



December 23, 2014

**Via Facsimile & U.S. Mail**

California Highway Patrol  
Public Records Coordinator  
601 North 7th Street  
Sacramento, CA 95811  
Fax: (916) 322-3219

Re: Public Records Act request concerning CHP enforcement activity in response to local demonstrations taking place starting November 24, 2014 protesting the Missouri and New York City grand jury actions in the Michael Brown and Eric Garner cases.

Dear Public Records Coordinator:

The American Civil Liberties Union of Northern California ("ACLU-NC") and the San Francisco Bay Area Chapter of the National Lawyers Guild ("NLG") have questions and concerns about the actions and conduct of California Highway Patrol ("CHP") officers in connection with your agency's response to public demonstrations and protests concerning the grand jury actions in Ferguson, Missouri and New York City regarding the deaths of Michael Brown and Eric Garner. These demonstrations and protests ("hereafter referred to as "the Brown/Garner demonstrations") took place at various places in the Bay Area, including Oakland, Emeryville, Berkeley, and San Francisco, and commenced the evening of November 24, 2014 and have continued to date. This request seeks CHP records pertaining to each and every enforcement action relating to the Brown/Garner demonstrations.

**California Public Records Act Request.**

The law enforcement response to the Brown/Garner demonstrations is a matter of great public interest and requires the transparency mandated by California law. We therefore request that you immediately release the records listed below. This request is made pursuant to the California Public Records Act ("PRA") and Article I § 3(b) of the California Constitution.<sup>1</sup>

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<sup>1</sup> California Public Records Act (Gov't. Code § 6250 *et seq.*); *see* Cal. Const. Art. I § 3(b).

We seek the following records<sup>2</sup>:

- 1) Any policies, procedures, guidelines or memos, including but not limited to training materials, that apply to CHP enforcement actions that pertain to managing, controlling or dispersing crowds that have gathered in connection for a demonstration, protest, march, or other expressive activity, and that were in effect during the time period covered by this request. This request includes policies that apply to enforcement actions taken against individuals who may be violating the law, including but not limited to blocking freeways, in connection with a demonstration, protest, or march.
- 2) Any policies, procedures, guidelines or memos, including but not limited to training materials, that apply or pertain to the carrying and use of “less-lethal weapons” by CHP officers. “Less-lethal weapons” includes, but is not limited to, direct-fired Special Impact Munitions (“SIM”) such as rubber projectiles and “bean bags”; “Stinger balls”; flash bang grenades; chemical agents such as pepper spray and tear gas; conducted energy devices such as Tasers; and batons. This request includes, but is not limited to, the carrying and use of such weapons to control or disperse crowds or individuals that are part of a crowd that has gathered to demonstrate, protest, march or rally.
- 3) Any policies, procedures, guidelines and memos that apply to the carrying, displaying or use of firearms as part of CHP enforcement actions related to a demonstration, protest, march or rally. This includes, but is not limited to, CHP officers who are operating undercover at such events.
- 4) Any policies, procedures, guidelines and memos, including training materials, that apply to enforcement actions that may be taken by CHP when persons occupy, block or otherwise disrupt the freeways in connection with a demonstration, protest, march or other expressive activity. This request includes, but is not limited to, the use of force, including less-lethal weapons.
- 5) Any policies, procedures, guidelines or memos that pertain to the use of undercover agents as part of CHP enforcement actions and tactics during demonstrations, protests, marches and other expressive activities.
- 6) The operations plan(s) and any other planning documents that pertain to the Brown/Garner demonstrations.
- 7) Records identifying the CHP officer in command at the scene for each of the enforcement actions relating to the Brown/Garner demonstrations.

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<sup>2</sup> “Records” covered by this request include but are not limited to: internal and external correspondence (including email), memoranda, drafts, notes, outlines, policies, procedures, regulations, directives, instructions, orders, bulletins, pamphlets or brochures, scripts, handouts, analyses, evaluations, reports, summaries, writings, logs and other written records or records by any other means, including but not limited to records kept on computers, computer sources and object code, electronic communications, computer disks, CD-ROM, videotapes or digital video disks.



- 8) Records, including but not limited to written reports and video recordings, including dash cam, body cameras and surveillance video of any kind, pertaining to the controlling or dispersing of demonstrators and protestors at the Brown/Garner demonstrations.
- 9) Records, including but not limited to written reports and video recordings, including dash cam, body cameras and surveillance video of any kind, pertaining to the use of less-lethal weapons by CHP officers at the Brown/Garner demonstrations, including the types of weapons used during each enforcement action, the identity of the commander or supervisor who authorized their use, the identity of the officers who used them, and the facts and circumstances that were the justification for their use.
- 10) All use of force logs pertaining to the CHP's response to the Brown/Garner demonstrations.
- 11) Records reflecting the number of medical personnel on site during the CHP enforcement actions with respect to the Brown/Garner demonstrations.
- 12) All incident reports, crime reports, mass arrest reports, after action reports, injury reports, supplemental reports, property damage reports, or other reports pertaining to the Brown/Garner demonstrations.
- 13) Any and all records of police communications during and pertaining to the Brown/Garner demonstrations. This request includes, but is not limited to, all computer records, including records of computer communications as well as records of computer assisted dispatch; complete audiotapes of all radio communications and dispatch communications on all pertinent channels; all communications reports, dispatch logs and any and all other communications tapes and documents of any kind; and records of police email and cellular telephone communications.
- 14) All individual officers', operations center and command center logs, other logs, notes, or chronologies prepared during or after and pertaining to the Brown/Garner demonstrations.
- 15) Any incident reports, use-of-force logs, or other reports about use of undercover officers at the Brown/Garner demonstrations, including but not limited to the officer-involved incident on Wednesday December 12, 2014 involving an undercover officer brandishing his firearm in the direction of protestors and journalists.
- 16) Records pertaining to requests received from other law enforcement agencies for CHP assistance or "mutual aid" with respect to the Brown/Garner demonstrations, including memoranda of understanding or agreements, policies, or other documents setting forth the relationship between CHP and other law enforcement agencies during such mutual aid operations. This request includes, but is not

limited to, any information, handouts, guidelines or other documents that were transmitted to the CHP by the Berkeley Police Department and/or the Oakland Police Department pertaining to enforcement actions responding to the Brown/Garner demonstrations.

- 17) Records pertaining to requests that CHP made to other law enforcement agencies for assistance or "mutual aid" with respect to the Brown/Garner demonstrations, including memorandum of understanding or agreements, policies, or other documents setting forth the relationship between the CHP and other law enforcement agencies during such mutual aid operations.

We ask that you release to us the documents requested above without delay, and in any event within the 10-day deadline mandated by the PRA. If you believe that any records covered by the request are exempt from disclosure, please provide a written response setting forth the legal authority on which you rely in failing to disclose each document, while promptly providing us with those records that are not exempt. If you believe that portions of any record are exempt, please provide the non-exempt portions.<sup>3</sup>

The ACLU-NC and NLG are non-profit organizations dedicated to public service. We therefore request that you waive any fees that would be normally applicable to a Public Records Act request. In addition, if you have the records in electronic form you can email them to us without incurring any copying costs.<sup>4</sup> However, should you be unable to do so, the ACLU will reimburse your agency for the direct costs of copying these records plus postage.<sup>5</sup> Please copy and send them as soon as possible, and we will promptly pay the required costs. If copying will result in any delays in release of the information, please let us know the soonest time that we can come and examine the records.<sup>6</sup>

Correspondence and responsive documents may be directed to Alan Schlosser, Legal Director, ACLU-NC, 39 Drumm Street, San Francisco, CA, 94111. If the documents are available in electronic format please email them to Carey Lamprecht, Litigation Assistant, at [cllamprecht@aclunc.org](mailto:cllamprecht@aclunc.org). If we can provide any clarification that will help you comply with this request, please contact me. Thank you for your prompt attention to this matter.

### **Preservation of Evidence Demand**

We are also writing to insure that the CHP preserve any and all evidence relating to the CHP enforcement actions connected to the Brown/Garner demonstrations, including but not limited to, all of the records that are requested above in our PRA request. This demand for preservation of evidence includes, but is not limited to, any and all communications, documents, and recordings of any kind, including, but not limited to, all radio communications, computer

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<sup>3</sup> Gov't. Code § 6253(a).

<sup>4</sup> Gov't. Code § 6253.9.

<sup>5</sup> Gov't. Code § 6253(b).

<sup>6</sup> Gov't. Code § 6253(a).

communications, telephone communications, dispatch communications, CAD reports, dispatch logs, video recordings, including mobile in-car video systems, dash cams and body cameras.

Please be advised that we are making this demand for the preservation of all of the recordings and other documentary materials relating to these events and to any subsequent investigation(s) of said events in anticipation of potential tort claims and litigation arising from enforcement actions relating to the Brown/Garner demonstrations. Under California law, such potential evidence may not be destroyed until the resolution of all claims and litigation (Gov't. Code § 14755; Penal Code § 135). Therefore, all of the above-referenced records and evidence must be preserved until the final resolution of any and all civil, criminal and/or other investigative proceedings arising from any CHP enforcement actions relating to the Brown/Garner demonstrations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan L. Schlosser', with a long, sweeping horizontal line extending to the right.

Alan L. Schlosser  
Legal Director  
ACLU of Northern California

Also on behalf of

Rachel Lederman  
President  
San Francisco Bay Area Chapter of the  
National Lawyers Guild