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CITY ATTORNEY

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Ms. Selina MacLaren
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Via email to selinamaclaren@dwt.com

Re: *Brennan Center v. City of Los Angeles*, Case No 20STCP03820
Responses to Production Review Additional Questions

Dear Ms. MacLaren:

This letter concerns a set of three follow-up questions and a comment that your clients recently propounded in response to the City's June 25, 2021 letter responding to your clients' "Production Review Questions."

As mentioned in the City's June 25 letter, the CPRA does not require LAPD to answer questions or conduct fact-finding in response to a request. Additionally, some of the recent follow-up questions appear to be and/or contain new requests for records or information that do not fall within the scope of the original request at issue in the litigation. Nevertheless, the Department has conducted additional inquiries and searches, and provides the below responses in good faith in furtherance of a mutually agreeable resolution of the litigation, and in the interest of resolving this matter quickly.

Additionally, the Department also seeks to provide updates to two outstanding items from the City's June 25 letter.

New Follow-Up Questions & Comment

1. *We have received the renewal order form, but not the executed contract with MediaSonar, which we believe would be responsive.*

City's Response: LAPD conducted an inquiry and search for an executed contract with

MediaSonar, and did not identify any responsive records, as there is no executed contract with MediaSonar at this time. Additionally, it does not appear that there have been any contract negotiations, so there are no draft agreements, either.

2. *We would like to clarify what we mean by “search terms”. . . this would include the basis for alerts that MediaSonar generates based on continual searches it conducts at LAPD’s direction, whether those are referred to as “search terms,” “terms,” “key words,” or something else in LAPD’s files. We understand that MediaSonar allows for alerts to be based upon terms. If LAPD has such alerts set on MediaSonar, we would consider those alert settings to be responsive. We do not anticipate that this will involve a global search across all files, but rather a simple screen shot or report from MediaSonar showing the terms.*

City’s Response: LAPD conducted an inquiry and search, and does not have any alerts, alert settings, search terms, terms, or key words set up on MediaSonar, and therefore does not have any records responsive to this request.

3. *[D]ocuments produced show that officers are directed to collect social media information when they complete field interview cards. In order to approximate a partial picture of the amount of social media information collected, we would like to request the number of field interview cards LAPD completed between January 1, 2015 and December 31, 2020, as well as the number of unique individuals on whom cards were completed, if known.*

City’s Response: LAPD conducted an inquiry and search, and does not track metrics regarding the number of field interview cards completed by LAPD officers, nor the number of unique individuals on whom such cards were completed. Therefore, there are no records containing the metrics your client seeks. Moreover, because such metrics do not exist, responding to this inquiry would require LAPD to calculate the information requested by manually collecting and reviewing all field interview cards generated in the time period specified, and creating a record reflecting the calculations. Thus, to the extent this request seeks to require the Department to review these investigation records to compile and calculate the information requested, such a request is improper under the CPRA, which does not require an agency to perform calculations, conduct statistical analyses, create new records, or otherwise “generate new substantive content.” *Nat’l Lawyers Guild v. City of Hayward*, 9 Cal.5th 488 (2020) (explaining that agencies “need not draft summary or explanatory material, perform calculations on data, or create inventories of data in response to a records request”); *see Sander v. Superior Court*, 26 Cal.App.5th 651, 655, 664-666, 669 (2018) (holding that data requested was beyond the purview of, and not subject to release under, the CPRA because providing it would require the agency to manipulate and restructure data and create new datasets and records); *Fredericks v. Superior Court*, 233 Cal.App.4th 209, 227 (2015); *Haynie v. Superior Court*, 26 Cal.4th 1061, 1073-1075 (2001). Additionally, the metrics sought from the Department’s investigatory records are not among the items of information that are required to be disclosed under Government Code Section 6254, subdivisions (f)(1) or (f)(2).

4. LAPD states that it continuing to review its files to identify relevant situational awareness reports. We would like to clarify that we would consider any situational awareness reports that include or reference social media information to be responsive, whether or not these reports are titled “social media situational awareness reports.”

City’s Response: The Department notes this clarification, and is continuing its supplemental inquiry and search regarding this item. (See Item A, below)

Updates on Outstanding Items

A. LAPD is still conducting a supplemental inquiry regarding, and search for, situational awareness reports, as referenced in the “Organizations and Function of the [LAPD]” document as falling within the purview of the now-defunct Community Relations Division (CRD). Although LAPD has not yet located any responsive records, it will provide another update when the supplemental inquiry and search have been completed. (See item 1B of June 25, 2021 letter)

B. LAPD conducted a search for records and/or communications regarding Voyager Analytics and ABT Shield. The search for Voyager Analytics records yielded potentially responsive records, which the Department is in the process of reviewing; any responsive, non-exempt records will be provided to your client. The search for ABT Shield records has not yet yielded any responsive records, so LAPD will conduct another search and will provide another update after that has been completed. (See Item 1h of June 25, 2021 letter)

If you have any questions or would like to discuss further, please feel free to call or email me at my usual email address.

Very truly yours,
MICHAEL N. FEUER, City Attorney

By /s/ Soraya Kelly
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