September 9, 2011

Peter Bibring, Esq.
ACLU OF SOUTHERN CALIFORNIA
1313 West Eighth Street
Los Angeles, CA 90017

Re: Public Records Act Request

Dear Mr. Bibring:

This is a follow-up to our August 18, 2011 correspondence wherein the City invoked its right to a 14-day extension to your Public Records Request and constitutes our response under the Public Records Act (PRA) to your request as follows:

A) Mobile Phone Location Records.

A1) There are no documents responsive to this request.

A2) There are no documents responsive to this request.

A3) There are no documents responsive to this request.

A4) The City objects to this request because the records sought are confidential and the request is overly burdensome. Records that are part of ongoing investigations are exempt from disclosure per Government Code § 6254(f). As for closed investigations, the City also objects to their production because the request is overly burdensome and not "sufficiently focused and specific" to allow the City to locate the records with reasonable effort. State Bd. of Equalization v. Superior Court (1992) 10 Cal.App.4th 1177, 1186.

Notwithstanding the above objections, the City may be able to produce responsive documents that are not confidential if you narrow your request to a specific time frame.
A5) There are no documents responsive to this request.

A6) See response to request A4. Furthermore, any document the City has relating to "digital fences" is for trackers and not mobile phones.

A7) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City does not have any documents responsive to this request.

A8) There are no documents responsive to this request.

A9) See response to request A4.

A10) See response to request A4.

B) Internet, Social Network, and Book Service Investigations

B1) There are no documents responsive to this request.

B2) There are no documents responsive to this request.

B3) There are no documents responsive to this request.

B4) There are no documents responsive to this request.

B5) There are no documents responsive to this request.

B6) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City does not have any documents responsive to this request.

B7) There are no documents responsive to this request.

B8) The City objects to this request because the records sought are confidential and the request is overly burdensome. Records that are part of ongoing investigations are exempt from disclosure per Government Code § 6254(f). As for closed investigations, the City also objects to their production because the request is overly burdensome and not "sufficiently focused and specific" to allow the City to locate the records

Notwithstanding the above objections, the City may be able to produce responsive documents that are not confidential if you narrow your request to a specific time frame.

B9) The City objects to this request as overly burdensome. The request should be "sufficiently focused and specific" to allow the City to locate records with reasonable effort. *State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1186. Notwithstanding, the City does not have any documents responsive to this request.

C) GPS Tracking Devices and Automatic License Plate Readers

C1) The City will respond to this request by providing you with two (2) purchasing agreements as well as various purchasing orders involving the Bakersfield Police Department ("Department").

C2) There are no documents responsive to this request.

C3) There are no documents responsive to this request.

C4) There are no documents responsive to this request.

C5) There are no documents responsive to this request.

C6) The City does not have any data policies relating to the maintenance and retention of information obtained through GPS Tracking Devices or ALPRs. However, the City will produce a Memorandum of Agreement between the City of Bakersfield and a vendor regarding the installation of such devices.

C7) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City does not have any documents responsive to this request.
D) Public Video Surveillance Cameras and Facial Recognition Technology

Please note that all of the answers below are only related to the Public Video Surveillance Cameras for the City does not utilize Facial Recognition Technology.

D1) The Public Records Act requires that the City disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City will respond to this request by providing you with Agreement numbers 10-114 and 10-114(1).

D2) There are no responsive documents for this request as the funding for additional cameras has not been identified.

D3) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City will respond to this request by providing you with the Department’s Proposed Policy 815.

D4) The City will respond to this request by providing you with the Department’s Proposed Policy 815.

D5) There are no documents responsive to this request.

D6) There are no documents responsive to this request.

D7) The City will respond to this request by providing you with Administrative Report dated July 30, 2010.

D8) There are no responsive documents for this request because video surveillance cameras are not yet operational at this time.

D9) See response to request D8.

D10) The City will respond to this request by providing you with Agreement numbers 10-114 and 10-114(1).

D11) There are no documents responsive to this request.
E) Mobile Forensic Data Extraction

E1) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City will respond to this request by providing you with purchasing orders relative to Cellebrite machines.

E2) The City will respond to this request by providing you with Department Policy 814.

E3) See response to request E2.

E4) See response to request E2.

E5) The Public Records Act requires the City to disclose documents responsive to requests. Your request does not seek documents and therefore is not within the purview of a Public Records request. Notwithstanding, the City does not have documents responsive to this request.

F) Other Surveillance Technology

The City objects to this entire section because the phrase "other surveillance technology" is vague. Notwithstanding the objection, the City will produce policies relative to telephone wiretapping.

Due to the extensive nature of your request, and the time needed to gather and copy the documents, it will take the City approximately 4 to 6 weeks to produce the records identified above. Unfortunately, due to budget constraints, we are unable to grant your request for a fee waiver. Therefore, once we have gathered and reviewed the documents, we will give you a cost estimate.

If you have further questions, please do not hesitate to contact me.

Very truly yours,

JESSALEE TALLEY
Associate City Attorney

JT:lsc
cc: Natalie Welty, Deputy City Clerk

S:\CLERK\Pub Recs\11-12\ACLU.SurveillanceTech.docx

- 5517 -