

MICHAEL N. FEUER, City Attorney (SBN 111529x)
CARLOS DE LA GUERRA, Managing Assistant City Attorney (SBN 164046) .
HEATHER AUBRY, Deputy City Attorney (SBN 169923)
JULIE S. RAFFISH, Deputy City Attorney (SBN 185504)
200 North Main Street, City Hall East, Room 800
Los Angeles, California 90012
Tel: (213) 978-8388; Fax: (213) 978-8787

NO FEE-GOV'T CODE 6103

FILED
Superior Court of California
County of Los Angeles

JAN 26 2016

Sherril R. Carter, Executive Officer/Clerk
By Jennifer De Luna, Deputy

Attorneys for Respondent
CITY OF LOS ANGELES

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

STOP LAPD SPYING COALITION and
NATIONAL LAWYERS GUILD – LOS
ANGELES CHAPTER,

) CASE NO. BS 159673

) [Judge James Chalfant]

Petitioner,

vs.

) **RESPONDENT'S ANSWER TO VERIFIED
PETITION FOR WRIT OF MANDATE**

CITY OF LOS ANGELES,

) TSC : March 8, 2016

) TIME : 1:30 p.m.

) DEPT : 85

Respondent.

Respondent CITY OF LOS ANGELES, answering for itself and no other Respondent,
hereby answers the Verified Petition for Writ of Mandate (Petition) by admitting, denying,
and affirmatively alleging as follows:

1. Answering the allegations in Paragraph 1, Respondent denies that the
Suspicious Activity Reporting (SAR) Program criminalizes every-day activities. As to the
remainder of allegations, Respondent lacks sufficient information and knowledge to form a
belief as to the truth of the allegations and therefore denies same.

2. Answering the allegations in Paragraph 2, Respondent admits that Los Angeles
Police Department (LAPD) Special Order 11 was issued in March 2008, revised and
renumbered as Special Order 1 in January 2012 and further revised and renumbered as
Special Order 17 in August 2012. Respondent further admits that the iWatch Program was

1 established in October 2009 as part of the SAR Program initiative, and that Petitioners
2 requested documents regarding the SAR Program and the United States Senate
3 Subcommittee Report on Fusion Centers. Respondent further admits that Exhibit A appears
4 to be a true and correct copy of an October 3, 2012 report entitled "Federal Support for and
5 Involvement in State and Local Fusion Centers." Respondent denies the remainder of
6 allegations in the paragraph.

7 3. Answering the allegations in Paragraph 3, Respondent admits that the Coalition
8 is within the class of persons beneficially interested in Respondent's performance of its legal
9 duties under the CPRA. As to the remainder of allegations, Respondent lacks sufficient
10 information and knowledge to form a belief as to the truth of the allegations and therefore
11 denies same.

12 4. Answering the allegations in Paragraph 4, Respondent admits that the National
13 Lawyers Guild (NLG) is within the class of persons beneficially interested in Respondent's
14 performance of its legal duties under the CPRA. As to the remainder of allegations,
15 Respondent lacks sufficient information and knowledge to form a belief as to the truth of the
16 allegations and therefore denies same.

17 5. Answering the allegations in Paragraph 5, Respondent admits the allegations.

18 6. Answering the allegations in Paragraph 6, Respondent admits that LAPD
19 Special Order 11 was issued in March 2008, revised and renumbered as Special Order 1 in
20 January 2012 and further revised and renumbered as Special Order 17 in August 2012.
21 Respondent admits that the iWatch Program was established in October 2009 as part of the
22 SAR Program initiative. Respondent further admits that the term "suspicious activity" is
23 defined as set forth in Exhibit B of the Petition, which appears to be a true and correct copy
24 of Special Order 17. Respondent denies the remainder of allegations in the paragraph.

25 7. Answering the allegations in Paragraph 7, Respondent is unable to admit or
26 deny the allegations relative to Exhibit C, as it appears only to be a true and correct copy of
27 a one-page transmittal correspondence from the LAPD Inspector General to the Board of
28 Police Commissioners for a January 2015 Audit by the Inspector General. Respondent admits

1 that Exhibit D appears to be a true and correct copy of a March 2013 Audit by the LAPD
2 Inspector General, which speaks for itself, and denies the remainder of allegations in the
3 paragraph.

4 8. Answering the allegations in Paragraph 8, Respondent admits that the Senate
5 Subcommittee Report identified as Exhibit A to the Petition, which speaks for itself, appears
6 to refer to Federal support for fusion centers and how they are functioning. Respondent further
7 admits that the Los Angeles Fusion Center is also referred to as the Los Angeles Joint
8 Regional Intelligence Center (JRIC). As to the remainder of allegations, Respondent lacks
9 sufficient information and knowledge to form a belief as to the truth of the allegations and
10 therefore denies same.

11 9. Answering the allegations in Paragraph 9, Respondent admits that there may
12 be a level of public interest in the SAR program, and denies remaining allegations in this
13 paragraph.

14 10. Answering the allegations in Paragraph 10, Respondent admits that Mr. Hamid
15 Khan delivered two CPRA requests to the Discovery Section of the LAPD on May 29, 2015,
16 and that Exhibits F and G to the Petition appear to be true and correct copies of these two
17 requests. As to the remainder of allegations, Respondent lacks sufficient information and
18 knowledge to form a belief as to the truth of the allegations and therefore denies same.

19 11. Answering the allegations in Paragraph 11, Respondent admits that the LAPD
20 did not respond to the two CPRA requests identified in Paragraph 10, above, within ten days
21 of their receipt. Respondent further admits that Exhibit H to the Petition appears to be a true
22 and correct copy of a letter, dated August 12, 2015, from Ms. Colleen Flynn wherein she
23 appears to represent the interests of Petitioners respecting the two CPRA requests identified
24 in Paragraph 10, above. Respondent denies remaining allegations in this paragraph.

25 12. Answering the allegations in Paragraph 12, Respondent admits that on August
26 27, 2015, the LAPD responded as alleged, and that Exhibit I to the Petition appears to be a
27 true and correct copy of the LAPD letter.

28 ///

1 13. Answering the allegations in Paragraph 13, Respondent admits that Exhibit J to
2 the Petition appears to be a true and correct copy of a letter, dated September 18, 2015, from
3 Colleen Flynn to the LAPD concerning the CPRA requests identified in Paragraph 10, and
4 containing the assertions made therein, as alleged.

5 14. Answering the allegations in Paragraph 14, Respondent admits that, as of the
6 date of the Petition, the LAPD had not replied to Petitioners' September 18, 2015 letter.

7 15. Answering the allegations in Paragraph 15, as phrased, Respondent denies the
8 allegations contained in the paragraph insofar as they pertain to nonexempt public records
9 identified by LAPD.

10 16. Answering the allegations in Paragraph 16, Respondent admits that, to the
11 extent that the information Petitioners seek from the LAPD exists, it is maintained in Los
12 Angeles County and that some, but not all, of the requested records are public records not
13 exempt from disclosure.

14 17. Answering the allegations in Paragraph 17, Respondent admits that it
15 inadvertently neglected to perform its review "of the remainder of the requests to identify
16 additional responsive records," as stated in its August 27, 2015 letter. Respondent denies the
17 remaining allegations.

18 18. Answering the allegations in Paragraph 18, Respondent admits that Section
19 6254(b) of the Government Code contains the verbiage so referenced, and denies the
20 remainder of allegations in the paragraph.

21 19. Answering the allegations in Paragraph 19, Respondent admits that Section
22 6254(c) of the Government Code contains the verbiage so referenced, and denies the
23 remainder of allegations in the paragraph.

24 20. Answering the allegations in Paragraph 20, Respondent admits that
25 Government Code Section 6259(a) and (b) authorize a superior court to order the disclosure
26 of public records or uphold the decision refusing disclosure, in accordance with said
27 provisions, which speak for themselves. Respondent denies the remainder of allegations.

28 ///

1 **AFFIRMATIVE DEFENSES**

2
3 **FIRST AFFIRMATIVE DEFENSE**

4 As a first and separate affirmative defense to the Petition, Respondent alleges that
5 certain records sought by Petitioner are exempt from disclosure pursuant to California
6 Government Code Section 6254, subdivision (f).

7 **SECOND AFFIRMATIVE DEFENSE**

8 As a second and separate affirmative defense to the Petition, Respondent alleges
9 that certain records sought by Petitioner that may be in Respondent's possession are
10 exempt from disclosure under Government Code Section 6254, subdivision (k).

11 **THIRD AFFIRMATIVE DEFENSE**

12 As a third and separate affirmative defense to the Petition, Respondent alleges that
13 certain records sought by Petitioner that may be in Respondent's possession are exempt
14 from disclosure under Government Code Section 6255.

15 WHEREFORE, RESPONDENT PRAYS FOR JUDGMENT AS FOLLOWS:

- 16 1. That the Petition be denied, and judgment be entered in favor of Respondent;
17 2. That Petitioner take nothing by this Petition;
18 3. For costs of suit; and
19 4. For such other and further relief as the court may deem just and proper.

20
21 Dated: January 26, 2016

MICHAEL N. FEUER, City Attorney
CARLOS DE LA GUERRA, Managing Assistant City Attorney
HEATHER AUBRY, Deputy City Attorney
JULIE RAFFISH, Deputy City Attorney

22
23
24
25
26 By: 
27
28

JULIE RAFFISH
Deputy City Attorney

1 PROOF OF SERVICE
2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I, the undersigned, declare that I am employed in the County of Los Angeles. I am
4 over the age of 18 and not a party to this action or proceeding. My business address is Los
5 Angeles City Attorney's Office, Public Safety General Counsel Division, 200 North Main
6 Street, 800 City Hall East, Los Angeles, CA. 90012.

7 On January 26, 2016, I served the document(s) entitled **RESPONDENT'S ANSWER**
8 **TO VERIFIED PETITION FOR WRIT OF MANDATE** on all interested parties in this action
9 by transmitting true copies thereof addressed as follows:

10 Colleen Flynn, Esq.
11 LAW OFFICE OF COLLEEN FLYNN
12 3435 Wilshire Blvd., Suite 2910
13 Los Angeles, CA 90010

14 Carol A. Sobel, Esq.
15 LAW OFFICE OF CAROL A. SOBEL
16 3110 Main Street, Suite 210
17 Santa Monica, CA 90405

18 [X] **BY MAIL:** I am readily familiar with the practice of the Los Angeles City Attorney's
19 Office for collection and processing of correspondence for mailing with the United
20 States Postal Service. In the ordinary course of business, correspondence is
21 deposited with the United States Postal Service the same day it is placed for
22 collection and mailing. On the date referenced above, I placed a true copy of the
23 above document(s) in a sealed envelope and placed it for collection in the proper
24 place in our office at Los Angeles, California.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

27 Dated: January 26, 2016

28 
PATRICIA GUERRA, Declarant