

**E-mail and Letter Exchanges between the Author,
City Attorney and Police Chief
Regarding Requests for Information under the California Public Records Act**

I met with Chief Sanchez the morning of July 8, 2006 and at our meeting requested information on checkpoints and impoundments which he promised to get for me. He did get some of this information the same day, and sent it to me by email by forwarding to me his request along with the reply from Sergeant Olsen, head of the Traffic Division, who came up with the data in less than one hour:

From: Sanchez, Camerino [mailto:CSanchez@sbpd.com]
Sent: Thursday, July 06, 2006 10:52 AM
To: 1russell2@cox.net
Cc: House, Grant
Subject: FW: A REQUEST

Mr. Trentholme

Here are the stats you requested. Thanks for the meeting this morning.

Chief Sanchez

From: Sanchez, Camerino
Sent: Thursday, July 06, 2006 9:38 AM
To: Olsen, Ed
Cc: Mannix, Frank; Mitchell, Mike
Subject: A REQUEST

Ed:

Do we keep records of how many check points we conduct and how many tows we get because of the check points? If so, can I get a number of check pints (all types) that we have handled or conducted over the last 2 years and the number of tows?

Chief

From: Olsen, Ed
Sent: Thursday, July 06, 2006 10:21 AM
To: Sanchez, Camerino
Cc: Mannix, Frank; Mitchell, Mike
Subject: RE: A REQUEST

We conducted 52 enforcement details between July 1, 2004 and July 1, 2006. These details consisted of DUI Checkpoints, DUI Saturation Patrols and CDL Checkpoints. As a result of these details, a total of 214 vehicles were towed and impounded for 12500 (A) CVC and 14601 CVC violations.

During this same time period we also conducted 26 Seatbelt Saturation Patrols in which numerous vehicles were also impounded for similar violations however the grant that funds these details do not require we keep track the number of impounds.

I hope this is what you were looking for. If you need further please let me know.

Sgt. Olsen

This information was partial, however, since it did not separate 12500 and 14601 violations and did not give overall citation and impoundment data. I then submitted a written request for this information in accord with the State Public Records Act:

From: Russell Trenholme [mailto:1russell2@cox.net]
Sent: Saturday, July 08, 2006 11:03 AM
To: 'Sanchez, Camerino'; Barbara Sansone (bansone@sbpd.com)
Cc: Grant House (grant@granthouse.us); (tenantharley@gmail.com); Miguel (miguel@sbpueblo.org)
Subject: RE: A REQUEST

Chief Sanchez

I also want to thank you for a very good meeting and for providing the information given by Ed Olsen.

I do have some more questions regarding checkpoints and tows:

1. What is a CDL checkpoint?
2. Are there specific records relating to the 52 checkpoints: location, time, number of arrests or citations for various infractions?
3. Of the 214 vehicles towed, how many were for suspensions or revocations of licenses, how many for non-insurance or non-registration, and how many were simply because the driver did not have a license or had an expired license (the category that generally corresponds to undocumented immigrants)?
4. Although you don't keep stats on the 26 seat belt saturation patrols, are the records on them available to the public so I can go through them and compile my own statistics (as in item 3 above)?

How many vehicles were impounded outside of checkpoint stops, due to being pulled over by an officer due to some traffic infraction or due to some defect in the vehicle (missing sticker or plate, burnt out light, etc.)? Can I examine data on these?

I assume information on citations and arrests is a matter of public record. Although it is a nuisance for the department, I feel the issue is important and I am willing to come in and spend time going through the files.

Thanks,
Russell Trenholme

The reply two days later was largely non-responsive to my request:

FW: A REQUEST
From: Sanchez, Camerino (csanchez@sbpd.com)
Sent: 7/10/2006 6:34 PM
To: 1russell2@cox.net
Cc: Chief's Command Staff; House, Grant; Armstrong, Tim; Olsen, Ed

Mr. Trenholme:

CDL means California Drivers License. As you and I shared at our meeting, most of this is public record. On the other hand, could you share with me the purpose of your research and study on these issues and why you need these statistics please? We are swamped and I cannot put anyone on your project at the current time. You mentioned to me at our meeting that you are concerned that my Patrol folks may be racially profiling based on stories you have been told. I want to again reiterate that racial profiling is not a part of department policy. I understand that you feel that there would be no way for me to know whether my folks would engage in this type of behavior or not, (something you mentioned at our meeting), however I will have to say that our folks rely heavily on violations no matter who commits them or what part of town they occur in.

Our mantra has always been, in the traffic realm, that we educate and enforce within the community when it comes to traffic issues and base our decisions on violations only. Our department has done a great job in the area of traffic, which include check points, and we will continue to utilize this type of policing strategies citywide.

Thank you for your concern, and I assure you that we will stay vigilant so that all of us can have a safe driving experience in our city. As I mentioned in our meeting, we cite people of all nationalities, ethnic backgrounds and gender all over the city. Our citations are not written solely in the areas you mentioned, specifically on the East side of our city. We equally enforce these traffic laws to keep our streets and citizens safe, both pedestrian and drivers, and still base those stops on violations.

Chief Sanchez

When I against requested this information I was referred to the City Attorney who answered with the following email:

From: Wiley, Stephen [mailto:SWiley@SantaBarbaraCA.gov]
Sent: Tuesday, July 11, 2006 2:00 PM
To: Sanchez, Camerino; Russell Trenholme
Cc: Chief's Command Staff; Armstrong, Jim; House, Grant
Subject: RE: A REQUEST

Mr. Trenholm, Sorry for the rushed email but I am late for the City Council meeting. I am working with the Chief to prepare a letter in response to your request. However, I can tell you now that I have advised the Chief and the Police Department that nothing in the Public Records Act requires them to make or produce records that they do not have or to do research for you to respond to your questions - which is pretty much what most of your questions/requests appear to me to be.

They will provide with copies of public records but only in response to requests for specific records which already exists. You may also want to review Govt. Code Section 6245(f) which limits the public accessibility to police requests to the victims, defendants and to their attorneys, to a very great extent.

Stephen P. Wiley
City Attorney
City of Santa Barbara
(805) 564-5330

I responded as follows:

From: Russell Trenholme [mailto:1russell2@cox.net]
Sent: Wednesday, July 12, 2006 4:34 PM
To: 'Wiley, Stephen'; Sanchez, Camerino
Subject: RE: A REQUEST

Mr. Wiley:

I assume that you are the City Attorney.

I looked at 6245(f) and at a case that was appealed up to the Supreme Court that challenged it. 6245(f) gives access to records “for a scholarly, journalistic, political, or governmental purpose.” My purpose is political, journalistic, and scholarly. In fact, the law was challenged and the challenge went to the Supreme Court where the decision by Justice Rehnquist said that the LA Police Department could withhold from a commercial service arrestees’ addresses. I am not interested in addresses in any case. However, I absolutely do not understand your claim that information is restricted to “victims, defendants and their attorneys.” Nor do I feel I am seeking information that the SBPD does not have. Nor am I asking them to do research. I’m not saying that they have everything I asked for, but it is hard to believe that they do not have statistics on vehicle impoundments and on the citations issued for the various checkpoints, and for various categories of traffic infractions. Russell Trenholme

On July 13, 2006 I sent a formal request for information to the Police Department, requesting specific information relating to recent checkpoints.

To: Santa Barbara Police Department
From: Russell Trenholme
Re: Request to examine/copy records
Date: July 13, 2006

In the interest of clarity and to avoid misunderstanding, I am submitting a formal request to examine and/or copy public records in the SBPD.

Under provisions of the California Public Records Act (Government Code, 6250), I request access to examine and/or copy the following:

1. A list of all vehicle checkpoints operated by the SBPD in 2006, with date and time, location, and designation.
2. A list of all citations issued, by type, resulting from the operation of each checkpoint and the number of impoundments according to reason for each checkpoint. I am not seeking information on individual citations or impoundments in this request but totals of each type of citation and impoundment by checkpoint.
3. The number of vehicle impoundments in 2006 classified by applicable law section.
4. The number of citations issued in 2006 for a) unlicensed driver, b) driving with revoked or suspended license.

According to 6253.1 (a) “in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records” the public agency shall “assist the member of the public to identify records and information that are responsive to

the request or the purpose of the request, if stated.” Also the public agency will “provide suggestions for overcoming any practical basis for denying access to the records or information sought.”

To facilitate this assistance, let me state my purpose in requesting this information. I wish to determine the effect of checkpoints with respect to arrests, citations, and towed and impounded vehicles. My goal is to try to determine the impact of such checkpoints according to type, location, and time. I also wish to determine, if possible, the total number of citations and impoundments of vehicles of those driving with licenses suspended or revoked versus the number of citations and impoundments related to drivers who were denied a license due to immigration status.

According to 6253 (c) the agency has 10 days to determine whether it have the records and whether they are disclosable and that it will promptly notify me of its response to my request. According to the code, “in unusual circumstances, the time limit may be extended” but not for more than 14 days and such an extension must be related to specific reasons such as 6253 (c) (4) “the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.”

I sympathize with any practical problems associated with my request, although I believe that the department has these statistics readily available or can easily extract them. According to 6253 (d) “nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.”

Thanks for your cooperation,

Russell Trenholme

A few days later I received the following response, by letter dated July 14, 2006, from Chief Sanchez:

Dear Mr. Trenholme:

This letter is a follow-up on our meeting of July 6, 2006 and the recent email communications wherein you have expressed a concern that City police may be racially profiling. Apparently, your concern is based on stories you have been told.

I would like to again reiterate that racial profiling is not a part of Santa Barbara Police Department policy and is not practiced, condoned or tolerated under any circumstances. I understand that you believe that there would be no way for me to know whether my patrol offices would engage in this type of behavior or not, (something you mentioned at our meeting), however, I can only tell you that I know from personal experience that our patrol offices relation only on what they personally observe – violations of the law, no matter who commits them or what part of town they occur in.

When it comes to traffic enforcement, our Departmental policy has always been, first and foremost, to educate and enforce with the entire community. We base our decisions on apparent violations only. I especially believe that this Department has done a great job in the area of traffic enforcement and in our efforts to prevent vehicular accidents. These efforts include the use of check points whenever we can. We will continue to utilize these types of preventative policy strategies on a citywide basis and we will do so in a completely non-discriminatory and non-preferential manner.

As you know, I have discussed your email request under the state Public Records Act (the "PRA") with the City Attorney and he has advised me that, while the City should provide you with copies of any existing public records which you have specifically requested (and which qualify as releasable to the public without violating personal privacy rights), the City is not required by law to allocate police personnel or other public resources to the preparation of documents or statistical studies simply because you may want them or feel they are advisable. You suggest that you would be willing to do the necessary research; however, it is not possible for the Police Department to allow you access to all of our police records, most of which are not subject to disclosure under the PRA and which contain confidential personal information, in order to allow you to conduct a research project.

In reviewing the specifics of your most recent email request, much of the information you request would require staff research work in order to prepare documents which do not currently exist. However, it does appear that the City may have existing records relating to items #2 and #4 of your July 13th email, as to the time and location of the checkpoints. I have asked my staff to make copies of these records and to review them with the City Attorney's office in order to see if they qualify as records which can be released to the public. We should be able to provide you with copies of any public records falling within your request within about one week or so. We will contact you when this review has been completed.

Thank you again for your concern. I assure you that we will stay vigilant so that all of us can have a safe driving experience in our City. As I mentioned in our meeting, we cite people of all nationalities, ethnic background and gender all over the City. Our citations are not written solely in the areas you mentioned, specifically on the East side of our City. We equally enforce these traffic laws to keep our streets and citizens safe, both pedestrian and drivers, and still base those stops on violations.

Sincerely,
Camerino Sanchez (signature)
Chief of Police
City of Santa Barbara
Cc: Councilmember Grant House
Stephen Wiley, City Attorney
Jim Armstrong, City Administrator

I was then told to speak with Sargeant Olsen, head of the Traffic Division who was to provide the available information. I was provided with some information (that used in my report) but was denied other information.

I waited several weeks before submitting a second written request. It turned out that checkpoints had been suspended and that there were no 2006 checkpoints. I then asked for more information on earlier checkpoints, and in particular for annual totals of 12500, 14601, and speeding citations. He told me these would have to come from the information technology section.

From: Russell Trenholme [mailto:1russell2@cox.net]
Sent: Tuesday, August 01, 2006 7:42 AM
To: Sanchez, Camerino; Sgt. Ed Olsen
Subject: Refined Request for Information

Chief Sanchez and Sgt. Olsen:

Sgt. Olsen has been very helpful in explaining to me how information is recorded, what information is available, and providing me with much of what I requested on July 13. What remains to be provided is information that comes from the data processing or information technology section. What I have asked for is annual totals of 14601 citations, 12500 citations, and speeding citations. This should be a relatively simple report. If it is easier to compile them on a calendar year basis, that would be fine. Ideally I would like 12 month totals for 7/1 to 6/30 of 2001-2002, 2002-2003, 2003-2004, 2004-2005, and 2005-2006. Alternatively, for the calendar years 2001, 2002, 2003, 2004, and 2005. This would enable me to detect trends.

This request is made under provisions of the California Public Records Act (Government Code, 6250).

According to 6253.1 (a) "in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records" the public agency shall "assist the member of the public to identify records and information that are responsive to the request or the purpose of the request, if stated." Also the public agency will "provide suggestions for overcoming any practical basis for denying access to the records or information sought."

According to 6253 (c) the agency has 10 days to determine whether it have the records and whether they are disc losable and that it will promptly notify me of its response to my request; "in unusual circumstances, the time limit may be extended" but not for more than 14 days and such an extension must be related to specific reasons such as 6253 (c) (4) "the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data." According to 6253 (d) "nothing in this chapter shall be construed

to permit an agency to delay or obstruct the inspection or copying of public records.”

I cite the relevant code sections because despite the cooperation on the part of Sgt. Olsen, there seems to be the impression that the City or Department can refuse to provide information if there is a cost involved in producing computer generated reports. But the code specifically speaks of compiling data, writing programming language or a computer program and constructing a computer report to extract data. And the data I have requested—total number of citations in three categories by year—is surely easily generated by the above procedures.

Thanks for your attention,

Russell Trenholme

At the same time, I sent the following email to the City Attorney:

From: Russell Trenholme [mailto:1russell2@cox.net]
Sent: Tuesday, August 01, 2006 8:03 AM
To: Wiley, Stephen
Cc: Grant House
Subject: FW: Refined Request for Information

The California Public Records Act specifies that the request for data be made to the agency concerned, in this case the SBPD. As the letter below indicates, Sgt. Olsen has been helpful in providing much of the information I requested. However, he told me that other information requires generation of a report from the information technology section. To avoid further delay or confusion, I resubmitted a request for this data this morning. However, in an email both you and I received from the Chief, he questioned my purpose in asking for the information and directed me to you. The Public Records Act says I go to the agency not the City Attorney, however I am forwarding my request to you. I think I have explained to Chief Sanchez several times why I am interested in this information, but I really am not obliged to do so. In the case of personal information involving names and address, the Code does require that I state that I am using it for educational, research, political, etc. purposes rather than for commercial purposes (and that's true) but I have not asked for any personal data. It seems obvious to me that producing annual totals for citations in three categories should be trivial and I can see no reason for delay in producing this information.

Russell Trenholme

I received no response from Sergeant Olsen or Chief Sanchez to my request of August 1, but twelve days later I received the following email from the City Attorney:

From: Wiley, Stephen [mailto:SWiley@SantaBarbaraCA.gov]
Sent: Friday, August 11, 2006 5:58 PM
To: Russell Trenholme

Cc: Sanchez, Camerino; Olsen, Ed
Subject: RE: Refined Request for Information

Mr. Trenholme,

It is my understanding that the Santa Barbara Police Department has provided you with copies of all of the existing public records which come within the scope of your recent request.

It is also my understanding that SBPD Sgt. Olsen worked closely with you to assist you in refining the specificity of your request and to advise you as to what relevant public records were in existence at the Police Department and were, therefore, releasable to you. However, the state Public Records Act does not require the Police Department to undertake the research, preparation, or production of any reports or of records that you might want or might demand or might think necessary for your purposes. This is true regardless of whether you believe that such work is minor or simple in nature. I am sure that you can understand and appreciate that individual officers in the City Police Department need to exclusively work for their superiors in the Department and cannot undertake research work or report writing for private individuals based on the needs or desires of those private individuals.

Please let me know if the City Attorney's office can be of any further assistance to you.

Stephen Wiley
City Attorney
City of Santa Barbara

I replied to the City Attorney the same day:

August 12, 2006

Mr. Wiley:

I am sure that, as City Attorney, you are familiar with the provisions of the California Public Records Act (CPRA). On August 1, 2006, I submitted a very specific request for Santa Barbara Police Department Records, namely the annual totals of citations issued for speeding, for 12500 violations, and for 14601 citations for the past 5 years. I submitted this request after being told by Sergeant Olsen that he could not provide this information because it would have to come from the information technology section.

According to CPRA, the agency (the SBPD) had ten days to respond. At 5:58PM on the eleventh day I received an email (below) which effectively denied my request. The response was not from the relevant agency head but from you, the City Attorney. Nor did it comply with 6253 (d) which stipulates that "The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial."

The explanation given in your email is factually erroneous. The Santa Barbara Police Department did not provide me with copies of all existing public records which come within the scope of my recent request; in fact, Sergeant Olson

specifically noted that the information which I put into the August 1 request would have to come from the information technology section. It is true that Sgt. Olsen worked with me to provide records he had access to, but he did not have access to the statistics requested. You claim that the CPRA “does not require the Police Department to undertake the research, preparation, or production of any reports or of records that you might want or might demand or might think necessary for your purposes.” I’m not quite sure what that long disjunctive statement means. The issue is a specific request for a well-defined set of annual statistics. Yes, I believe that the compilation of annual statistics for these categories is a simple matter based on my conversation with Sgt. Olsen and based on the rapidity with which Chief Sanchez obtained similar types of stats the same day I met with him. But difficulty is not the issue. The CPRA clearly recognizes and addresses the need, in this era of computerization, of computerized data processing methods to compile information. I refer you to 6253 (c) (4) which provides, as one of the reasons for a delay (up to 14 days maximum) in providing records: “The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.” But there is absolutely no exemption to requests for data that refers to “undertaking research work or report writing for private individuals” as you seem to claim in your email. As just noted, the law specifically references computer reports.

A troubling question is this: is the SBPD, and now, because of your involvement, the City of Santa Barbara itself, engaging in an attempt to cover up something? The CPRA is clearly written, and repeatedly stresses the importance of providing the fullest possible access to information, yet (with the exception of Sgt. Olson’s cooperation) roadblocks have been thrown up, the City is now in violation of the law, and the law itself is being misconstrued by you, the City Attorney.

Of course, the matter will not end here. But I believe that the City will be the loser in further attempts to defy the law by withholding data to which I have a right according to the law. And as noted in a previous response to one of your emails, the exceptions to disclosure written in 6254 do not remotely apply to my request.

Sincerely,

Russell Trenholme

Ten days later, on August 22, 2006, the City Attorney requested my mailing address saying he needed it to send me a letter in response to my to my August 1 request. I supplied my address (although he already had it because all correspondence by letter between Chief Sanchez and myself was shared with him.) Finally, on September 8, 2006 (long after the expiration of the 10-day mandated response period), I received the following letter from the City Attorney dated September 6:

Dear Mr. Trenholme:

It is my understanding that as of August 1, 2006, the Santa Barbara Police Department has provided you with copies of all of the existing public records which fall within the scope of your recent request. We fully understand that you are not satisfied with the records provided to you and are demanding more information. However, as I indicated in my email to you on August 11, 2006, the state Public Records Act does not obligate the City to prepare a record or a report which does not exist simply because you feel that such a report should be prepared.

It is also my understanding that SBPD Sgt. Olsen worked closely with you in refining the specificity of your request and to advise you as to what relevant public records were in existence at the Police Department and which were, therefore, releasable to you. As I indicated previously, the Public Records Act also does not require the Police Department to undertake the sort of statistical research that you might want or might think necessary for your purposes. This true regardless of whether such work is minor in nature or not. In this case, I am advised that the research and computer work which you are demanding would take a departmental employee several hours. I am sure that you can understand and appreciate that individuals in the City Police Department need to work exclusively for their superiors in the Department and cannot undertake research work for private individuals based on the desires of those individuals.

Please let me know if the City Attorney's office can be of any further assistance to you.

Very truly yours
Stephen P. Wiley
City Attorney
Cc: Camerino Sanchez, Chief of Police
Sgt Ed Olsen, SBPD

At that point I had completed my report and I suspended attempts to get the information I requested pending legal advice.