govt. Code § 6253.9.



Because the ACLU is a nonprofit civil rights organization, I request that you waive any fees that normally apply to a CPRA request. However, should you be unable to do so, the ACLU will reimburse your agency for the "direct costs" of copying these records plus postage. If you anticipate these costs to exceed \$50.00, please notify me prior to making the copies.

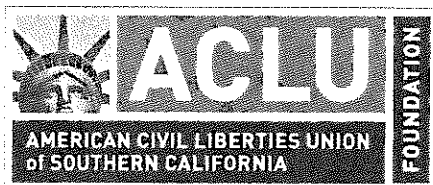
If I can provide any additional information that will expedite your processing of our request, please do not hesitate to contact me at _____ or by email at _____

Sincerely,



Caitlin W. Sanderson
Staff Attorney

Cc:
Custodian of Records, Office of the City Clerk
landal@anaheim.net
200 S. Anaheim Blvd., Anaheim, CA 92705



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