



October 31, 2011

Via US Mail and facsimile

Sheriff Laurie Smith
Santa Clara County Office of the Sheriff
55 West Younger Ave.
San Jose, CA 95110
FAX: (408) 283-0562

Re: Conduct on October 25, 2011 in connection with Occupy Oakland

Dear Sheriff Laurie Smith:

The American Civil Liberties Union of Northern California and the San Francisco Bay Area Chapter of the National Lawyers Guild have grave concerns about the conduct of the Santa Clara County Office of the Sheriff in connection with its participation in Oakland Police Department's enforcement actions against Occupy Oakland on October 25, 2011. News accounts and video recordings raise numerous questions about the Department's handling of these events, including, whether the Office complied with the Oakland Police Department Crowd Control and Crowd Management Policy.

The present situation demands transparency. We therefore request that you immediately release the following documents that would further the public's understanding of yesterday's events. This request is made pursuant to the California Public Records Act (PRA) and Article I § 3(b) of the California Constitution.¹

In particular, we seek the following records:

- 1) Records indicating the number and identity of members of your agency participating in Occupy Oakland enforcement actions on October 25, 2011.²

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

² As the California Attorney General has made clear, the confidentiality laws that protect peace-officer personnel records do not authorize a police department to withhold the names of officers involved in such incidents. California Attorney General Opinion No. 07-208 at 1, 91 Ops. Cal. Atty. Gen. 11 (2008). ("In response to a request made under the California Public Records Act for the names of peace officers involved in a critical incident, a law enforcement agency must disclose those names unless, on the facts of the particular case, the public interest served by not disclosing the names clearly outweighs the public interest served by disclosing the names.")

- 2) Records setting forth any crowd control policy or other protocol, policies, or procedures governing the conduct of members of your agency in responding to crowds and/or demonstrations.
- 3) Records reflecting any training received by members of your agency who participated in the October 25, 2011 enforcement actions in the Oakland Police Department's Crowd Control and Crowd Management Policy.
- 4) Records reflecting the nature and amount of any chemical agent, bean bags, direct fired special impact less-lethal munitions, flash bang grenades, any other less-lethal weapons, or firearms used by members of your agency in the October 25, 2011 enforcement actions, broken down by deputy if possible.
- 5) All use of force logs concerning the October 25, 2011 enforcement actions.
- 6) All incident reports, crime reports, mass arrest reports, after action reports, injury reports, supplemental reports, property damage reports, or other reports concerning the October 25, 2011, demonstrations and enforcement actions.
- 7) The operations plan and any other planning documents for the October 25, 2011, demonstrations and enforcement action.
- 8) Any and all records of law enforcement communications during and pertaining to the October 25, 2011, crowd events. This request includes, but is not limited to, all computer records, including records of computer communications as well as records of computer assisted dispatch computer entries; 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 for the above time period; and records of law enforcement email and cellular telephone communications.
- 9) All individual deputies', operations center and command center logs, other logs, notes, or chronologies prepared during or after the October 25, 2011, enforcement action and demonstration, pertaining to said demonstration and enforcement action.

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 portions of the documents are exempt from disclosure, please provide the non-exempt portions.³ If the documents are available in electronic format please email them to me at llye@aclunc.org and to my assistant Nishan Bhaumik at nbhaumik@aclunc.org.

The ACLU 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

³ Gov't. Code § 6253(a).

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addition, if you have the records in electronic form you can simply email them to me without incurring any copying costs.⁴ However, should you be unable to do so, the ACLU will reimburse your agency for the direct costs of copying these records plus postage.⁵ 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.⁶

If you believe that the records are in fact exempt from disclosure, please provide a written response setting forth the legal authority on which you rely in failing to disclose each document. In addition, please provide us with any documents that support this position, again under the PRA. If we can provide any clarification that will help comply with this request please contact us. Thank you for your prompt attention to this matter.

Sincerely,



Linda Lye
Staff Attorney
ACLU of Northern California

Also on behalf of

San Francisco Bay Area Chapter of the
National Lawyers Guild

⁴ Gov't. Code § 6253.9.

⁵ Gov't. Code § 6253(b).

⁶ Gov't. Code § 6253(a) (records must be made available when office is open).

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FAX COVER SHEET

DATE: October 31, 2011

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PAGES:
(including cover)