



A note from the desk of...

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November 6, 2020

TO: Executive Director, Board of Police Commissioners

SUBJECT: Mr. Hamid Khan's CPRA Requests

OVERVIEW

Below is a somewhat detailed summary of the California Public Records Act (CPRA) Unit and its history with Mr. Hamid Khan. In outline form, the following are potentially important for you to know.

- Since approximately 2018, Hamid Kahn has made 18 requests, but due to their complexity, if each part of his requests were treated as separate CPRA requests, they would amount to over 230 requests. In the same period of time the CPRA Unit has received approximately 9000 requests. Thus, if his multi-part requests were considered individually this one requester would account for approximately 2.5 percent of all requests received. The technical complexity of his requests, however, necessitates a much higher expenditure of manpower hours than would normally be involved in such a percentage of requests.
- To date, the CPRA unit has closed ten of Mr. Khan's 18 requests and has downloaded approximately 12,732 pages of responsive documents. The Unit anticipates several additional document downloads in the upcoming weeks.
- At a Board of Police Commissioners' meeting on October 6, 2020, Mr. Khan referenced request 19-4995. That request was received by the CPRA Unit on September 5, 2019. It was a ten-part complex request on social media/technologies. There have been multiple downloads of documents and as of October 28, 2020, the total number of pages provided to Mr. Khan that are responsive to this request is approximately 1,535 pages.

DETAILS

CPRA Unit Background Information

The CPRA unit processes approximately 3000 public records requests annually. In 2019, the unit received 3288 requests and completed 3203, leaving 175 open requests by year's-end. This was an approximate 11 percent increase from total requests received in 2018. This year (2020) the CPRA unit has received 2905 requests and have closed 2690 of them. The unit is on pace to

end the year having received approximately 3486 requests, which will be a six percent increase from 2019. The unit currently has 397 open requests.

There are several repeat requesters that account for a large percentage of the workload of CPRA personnel. One individual was recently put on a “work management” plan with a limited number of staff hours designated for his numerous requests. This was done to prevent the crippling of unit operations, and the process was reviewed and vetted by the City Attorney’s office.

CPRA Mandate

The CPRA unit works on fulfilling the Department’s mandate to comply with the California Public Records Act as encapsulated in the California Government Code, Sections 6250, et seq. The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. Some exemptions we would consider include a balancing of privacy rights and potential impact on ongoing investigations. There are also several mandated exemptions which require staff to review and occasionally redact or completely withhold records from release. The CPRA unit must make reasonable efforts to search for requested records and in general must rely on the assistance of the Division, Unit or person most likely to be in possession of the requested record. Requests should be sufficiently and specifically tailored so staff are not required to search for a proverbial “needle in a haystack” nor deal with such voluminous requests as to become unduly burdensome. The CPRA staff are required to assist the public in crafting such tailored requests and for voluminous production projects, will produce documents on a rolling basis.

The Department is required by the CPRA to respond to records requests within 10 days. If unusual circumstances exist, such as voluminous records being involved, or the records being stored at multiple or physical locations separate from the CPRA office, the 10-day response time may be extended by 14 days. This is very common with requests received by the LAPD Discovery Unit. At the end of either the 10 or 24-day period, the Department must advise if records exist, if and when they will be released, or if exemptions will be asserted. Importantly, the records are not required to be produced within this time-period but should be “promptly” disclosed when obtained. The actual length of time necessary to produce records will depend on the nature of the record and the scope of the request. The unit is also mandated to properly review the records before they are released to ensure that no statutorily mandated exemptions or privacy rights are violated.

The Department will accept a public records request via any means and also uses the City’s Next Request Public Records Request portal. The public can access the portal via the Department’s web site at lapdonline.org. There is a dropdown menu under the “About” tab which features a “California Public Records Act” link. If a member of the public follows the link, they will access background information on the California Public Records Act as well as guidance on what is available and how to submit a request. There is a large link button on which a citizen can click to directly generate a request. The public can also view other records requests and the responsive documents that have been uploaded onto the site. Documents can be searched via keyword search, upload date or document date. The Next Request portal is currently being used by the City Clerk, Police Department, Fire Department, Controller, City Administrative Officer, Department of Transportation, General Services, Information Technology Agency,

Neighborhood Empowerment, Public Works, Council District 5 (Paul Koretz) and Council District 13 (Mitch O'Farrell.) If the entity is not listed, requesters are directed to contact the city entity that they are seeking records from directly.

Hamed Khan

Number and Examples of Complexity of Hamid Khan's Requests

Hamed Khan has submitted eighteen requests since 2018. Although the actual number of requests is not particularly large, the requests themselves are extremely voluminous, difficult, and time consuming. Each request is generally comprised of multiple sub-parts. Each of these subparts, could be considered a separate CPRA request in terms of complexity and work load. If each part of his requests were treated as separate CPRA requests, they would amount to over 230 CPRA requests.

To illustrate the nature and complexity of his requests, a few samples are provided below:

NR 18-3148 – one part of his twenty-one-part request is as follows:

Any and all documents, lists, charts and graphs detailing and/or discussing the addresses and/or location of anchor points, and/or chronic locations and/or nuisance locations, since 2009 to present day, including but not limited to homes, apartment complexes, businesses, gathering place and/or intersections in each of the 21 Los Angeles Police Department's (LAPD) divisions.

NR 19-4995 – one part of his ten-part request is as follows:

Any and all operational material including but not limited to any and all documentation, reports, manuals, analyses, and/or other written or computerized material that discusses and/or describes LAPD data gathering, storage, and record management infrastructure and policies, including information about funding, budgeting, staffing, protocols for accessing, using, and contributing to Record Management System (RMS) data, servers, and Application Programming Interfaces (APIs), as well as software platforms that interface with National Data Exchange (N-Dex) or will interface with the Consolidated RMS master index, including but not limited to PredPol, Prosecutor Information Management System (PIMS), and geographic information systems since the inception, acquisition, or contractual agreement until September 5, 2019.

NR 20-6665 – one part of his five-part request is as follows:

Any and all communications related to any 2019-2020 Technology Support Contractual Services between LAPD staff and any persons associated with entities providing 2019-2020 Technology Support Contractual services. The term "communications" includes but is not limited to emails, text messages, internal and external memos, letters, faxes, voice or audio messages, or messages on project management platforms, internal communications platforms, or social media platforms (including but not limited to Facebook, Twitter, Instagram, Signal, Slack, Discord, etc.) including both public posts as well as private and direct messages. "LAPD staff" here encompasses all current and past staff, including but not limited to: Information Technology Bureau Deputy Chief John McMahon; Information Technology Director of Systems Karen Bottancino; Application Dev. and Support Division Monique Turner, ECCS Division Director of Systems Jeff Jantz, and Innovation Management Division Captain Steven Ramos, Assistant Chief Horace Frank. The term "entities providing 2019-2020 Technology Support Contractual

services” covers all the entities that are providing any of the services enumerated in the list, including but not limited to any and all companies, city departments or programs, city agencies, organizations, foreign states, or other entities (including but not limited to Microsoft, Hewlett-Packard, Niche, Axon/TASER, Motorola, Palantir, PredPol Inc., ESRI, ServiceNow, i-HLS, Nice Systems, Verint, Jewish Institute for National Security of America, State of Israel, Anti-Defamation League, American Jewish Committee, Simon Wiesenthal Center, and Justice Security and Strategies).

Process regarding Mr. Khan’s Requests

After Mr. Khan’s initial requests, Analysts will reach out to him to refine his search queries, or limit the scope of his request, but he often simply refuses to narrow his requests. Instead, Mr. Khan will pose complex follow up questions or follow up with new requests. This effectively keeps Analysts constantly working on his requests. For example, in request NR 20 –2493, Mr. Khan composed a 23-part complex request regarding SAFE LA/COVID 19 operations and communications. Over 62,000 emails alone are potentially responsive to this request. LAD personnel reached out to Mr. Khan requesting that he narrow the scope of his request, at least as it pertains to emails, which identified 21 keywords to be searched in the emails. Mr. Khan’s response to narrow his request was to eliminate 5 of the keywords unless they appear in conjunction with 15 other keywords; he also added an additional 11 keywords to be searched and he demanded production of no less than 10,000 items per month. An Analyst can review approximately 1500 pages of documents in a 10-hour work shift. Discovery has reached out to the City Attorney’s Office to discuss the unduly burdensome nature of the request. The CPRA staff is tracking the time involved in working on Mr. Khan’s requests and a current evaluation is being conducted on the potential necessity of placing Mr. Khan’s requests in a work management plan, to ensure the staffing resources remain available to respond to other public requests for records. The CPRA unit’s goal is to facilitate the Department’s efforts for transparency and to provide quality service to **all** CPRA requesters. The unit has closed ten of Mr. Khan’s requests and are actively working the eight open requests. The CPRA staff has **downloaded approximately 629 total document** files, for an approximate total of **12,732 pages** of responsive documents and anticipate several additional document downloads in the upcoming weeks.

Comments in BOPC Meeting

In response to public comments made by Hamed Khan during a recent BOPC meeting, a review was conducted of Mr. Khan’s open requests to assess the work that had been done and to address his concerns. Written summaries were completed on all of his open CPRA requests, including the below summary on NR 19-4995.

Summary of NR 19-4995 provided to BOPC to which Mr. Khan subsequently refers in correspondence

19-4995 – received September 5, 2019 – 10-part complex request on social media/technologies. The request seeks all, but not limited to operational materials, manuals, reports, analysis, any documentation that discusses LAPD practices regarding Social Network analysis. This includes mapping, investigating social media content, platforms, data and meta data; and all documents

regarding LAPD partnerships, funding, staffing with private partners related to data collection, storage, data use and sharing, de-encryption, data visualization, data analysis, hardware and application interfaces. Also mentioned are Biometrics, facial recognition, “smart devices,” digital receiver technology, Stingray, Trapwire, Drones, and Hi-Def cameras. Twenty (20) files have been released containing 113 PDF documents. Many of the PDFs are multi-page documents accounting for hundreds of pages of documents released to date. The last release was on October 13, 2020. The complex request is still being worked and production will be on a rolling basis as items are received and reviewed.

Mr. Khan’s Correspondence to Commissioner Decker

Mr. Khan submitted the below correspondence to Commissioner Decker on October 29, 2020, disputing the assertion that documents were sent to him a few weeks ago. Mr. Khan also stated in his correspondence: ***“It is extremely concerning and disappointing that the LAPD continues to neglect its responsibility and engage in deflection and delay tactics.”***

Dear Commissioner Decker: At the Tuesday Oct 27, 2020, LA Police Commission meeting you shared LAPD's response on the Stop LAPD Spying Coalition's request for public records originally submitted on September 5, 2019. In your comments you stated that the LAPD was claiming that they sent us documents a few weeks ago. That is incorrect. The last set of documents we received was on July 13, 2020. Here is the timeline of what has followed without a single document received from LAPD since July 13, 2020.

CPRA submitted September 5, 2019

- *Last set of documents received from LAPD July 13, 2020*
- *LAPD informs us it is closing the request*
- *Coalition demands reason for closing the request while several items were missing*
- *Coalition submits detailed letter re missing items on August 31, 2020 - See letter attached*
- *Coalition sends message asking why the request still showed closed – September 11, 2020*
- *LAPD re-opens the request – September 14, 2020*
- *LAPD also sends message on September 14, 2020, stating next update will be October 12, 2020 - Still no additional documents received*
- *LAPD sends another message on October 7, 2020, stating next update will be November 9, 2020 - No additional documents received*
- *LAPD send another message in a letter form dated October 8, 2020, seeking clarification*
- *Coalition responds on October 22, 2020, for updates*

As you can see the coalition has not received any documents requested since July 13, 2020. It's been over 4 months since then and overall its been over 13 months since we first submitted the CPRA request. The California Public Records Request Act was passed in 1968 requiring the "inspection and disclosure of governmental records to the public upon request." Furthermore, when the CPRA law was enacted it expressly declared "access to information concerning the conduct of the people's business is the fundamental and necessary right of every person in this state."

It is extremely concerning and disappointing that the LAPD continues to neglect its responsibility and engage in deflection and delay tactics. We demand that the LA Police Commission take immediate notice and rectify this gross neglect on part of the LAPD.

Thank you, Hamid Khan

Chronological Summary of work on NR 19-4995

The following is a chronological summary of the work completed on this request. (A full printout of the CPRA request, including the text of the original request, the text of the objection letter and a full chronological report of tasks completed is available.) A review of the due diligence and work completed by Discovery Personnel does not appear to substantiate Mr. Khan's assertion that LAPD "continues to neglect its responsibility and engage in deflection and delay tactics."

Mr. Khan's request was an extremely technical, complex, 10-part request that required Discovery Analysts to contact multiple Departmental entities, as well as outside sources. Discovery personnel provided a written response, as required by CPRA statute, within the initial ten-day period (on September 12, 2019) and prior to the completion of the 14-day extension period on September 24, 2019. This communication requested a clarification of Mr. Khan's request. Mr. Khan responded on September 30, 2020. The assigned Discovery Analyst immediately began working on the request contacting PPD, CTSOB, and ITG in an attempt to procure responsive records. The Analyst regularly sent correspondence to Mr. Khan advising that ongoing work was being done on his request. Documents were obtained and reviewed and on February 12, 2020, ten documents (some consisting of multiple pages) were released.

The Analyst continued to work on the project contacting RMPD, OSO, Contracts, FOD, PPD, ITG. FOD indicated in their response that they were waiting for a response from the DOJ, who was consulting with legal counsel regarding the release of a requested MOU. Additional documents were compiled and reviewed throughout February and March 2020 and on April 6, 2020, 35 additional documents (some consisting of multiple pages) were released to Mr. Khan.

In April and May of 2020, the Analyst continued to work on the request with additional courtesy updates sent to Mr. Khan. The Analyst contacted Palantir, RMPD and numerous documents were received and reviewed during this time-period. On June 18, 2020, an additional 92 documents (some consisting of multiple pages) were provided to Mr. Khan. The Analyst advised Mr. Khan that the search would continue and by July 13, 2020, five additional documents (some consisting of multiple pages) were located and provided to Mr. Khan. In conjunction with this release, Discovery advised Mr. Khan that it appeared that there were no further documents and that his request would be closed.

Mr. Khan challenged the closure of his request and claimed that there were additional documents that had not been provided. On July 24, 2020, the Analyst wrote to Mr. Khan and asked him to

provide a more “specific and focused request” in order to confirm that there were additional documents. Mr. Khan responded on August 1, 2020, advising that they were reviewing everything that they had received from LAPD and would respond back on what he believed to be missing. On August 7, 2020, he submitted a lengthy correspondence, again claiming that there were documents that existed that had not been provided. On August 17, 2020, Discovery replied that his letter would be reviewed and that a response would be sent as soon as practicable. On August 31, 2020, Mr. Khan mailed a letter to the Chief of Police with his previously stated claim that items had not been provided. On September 11, 2020, Discovery advised Mr. Khan that his objection was still being reviewed. Mr. Khan’s objection letter was a lengthy and complex document. An assessment was conducted to determine if items that he claimed existed had been previously requested and definitively did not exist. Additionally, a determination had to be made regarding the nature of some of his objections, which appeared to be new CPRA requests and not clarifications of previously requested items.

Discovery staff and the City Attorney discussed how to proceed with Mr. Khan’s objection. On September 11, 2020, it was determined that the best course of action was to re-open the original request rather than create a new CPRA request. After this determination, the Analyst continued work and on September 14, 2020, reached out again, with renewed requests, to ITB and RMPD. On October 8, 2020, RMPD advised that there were no additional documents. On October 13, 2020, the Analyst reached out to staff at OCPP in an attempt to procure assistance in locating any potential records related to facial recognition software/programs. On October 13, 2020, the CPRA unit sent official correspondence addressed to Mr. Khan. The correspondence addressed his request and objections that he had made and included research and work product of LAD personnel and the City Attorney’s office. Informal communications are often conducted via electronic messages submitted through the NextRequest portal. Formal communications, such as this correspondence however, are often vetted through the City Attorney’s Office; may contain information requested in the CPRA; direct the requester to a public information source; contain legal responses to objections; or serve as notification that the Department has no responsive records. These documents are part of the public record and considered a response to the CPRA request.

On October 28, 2020, the Analyst conducted follow up contacts in an attempt to obtain additional records on Palantir; Facial Recognition and ATIS Audit. One additional responsive document has been located and was provided to Mr. Khan on October 30, 2020. Any additional records, if located, will be promptly provided upon completion of review. This will be in addition to the 115 previously provided documents. Currently, the total number of pages provided to Mr. Khan that are responsive to this request is approximately 1,535 pages.