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ELECTRONICALLY FILED
Superior Court of California,
County of Placer
02/26/2024 at 02:15:33 PM
By: Breanne E Sanders
Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF PLACER**

12
13 SACRAMENTO TELEVISION STATIONS
INC., a Delaware corporation, d/b/a CBS
14 News Sacramento,
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Petitioner,

vs.

Respondents.

Case No. S-CV-0052277

**VERIFIED PETITION FOR WRIT OF
MANDATE ORDERING COMPLIANCE
WITH THE CALIFORNIA PUBLIC
RECORDS ACT, EXHIBITS 1-6**

Hearing Date: 04/09/2024
Department: 42
Time: 8:30 AM

1 **VENUE AND JURISDICTION**

2 10. The relief sought by Petitioner is expressly authorized under Government Code
3 §§ 7923.000, 7923.005, and 7923.100–7923.115, Civil Procedure Code §§ 1060 and 1085, *et seq.*,
4 and Article 1, Section 3(b) of the California Constitution. Venue is proper under Civil Procedure
5 Code §§ 394 and 395 and under Government Code § 7923.100. Petitioner is informed and believes
6 that some or all of the materials to which it seeks access are situated in Placer County, and that the
7 acts and events giving rise to the claims, including the denial of access to public records, occurred
8 in Placer County.

9 **GENERAL ALLEGATIONS**

10 ***The April 6, 2023 Shooting in Mahany Park***

11 11. Mahany Park is “a 225-acre park located at the corner of Pleasant Grove Boulevard
12 and Woodcreek Oaks Boulevard. It includes a dog park, playground, multiple ballfields, fitness
13 center, library, Roseville Utility Exploration Center, pool and natural areas with trails.” Update on
14 shooting in Mahany Park, City of Roseville California (Apr. 6, 2023), <http://tinyurl.com/4n8nnup7>
15 [hereinafter “Apr. 6 RPD Press Release”].

16 12. On April 6, 2023, among members of the public, it was also hosting “33 children
17 attending spring break camps.” *Id.*

18 13. According to RPD, on April 6, CHP “attempt[ed] a search warrant service on 35
19 year old suspect Eric J. Abril of Roseville” at Mahany Park. *See* April 7, 2023 update on shooting
20 in Mahany Park, City of Roseville California (Apr. 7, 2023), <http://tinyurl.com/yc36c7yc>
21 [hereinafter “Apr. 7 RPD Press Release”].

22 14. The execution of that warrant went horribly wrong and had life-and-death
23 consequences for civilians, officers, and the suspect.

24 15. California Highway Patrol (“CHP”), RPD says, “planned to make contact” with
25 Mr. Abril “at Mahany Park.” *See* April 14, 2023 Update on shooting in Mahany Park, City of
26 Roseville California (Apr. 14, 2023), <http://tinyurl.com/45dxzhk3> [hereinafter “Apr. 14 RPD Press
27 Release”].

28

1 16. While RPD says it was “aware of the surveillance by CHP in the area,” it had no
2 “details of a search warrant service.” *Id.*

3 17. RPD says that at about “12:30 p.m.” on April 6 it responded to Mahany Park “after
4 ‘shots fired’ was broadcast over the police radio.” *See* Apr. 6 RPD Press Release.

5 18. CHP then “advised Roseville emergency dispatch, a CHP officer had been shot in
6 the area of Mahany Park.” *Id.*

7 19. When RPD officers arrived on the scene around 12:30 p.m., they observed a
8 suspect “carrying a gun and fleeing from CHP.” *Id.*

9 20. During Mr. Abril’s flight from CHP and RPD, he managed to take “two innocent
10 civilian hostages.” *Id.*

11 21. As RPD describes it, officers then “quickly confronted the suspect.” *Id.*

12 22. During the chaotic confrontation, law enforcement on the scene, including RPD,
13 exchanged crossfire.

14 23. Eventually, at approximately 1:13 p.m., law enforcement apprehended Mr. Abril.

15 24. And, at approximately 1:25 p.m., law enforcement secured the scene.

16 25. By the time of Mr. Abril’s apprehension, RPD says he had “shot both” of the
17 civilian hostages. *Id.*

18 26. And, while RPD states that its “officers rescued the hostages,” “[o]ne of the
19 hostages was pronounced deceased on scene.” *Id.*

20 27. The other hostage was transported to a local hospital with “non-life-threatening
21 injuries.” *Id.*

22 28. In addition to the hostages, RPD reports that Mr. Abril “sustained gunshot wounds
23 and was transported to a local area hospital.” *Id.*

24 29. It also reports that a CHP officer “had been shot” as well. *Id.*

25 30. While RPD was unsure whether its officers or CHP officers shot Mr. Abril, it was
26 “confident,” “[b]ased on evidence and statements,” that it was Mr. Abril who shot the victims.”
27 *See* Apr. 14 RPD Press Release.

28

1 ***RPD Confirms an Officer Involved Shooting***

2 31. On April 6, after the apprehension of Mr. Abril, law enforcement held a press
3 conference, reporting that the “incident” began sometime “around 12:30 p.m. when a CHP
4 taskforce officer advised . . . that shots had been fired and a CHP officer had been struck by
5 gunfire near Mahany Park.” See CBS News Sacramento, *Press conference in fatal Roseville*
6 *hostage-related shooting*, YouTube (Apr. 6, 2023), <http://tinyurl.com/yu8a54d9>.

7 32. Subsequently, on April 7, RPD confirmed in a press release that “an Officer
8 Involved Shooting [(“OIS”)] occurred” in Mahany Park, involving CHP and RPD officers. See
9 Apr. 7 RPD Press Release.

10 33. While initially light on details, a little over a week after April 6, RPD characterized
11 the OIS as follows:

12 The Roseville Police Department can confirm CHP had six officers involved in
13 the OIS during the initial confrontation with suspect Eric Abril prior to RPD
14 responding to assist. As Roseville Police Officers arrived, the suspect continued
15 to endanger officers and the public in the open space area. At which time, three
16 Roseville Officers engaged suspect Eric Abril during the OIS encounter. See Apr.
17 14 RPD Press Release.

18 34. At that time, RPD estimated that during the incident Mr. Abril and law enforcement
19 from RPD and CHP exchanged at least in excess of fifty rounds. *Id.*

20 35. RPD later confirmed to CBS News Sacramento that “Roseville officers exchanged
21 gunfire” with Mr. Abril “between approximately 12:38pm and 12:57pm.”

22 36. By the time law enforcement secured the scene around 1:25 p.m., approximately 55
23 minutes had elapsed since RPD was dispatched and 47 minutes had elapsed since RPD first
24 exchanged gunfire with Mr. Abril.

25 ***Respondents’ Obligations to Release Recordings Related to “Critical Incidents”***

26 37. Government Code § 7923.625 sets forth a presumptive disclosure requirement for
27 “video or audio recording[s] that relate[] to a critical incident,” which is defined, as relevant here,
28 as “[a]n incident involving the discharge of a firearm at a person by a peace officer or custodial
officer.”

1 38. As the Legislative Counsel’s Digest explained, “By requiring local agencies to
2 make these recordings available, the bill . . . impose[s] a state-mandated local program.”

3 39. Under the statute, such recordings “may be withheld” only if certain showings are
4 made or exemptions apply. *Id.* § 7923.625(a)-(b).

5 40. Generally, however, Respondents may delay disclosure “for no longer than 45
6 calendar days after the date the agency knew or reasonably should have known about the incident,
7 if . . . disclosure would substantially interfere with the investigation.” *Id.* § 7923.625(a)(1).

8 41. This determination regarding delay must be supported by a writing setting out “the
9 specific basis for the agency’s determination” and “the estimated date for disclosure.” *Id.*

10 42. Here, because RPD confirmed the OIS on April 6, disclosure was required by May
11 22, 2023, absent some additional showing supporting delay as set forth in § 7923.625(a) or an
12 applicable exemption found in § 7923.625(b).

13 ***RPD Fails to Disclose Recordings Related to Mahany Park Shooting Without Making a Delay***
14 ***Determination Nor Asserting an Exemption***

15 43. On June 12, 2023, over 45 days after the April 6 incident, CBS News Sacramento
16 reporter and anchor Steve Large contacted Lieutenant Chris Ciampa, the RPD Public Information
17 Officer, by email to inquire about the “release of police body cam video and dash cam video” of
18 the Mahany Park shooting.

19 44. On June 13, Lieutenant Campa acknowledged receipt of CBS News Sacramento’s
20 request for records and advised that RPD had responsive records in its possession, which RPD
21 would provide to CBS News Sacramento within 10 days.

22 45. On June 22, Lieutenant Campa provided CBS News Sacramento the purportedly
23 responsive audio and video records related to the Mahany Park shooting.

24 46. In fact, however, it was apparent from this production that RPD was reversing its
25 decision to provide the responsive records.

26 47. Instead, for the first time, Lieutenant Campa asserted: “While a much larger
27 criminal event occurred, the incident involving the discharge of a firearm at a person is the only
28 ‘critical incident’ involving the city of Roseville Police Department.”

1 48. RPD advanced this argument despite the phrase “criminal event” (as distinct from
2 the statutorily defined “critical incident”) being nowhere found in § 7923.625.

3 49. Lieutenant Campa added, “All disclosable City of Roseville Police Department
4 records are limited to audio and video records related to this ‘critical incident’ only (as is required
5 by California law).”

6 50. On the basis of its narrow reading of § 7923.625 and invented dichotomy between
7 “criminal event” and “critical incident,” RPD produced just four 39-second body-worn camera
8 video clips totaling less than three minutes from an incident that began around 12:30 p.m. and did
9 not end until 1:25 p.m.

10 51. Specifically, RPD produced the following:

11 a. Recording 1: Footage from one body-worn camera running from 12:38:10 to
12 12:38:49 (39 seconds).

13 b. Recording 2: Footage from one body-worn camera running from 12:40:15 to
14 12:40:54 (39 seconds).

15 c. Recording 3: Footage from one body-worn camera running from 12:40:40 to
16 12:41:19 (39 seconds).

17 d. Recording 4: Footage from one body-worn camera running from 12:57:16 to
18 12:57:55 (39 seconds) (together, the “Disclosed Recordings”).

19 52. In sum, RPD improperly interpreted “video or audio recording[s] that relate[] to a
20 critical incident” not as requiring release of recordings of, as the statute requires, “[a]n incident
21 involving the discharge of a firearm,” *i.e.*, a “critical incident” under the statute, but rather as only
22 requiring release of recordings of the actual “discharge of a firearm.” (Consistent with this narrow
23 interpretation, RPD also produced two audio clips of dispatch audio totaling less than four minutes
24 that also contained audio discussing shots being fired.)

25 53. Notably, even during those timeframes that RPD maintains are part of the critical
26 incident, RPD disclosed only one recording from one body-worn camera despite the presence in
27 the Disclosed Recordings of three of the four videos of other officers also presumably wearing
28

1 body-worn cameras. Thus, even under RPD’s mistaken interpretation, it still has not released all
2 responsive records.

3 54. RPD never asserted that disclosure of the Disclosed Recordings would interfere
4 with any criminal investigation or violate victim privacy under § 7923.625.

5 55. Yet, RPD did include a boilerplate disclaimer on its initial production, stating that
6 “no additional records aside from the legally required audio/video records . . . would be produced”
7 as disclosure of *those* unidentified records would be inappropriate “[o]ut of respect for the privacy
8 of the victims involved and the integrity of the criminal prosecution.”

9 ***CBS News Sacramento Attempts to Resolve RPD’s Non-Compliance Without Litigation***

10 56. On July 26, 2023, CBS News Sacramento reporter and anchor Julie Watts
11 responded to Lieutenant Campa, reiterating CBS News Sacramento’s request for “the full footage
12 from all officer Body Worn Cameras (BWC) and dash cameras at the scene of the Mahany Park
13 incident on April 6th—beginning with their arrival at Mahany Park (driving up to the park),” *i.e.*,
14 approximately 12:30 p.m., “through the time the suspect was apprehended and taken into custody
15 (removed from the park),” *i.e.*, approximately 1:25 p.m.

16 57. Ms. Watts explained that the law requires disclosure of any recording that “relates
17 to a critical incident,” a much broader disclosure than the limited production RPD had made.

18 58. Lieutenant Campa responded on August 2, maintaining that RPD had already
19 provided “ALL audio and video records” that it was required to produce. A true and correct copy
20 of the email exchange between CBS News Sacramento and Lieutenant Campa that took place on
21 June 12, June 22, July 26, and August 2, 2023 is attached hereto as **Exhibit 1**.

22 59. On October 25, Ms. Watts contacted Lieutenant Campa again via email to state that
23 CBS News Sacramento had become aware that RPD also possessed drone video footage of the
24 April 6 incident that it had not disclosed, in violation of the CPRA.

25 60. Ms. Watts requested that RPD promptly provide the drone video.

26 61. That same day, Lieutenant Campa replied simply: “Nothing has changed from the
27 message sent on Aug 2nd on what Roseville PD is releasing.” A true and correct copy of the
28 October 25, 2023 email exchange is attached hereto as **Exhibit 2**.

1 62. Lieutenant Campa made this assertion despite the statutory requirement under
2 § 7923.625(a)(2) requiring that an agency proactively “reassess withholding and notify the
3 requester every 30 days.”

4 63. In fact, Respondent RPD has never proactively reassessed its withholding every 30
5 days as required nor has it ever notified CBS News Sacramento of the result of that mandatory
6 reassessment.¹

7 64. On October 27, in-house counsel for CBS News Sacramento sent to Lieutenant
8 Campa a letter—attached hereto as **Exhibit 3**, urging RPD to reconsider its withholding, as it was
9 contrary to § 7923.625 as well as the California Constitution, which requires the CPRA to be
10 broadly not narrowly construed.

11 65. On October 30, RPD responded to that letter, this time through the Assistant City
12 Attorney for the City of Roseville, Joseph Speaker. A true and correct copy of the October 30,
13 2023 response is attached here as **Exhibit 4**.

14 66. Rather than engage substantively, RPD’s October 30 response was nearly a carbon
15 copy of its October 27 response with non-substantive changes to address the letter to CBS News
16 Sacramento’s in-house counsel rather than Ms. Watts.

17 67. The October 30 response contained only two material differences.

18 68. First, RPD admitted that “[t]he whole purpose of the law,” *i.e.*, § 7923.625, “is to
19 provide transparency to the officers’ conduct.” *Id.*

20 69. Second, RPD no longer purported to rely on another provision of law, which has no
21 application to this case, to support its withholding of additional recordings. *Id.* (removing sentence
22 that invoked Penal Code § 832.7 as a basis for withholding).

23 70. On November 15, in-house counsel for CBS News Sacramento responded yet
24 again, this time repeating the textual arguments that went substantively unaddressed and also
25

26 _____
27 ¹ Mandatory reassessments and notifications were due on or around: June 21, 2023; July 21, 2023;
28 August 21, 2023; September 20, 2023; October 20, 2023; November 19, 2023; December 19,
2023; and January 18, 2024.

1 explaining that RPD’s position was contrary to the views of the legislator who authored the statute
2 and was contrary to other police department’s reading of § 7923.625.

3 71. In fact, RPD’s position was contrary to how other law enforcement have responded
4 to requests for recordings *from the Mahany Park shooting*.

5 72. Indeed, unlike RPD, CHP “released nearly *a half hour* of footage” from the
6 Mahany Park shooting. (Two months later, in response to CBS News Sacramento’s arguments like
7 those here, CHP would release *seven hours* of recordings from the Mahany Park shooting.²)

8 73. Additionally, CBS News Sacramento explained that RPD’s interpretation was
9 inconsistent with other law enforcement around the State, including the Los Angeles Police
10 Department and San Diego Police Department, which broadly interpret “critical incident.” A true
11 and correct copy of the November 15, 2023 letter is attached here as **Exhibit 5**.

12 74. RPD replied on December 1, and yet again maintained that it would not disclose
13 additional footage of the Mahany Park shooting. A true and correct copy of the December 1, 2023
14 email is attached here as **Exhibit 6**.

15 75. RPD dismissed the plain meaning of the statute, the legislator’s statement, and the
16 interpretations of the statute by its fellow law enforcement agencies, including the CHP’s
17 interpretation of the statute for the purposes of the very same incident at issue here. Instead, it
18 resorted to a tortured and mistaken reading of the legislative history to try to defend its outlier
19 position.

20 76. In that same December correspondence, and for the first time since the request was
21 made in June 2023, RPD retreated to a fallback position, arguing that even if RPD’s interpretation
22 of the statute were wrong, RPD “would be able to withhold providing any additional audio and
23 video since there is an active criminal investigation and substantial privacy concerns.” *Id.*

24 77. RPD neither explained its delay in asserting these exemptions as a ground for
25 withholding nor why it released the Disclosed Recordings without claiming similar exemptions.

26 _____
27 ² Julie Watts, *CHP said it didn’t have video from this deadly shootout. It does.*, CBS News
28 Sacramento (Jan. 23, 2024), <https://www.cbsnews.com/sacramento/news/chp-denied-video-of-a-deadly-shootout-existed-turns-out-it-does>.

1 78. RPD also made no attempt to make the necessary showing under § 7923.625 that
2 would allow it to withhold the requested recordings under these exemptions.

3 79. Since CBS News Sacramento and Respondent City of Roseville and RPD's
4 exchange of written communications concerning disclosure of the requested footage, the
5 undersigned has spoken by telephone multiple times with counsel for the City of Roseville in an
6 attempt to resolve the parties' dispute and avoid the need for this Petition.

7 80. During the course of those phone calls, the undersigned reiterated that CBS News
8 Sacramento is seeking all footage—including body cam, dash cam and drone footage—from the
9 time RPD was dispatched on April 6, *i.e.*, approximately 12:30 p.m., to the time the scene at
10 Mahany Park was secured with the suspect in custody, *i.e.*, approximately 1:25 p.m.

11 81. Counsel for City of Roseville reiterated that RPD would not disclose more than the
12 short excerpts in the Disclosed Recordings even though he acknowledged that CHP had disclosed
13 to CBS News Sacramento additional footage from the Mahany Park shooting, including
14 unspecified footage that CHP had obtained from RPD.

15 82. In short, although § 7923.625 requires Respondents to disclose a “video or audio
16 recording that relates to a critical incident,” which is defined as “[a]n incident involving the
17 discharge of a firearm at a person by a peace officer or custodial officer,” Respondents have not
18 done so in contravention of § 7923.625.

19 **CAUSE OF ACTION**

20 **(Violation of The California Public Records Act, Cal. Gov't C. §§ 7920, *et seq.***
21 **against all Respondents)**

22 83. Petitioner realleges Paragraphs 1 through 82 above as though fully incorporated
23 herein.

24 84. Respondent the City of Roseville is a public agency as defined by the CPRA.

25 85. Respondents are obligated to disclose all footage related to a “critical incident,” as
26 defined by Government Code § 7923.625.

27 86. A “critical incident” as defined by Government Code § 7923.625 involving RPD
28 officers took place in Mahany Park on April 6, 2023. That incident took place from approximately

1 12:30 p.m. to 1:25 p.m.

2 87. Respondents violated the CPRA by failing to disclose all footage related to the
3 Mahany Park shooting, even after Petitioner requested the footage.

4 88. Respondents violated the CPRA by failing to reassess their withholding at required
5 intervals and to notify CBS News Sacramento of the results of that reassessment.

6 89. There are no exemptions or exceptions to the CPRA that justify withholding the
7 footage related to the April 6 critical incident, in whole or in part.

8 90. An actual controversy exists as to whether additional footage must be disclosed,
9 and whether those records, or any part thereof, are exempt from disclosure under § 7923.625.

10 91. Petitioner is entitled to an order declaring that it is entitled to the requested
11 materials, and that such materials must be made available to Petitioner and the public immediately.

12 92. Under Government Code § 7923.000, Petitioner is entitled to institute proceedings
13 for a writ of mandate to enforce its rights and the public's right to obtain the footage in question.
14 Furthermore, under Government Code § 7923.005, Petitioner is entitled to have the proceedings
15 resolved on an expedited basis consistent "with the object of securing a decision as to these
16 matters at the earliest possible time."

17 **PRAYER FOR RELIEF**

18 Therefore, Petitioner prays for writ relief and judgment as follows:

19 1. That this Court issue a peremptory writ of mandate or other order under the seal of
20 this Court, directing Respondents to immediately disclose to Petitioner the requested materials
21 currently being withheld; or, alternatively, that this Court immediately issue an alternative writ of
22 mandate or order to show cause under the seal of this Court, setting a hearing on this matter as
23 early as possible, and directing Respondents to show cause why they should not immediately
24 provide the requested materials, and thereafter issue a writ of mandate or other order under the
25 seal of this Court, directing Respondents to immediately disclose to Petitioner the requested
26 materials currently being withheld. *See* Gov't Code §§ 7923.000; 7923.100–7923.500.

27 2. That this Court issue a declaration that the withheld materials are public records as
28 defined by Government Code § 7920.530 in that they contain information relating to the conduct

1 of the people’s business, prepared, owned, used or retained by Respondents, that they are related
2 to a “critical incident” as defined by Government Code § 7923.625, and that Respondents violated
3 the CPRA by failing to promptly make the materials available to Petitioner and the public.

4 3. That this Court issue a declaration that the withheld materials are writings of public
5 officials and agencies as set forth in Article 1, Section 3(b)(1) of the California Constitution and
6 that Respondents violated the California Constitution by failing to promptly make the writings
7 available to Petitioner and the public.

8 4. The Court enter an order awarding costs and attorneys’ fees incurred in this action
9 pursuant to, *inter alia*, Government Code § 7923.115 and/or California Code of Civil Procedure
10 §§ 1021.5, 1032, 1033.5, and any other applicable law, in addition to any other relief granted.

11 5. The Court award Petitioner such other and further relief as is just and proper.

12 Dated: February 26, 2024

JASSY VICK CAROLAN LLP

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By



JEAN-PAUL JASSY

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Attorneys for Petitioner
Sacramento Television Stations Inc.

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VERIFICATION


I, Julie A. Watts, do hereby certify and declare as follows:

1. I am an investigative reporter and anchor for CBS News Sacramento. I participated in the correspondence with Lieutenant Christopher Campa regarding the footage at issue in this Petition and am familiar with the additional communications my colleagues had with Lieutenant Campa and Assistant City Attorney Joseph Speaker regarding the footage.

2. I have read the **VERIFIED PETITION FOR WRIT OF MANDATE ORDERING COMPLIANCE WITH THE CALIFORNIA PUBLIC RECORDS ACT; EXHIBITS 1-6** and know the contents thereof, and I could verify that the same is true of my own personal knowledge, except as to those matters therein stated upon information and belief and as to those matters I believe them to be true.

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

Executed in Rocklin, CA on 02/23/2024.



Julie A. Watts

EXHIBIT 1

From: [Ciampa, Christopher](#)
To: [Watts, Julie A](#)
Cc: [Large, Steve J](#); [Jones, Beth \(STC\)](#); [Baynes, Mary](#); [Carr, Lisa](#)
Subject: Re: Public Records Act/AB 748 Appeal - Roseville PD Mahaney Park Critical Incident Video
Date: Wednesday, August 2, 2023 11:32:11 PM
Attachments: [image001.png](#)

External Email

Julie,

Please allow this correspondence to respond to your below email to the City of Roseville regarding the public records act request from your client, CBS News Sacramento/CBS13 – KOVR. I have reviewed your appeal email below and I think there may be a misunderstanding as to what the City of Roseville is required to produce and what was actually produced. In California, law enforcement records are exempt from disclosure under the California Public Records Act, unless they fall into narrow categories (see California Government Code Section 7923.600 et seq.). Specifically, in this case, the request from CBS News Sacramento/CBS13 – KOVR and your email below asked for audio and video records from the April 6, 2023 event. Law enforcement audio and video records are exempt from disclosure, unless they fall into the category of records identified in AB 748 (codified in Government Code Section 7923.625) (“AB 748”).

AB 748 requires disclosure of certain audio/video records (including Body Worn Camera footage) only “if it depicts” a “critical incident”, as defined by Government Code Section 7923.625(e). Your email argues that AB 748 uses the language “**that relates to** a critical incident,” and you argue that means you get more than the footage that actually “depicts” the “critical incident”. This interpretation misreads Government Code Section 7923.625(e) and the express language of that statute. The legislature actually defines what “relates to a critical incident” means and said: “For purposes of this section, a video or audio recording relates to a critical incident if it depicts any of the following incidents: (1) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.” [Emphasis added.] So as you can see, the statute is very clear and expressly says “relates to” means that it “depicts” a “critical incident”.

As we provided in our response to CBS News Sacramento/CBS13 – KOVR, the City of Roseville Police Department was involved in such a “critical incident”, specifically “*an incident involving the discharge of a firearm at a person by a peace officer.*” Per AB 748, we provided ALL audio and video records that depict the Roseville Police Department’s “critical incident”.

Respectfully, your email below incorrectly implies responsive audio/video records were withheld. We did not withhold responsive records related to the Roseville Police Department’s involvement in the “critical incident”. Your email conflates the overall criminal event with the narrow “critical incident”. Based on the facts of this event, there is no legal requirement for

the City of Roseville to produce audio or video records outside of the “critical incident”.

We acknowledge that AB 748 does not preclude an agency from providing greater access to video or audio recordings than the minimum standards, but it does not require it. In this specific matter and in our initial response to CBS News Sacramento/CBS13 – KOVR, reference to victim privacy and the criminal investigation was not to assert a basis for withholding otherwise responsive audio or video records of the “critical incident” (that are required under AB 748), but rather to explain that out of respect for the privacy of the victims involved and the integrity of the criminal prosecution, no additional records aside from the legally required audio/video records discussed above will be produced at this time.

Lastly, to the extent you are seeking records related to a “critical incident”, as defined by Penal Code Section 832.7 (i.e. SB 1421/SB 16), those records are exempt from disclosure, pursuant to 832.7(b)(8)(B), as criminal charges have been filed. Such records cannot be disclosed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered.

Should you have any questions, please do not hesitate to contact me.

Sincerely,
Lt Chris Ciampa

From: Watts, Julie A <JWatts@cbs.com>

Sent: Wednesday, July 26, 2023 7:06 AM

To: Ciampa, Christopher <CCiampa@roseville.ca.us>

Cc: Large, Steve J <slarge@kovr.com>; Jones, Beth (STC) <Beth.Jones@paramount.com>; Watts, Julie A <JWatts@cbs.com>; Baynes, Mary <mbaynes@cbs.com>; Carr, Lisa <lcarr@kovr.com>

Subject: Public Records Act/AB 748 Appeal - Roseville PD Mahaney Park Critical Incident Video

EXTERNAL: This email originated from outside of the organization. Do not click on any links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris,

I left you a message yesterday. I was hoping to chat on background before sending this email. CBS News Sacramento/CBS13 – KOVR is appealing your partial CPRA records request response, dated 6/22/23.

We are requesting the full footage from all officer Body Worn Cameras (BWC) and dash cameras at the scene of the Mahaney Park incident on April 6th – beginning with their arrival at Mahaney Park (driving up to the park) through the time the suspect was apprehended and taken into custody (removed from the park).

As you acknowledge in your partial response, under AB 748, "a video or audio recording relates to a

critical incident if it depicts any of the following incidents: (1) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer. (2) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury." Govt. Code § 7923.625(e).

The statute requires disclosure of any recording "**that relates to** a critical incident," which covers more than just the moment of shooting or use of force (emphasis added).

The term "relates to" imposes a broad obligation of disclosure. (*San Diego Unified School Dist. v. Yee* (2018) 30 Cal.App.5th 723, 733 [noting "broad" meaning of "relating to" as "to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with"].)

In addition, when one is "determining whether the CPRA applies, or whether an exemption has been established, the California Constitution instructs that a statutory provision 'shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access.'" (*Edais v. Superior Court* (2023) 87 Cal.App.5th 530, 538 [quoting Cal. Const., art. 1, § 3, subd. (b)(2)].) Under this principle, the term "relates to" should be construed broadly to include any recordings relating to the circumstances of the shooting, not just the moment of shooting itself.

Apart from AB 748, SB 1421 independently requires disclosure of any "record relating to the report, investigation, or findings of ... [a]n incident involving the discharge of a firearm at a person by a peace officer or custodial officer." Penal Code § 832.7(b)(1)(A)(i). Among other things, such records include "photographic, audio, and video evidence." Penal Code § 832.7(b)(3). Under the above principles, the recordings capturing the circumstances surrounding a shooting must be disclosed as records relating to the report, investigation or findings of such an incident.

As such, it is your agency's obligation to provide the **full footage relating to the Mahaney Park critical incident** that we initially requested under CPRA on June 12, 2023.

Because your agency was obligated to respond within 10 days and release the requested recordings **related to the critical incident** within 45 days of the incident, we are asking that you expedite this request.

If you have any questions, please feel free to reach out to me directly on my cell. 408-398-8089

Thanks in advance,
Julie

JULIE WATTS
INVESTIGATIVE REPORTER/ANCHOR
O: (916) 374-1324
E: JWATTS@CBSVIACOM.COM



From: Ciampa, Christopher <CCiampa@roseville.ca.us>
Sent: Thursday, June 22, 2023 5:27:49 PM
To: Large, Steve J <slarge@kovr.com>
Subject: RE: Hi its Steve Large at CBS13 in Sacramento

External Email

Steve,

Thank you for your request to the City of Roseville. As you know, AB 748 requires disclosure of certain audio/video records (including Body Worn Camera footage) related to a “critical incident”, as defined by Government Code Section 7923.625(e). A “critical incident” under Government Code Section 7923.625(e) is defined as: 1) an incident involving the discharge of a firearm at a person by a peace officer, or 2) an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury.

On April 6, 2023, at approximately 12:30pm Roseville officers responded to assist CHP at Mahany Park. Roseville officers exchanged gunfire with suspect Eric J Abril between approximately 12:38pm and 12:57pm. The attached portions of the audio/video records related to the involved officers have been included below. While a much larger criminal event occurred, the incident involving the discharge of a firearm at a person is the only “critical incident” involving the City of Roseville Police Department. All disclosable City of Roseville Police Department records are limited to audio and video records related to this “critical incident” only (as is required by California law).

The Audio/Video records can be found at the following link <https://f.io/Di3PE70r>

1. The Roseville Dispatch Audio of the critical incident involving Roseville Officers
2. The Body Worn Camera (BWC) of the Roseville officers involved in the critical incident

Context for the Body Worn Camera (BWC) footage released;

1. Roseville is only releasing the footage involving the “critical incident” involving our officers
2. Officers engaged suspect Eric J Abril from a long distance and the suspect is not in view of the BWC.
3. None of the CHP Officers were wearing Body Worn Cameras upon initial contact with the suspect.

To the extent you are requesting records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of the City of Roseville Police Department, such records are exempt from disclosure under Government Code Sections 7923.600, 7923.605, 7923.610, 7923.615, and/or 7923.620, as there is an active criminal investigation and criminal prosecution occurring and disclosure of such records would endanger the safety of witnesses, other person involved in the investigation, and the successful completion of the investigation and/or a related investigation. Out of respect for the privacy of the victims involved and the integrity of the criminal prosecution, no additional records aside from the legally required audio/video records discussed above will be produced.

Media Contact:

Lt. Chris Ciampa, Roseville Police Department
916-660-2249

From: Ciampa, Christopher <CCiampa@roseville.ca.us>
Sent: Tuesday, June 13, 2023 7:38 AM
To: Large, Steve J <slarge@kovr.com>
Cc: Jacobson, Brian <BJacobson@roseville.ca.us>; Scheid, Megan <MScheid@roseville.ca.us>
Subject: Re: Hi its Steve Large at CBS13 in Sacramento

Good afternoon Steve,

I received your message and I have also forwarded to the appropriate people for processing.

Please allow this message to serve as the response to your request for records. Please confirm the date of the incident you are requesting is actually for April 6, 2023? If so, we do have responsive records and will provide the records to you within 10 days.

Thank you,

Lt Chris Ciampa

Roseville Police Department
PIO and Public Affairs
916-660-2249

From: Large, Steve J <slarge@kovr.com>
Sent: Monday, June 12, 2023 11:56 AM
To: Jacobson, Brian <BJacobson@roseville.ca.us>; Ciampa, Christopher <CCiampa@roseville.ca.us>; Scheid, Megan <MScheid@roseville.ca.us>
Subject: Hi its Steve Large at CBS13 in Sacramento

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I am emailing you to checking on the status of the release of police body cam video and dash cam video of the officer involved shooting in Roseville on April 6, 2013.

My understanding is that state law mandates for the release after 45 days from the incident.

Thank you,
Steve Large
Reporter
CBS13
[805-260-2076](tel:805-260-2076)

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EXHIBIT 2

From: [Ciampa, Christopher](#)
To: [Watts, Julie A](#)
Cc: [Jones, Beth \(STC\)](#); [Schafer, Matthew](#)
Subject: RE: Public Records Act/AB 748 Appeal - Roseville PD Mahaney Park Critical Incident Video
Date: Wednesday, October 25, 2023 12:04:12 PM
Attachments: [image001.png](#)

External Email

Julie,

Nothing has changed from the message sent on Aug 2nd on what Roseville PD is releasing.

Thank you
Lt Ciampa

From: Watts, Julie A <JWatts@cbs.com>
Sent: Wednesday, October 25, 2023 7:06 AM
To: Ciampa, Christopher <CCiampa@roseville.ca.us>
Cc: Jones, Beth (STC) <Beth.Jones@paramount.com>; Schafer, Matthew <matthew.schafer@paramount.com>
Subject: RE: Public Records Act/AB 748 Appeal - Roseville PD Mahaney Park Critical Incident Video

EXTERNAL: This email originated from outside of the organization. Do not click on any links or open attachments unless you recognize the sender and know the content is safe.

Hi Chris,

Following up on this video request. We understand that Roseville PD has drone video of the April 6th Mahaney Park incident that your agency did not release – in violation of AB 748.

Notably, 90 days ago, CBS requested any and all recordings related to the April 6th incident. Pursuant to response deadlines outlined in [Government Code §7922.600](#), will you please expedite this request and provide us with a copy of that drone video by the end of the week?

Thanks very much,
Julie

From: Ciampa, Christopher <CCiampa@roseville.ca.us>
Sent: Wednesday, August 2, 2023 8:32 PM
To: Watts, Julie A <JWatts@viacomcbs.com>
Cc: Large, Steve J <slarge@kovr.com>; Jones, Beth (STC) <Beth.Jones@paramount.com>; Baynes, Mary <mbaynes@viacomcbs.com>; Carr, Lisa <lcarr@kovr.com>
Subject: Re: Public Records Act/AB 748 Appeal - Roseville PD Mahaney Park Critical Incident Video

EXHIBIT 3

From: [Schafer, Matthew](#)
To: [Ciampa, Christopher](#)
Cc: [Jones, Beth \(STC\)](#)
Subject: CBS CPRA Request for Critical Incident Video
Date: Friday, October 27, 2023 5:04:00 PM
Attachments: [2023.10.27 - BJ MS to CC - CPRA Request.pdf](#)
[image001.png](#)

Please see attached.

MATTHEW SCHAFFER

VP, Assistant General Counsel, Litigation

Paramount Global

212.846.3252

Matthew.Schafer@Paramount.com

1515 Broadway

New York, NY 10036



Paramount





Beth F. Jones
SVP, Associate General Counsel
CBS Law Department
1575 N. Gower St., 5th Floor
Los Angeles, CA 90028

Matthew L. Schafer
VP, Assistant General Counsel, Litigation
Paramount Global
1515 Broadway
New York, NY 10036

October 27, 2023

Lt. Chris Ciampa
Roseville Police Department
1051 Junction Blvd.
Roseville, CA 95678

Re: CBS CPRA Request for Critical Incident Video

Lt. Ciampa.

My colleague Beth Jones and I have reviewed your correspondence with Ms. Watts. We write to urge you to reconsider your position as it is wrong on the law and, in fact, is harmful to the public and potentially damaging to law enforcement professionals.

The dispute appears to be over how to define video “relating to a critical incident.” You say it means only video showing the discharge of a firearm. Ms. Watts says it relates to the incident in which a firearm is discharged. Ms. Watts has the better of the argument for reasons explained below.

First, as a general matter, Ms. Watts’ argument, if advanced in court, will prevail because, pursuant to the California Constitution, the CPRA must be broadly construed in favor of disclosure. *Am. Civil Liberties Union Found. v. Superior Court*, 3 Cal. 5th 1032, 1036-37 (2017). Thus, where two reasonable interpretations of statutory language obtain, the court will choose the one that furthers transparency. *Id.* at 1042.

Second, and in any event, Ms. Watts’ reading of the statute—contrary to your suggestions otherwise—is the only plausible reading. At bottom, Ms. Watts correctly notes that the statute speaks not just of video of critical incidents as video of the “discharge of a firearm.” Instead, the statute speaks of video of critical

incidents as video of “[a]n incident involving the discharge of a firearm.” If the legislature meant to limit disclosure to just video of the “discharge of a firearm” it could have said that. But it did not. Instead, it required disclosure of video of “an incident involving” such a discharge. It is your reading of the statute that rewrites it by deleting “an incident” from the definition of video relating to a critical incident and pretending that the statute speaks only of video depicting the discharge of a firearm.

Third, your reading also risks harming the public and damaging the public’s perception of law enforcement’s conduct. The legislature’s purpose of adopting AB 748 was to increase transparency and public understanding relating to critical incidents. On your reading of the statute, however, the public only gets to see just a small part of the overall video of the incident. This risks the public completely misunderstanding what such a small snippet of video shows. As a result, on your reading, the release of video likely would result in misleading the public as to what actually happened as it would lack the complete context.

Fourth, the knock-on effect of this is that a completely justified use of force might appear to the public as unjustified—potentially damaging the reputations of law enforcement officers who did nothing wrong. We find it difficult to believe that the legislature in passing AB 748 meant to condone the release of video with utterly no context. We would assume you agree with us on that and are surprised the Police Department appears to be advocating for the release of potentially confusing video.

Because your reading is without support in the text of the statute or the legislature’s intent in passing the statute, we ask to you to revisit your position. Further, because not *all* video of the incident may risk substantial interference with the investigation, we ask that the Police Department, as required by the statute, again consider Ms. Watts’ request.

While we find it hard to believe in the circumstances that release of every second of video of the incident will “substantially interfere” with any investigation, should the Police Department wish to continue withholding parts of the requested video, we demand—consistent with what the law requires of the Police Department—that your office “provide in writing to the requester the *specific basis* for the agency’s determination that disclosure would substantially interfere with the investigation and the estimated date for disclosure.” Because you have not yet done so, the Police Department is actively violating state law. We imagine that this will be remedied promptly.

Respectfully,

Beth F. Jones
Matthew L. Schafer

EXHIBIT 4

From: [Speaker, Joseph](#)
To: [Schafer, Matthew](#)
Cc: [Ciampa, Christopher](#)
Subject: RE: CBS CPRA Request for Critical Incident Video
Date: Monday, October 30, 2023 2:09:35 PM
Attachments: [image002.png](#)
[image009.png](#)

External Email

Mr. Schafer,

Please allow this correspondence to respond to your below email to the City of Roseville regarding the public records act request from your client, CBS News Sacramento/CBS13 – KOVR. I have reviewed your correspondence and agree with you that the dispute appears to be over how to define video “relating to a critical incident”, however, contrary to your assertion, the California legislature was explicitly clear on what this means. In fact, they expressly defined it. Your correspondence appears to ignore the express definition provide by the legislature, and instead makes a public policy argument.

In California, law enforcement records are exempt from disclosure under the California Public Records Act, unless they fall into narrow categories (see California Government Code Section 7923.600 et seq., codified in Government Code Section 7923.625) (hereinafter “AB 748”). AB 748 requires disclosure of certain audio/video records (including Body Worn Camera footage) only “*if it depicts*” a “critical incident”, as defined by Government Code Section 7923.625(e). Your email argues that AB 748 uses the language “that relates to a critical incident,” and you argue that means you get more than the footage that actually “depicts” the “critical incident”. This interpretation misreads Government Code Section 7923.625(e) and the express language of that statute. The legislature actually defines what “relates to a critical incident” means and said: “For purposes of this section, a video or audio recording relates to a critical incident ***if it depicts*** any of the following incidents: (1) An incident involving the discharge of a firearm at a person ***by a peace officer*** or custodial officer.” [Emphasis added.] So as you can see, the statute is very clear and expressly says “relates to” means that it “depicts” a “critical incident” (which is the discharge of a firearm at a person by a peace officer). The whole purpose of the law is to provide transparency to the officers’ conduct.

As we provided in our response to CBS News Sacramento/CBS13 – KOVR, the City of Roseville Police Department was involved in such a “critical incident”, specifically “an incident involving the discharge of a firearm at a person by a peace officer.” Per AB 748, we provided ALL audio and video records that depict the Roseville Police Department’s “critical incident”. Respectfully, your correspondence incorrectly implies responsive audio/video records were withheld. We did not withhold responsive records related to the Roseville Police Department’s involvement in the “critical incident”. Your email conflates the overall criminal event with the narrow “critical incident”. Based on the facts of this event, there is no legal requirement for the City of Roseville to produce audio or video records outside of the “critical incident”.

We acknowledge that AB 748 does not preclude an agency from providing greater access to video or audio recordings than the minimum standards, but it does not require it. In this specific matter and

in our initial response to CBS News Sacramento/CBS13 – KOVR, reference to victim privacy and the criminal investigation was not to assert a basis for withholding otherwise responsive audio or video records of the “critical incident” (that are required under AB 748), but rather to explain that out of respect for the privacy of the victims involved and the integrity of the criminal prosecution, no additional records aside from the legally required audio/video records discussed above will be produced at this time.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Joseph Speaker

Assistant City Attorney

City Attorney's Office

o: (916) 774-5325

f: (916) 773-7348

Civic Center | 311 Vernon Street | Roseville, CA | 95678



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From: Schafer, Matthew <matthew.schafer@paramount.com>

Sent: Friday, October 27, 2023 2:04 PM

To: Ciampa, Christopher <CCiampa@roseville.ca.us>

Cc: Jones, Beth (STC) <Beth.Jones@paramount.com>

Subject: CBS CPRA Request for Critical Incident Video

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Please see attached.

MATTHEW SCHAFER

VP, Assistant General Counsel, Litigation

Paramount Global

212.846.3252

Matthew.Schafer@Paramount.com

1515 Broadway

New York, NY 10036

EXHIBIT 5

From: [Schafer, Matthew](#)
To: [Speaker, Joseph](#)
Cc: [Jones, Beth \(STC\)](#)
Subject: RE: CBS CPRA Request for Critical Incident Video
Date: Wednesday, November 15, 2023 8:54:00 PM
Attachments: [2023.11.15 - BJ MS to JS - Body Cam.pdf](#)
[image001.png](#)
[image009.png](#)

Mr. Speaker.

Please find the attached.

MATTHEW SCHAFER

VP, Assistant General Counsel, Litigation
Paramount Global
212.846.3252
Matthew.Schafer@Paramount.com
1515 Broadway
New York, NY 10036



Paramount





Beth F. Jones
SVP, Associate General Counsel
CBS Law Department
1575 N. Gower St., 5th Floor
Los Angeles, CA 90028

Matthew L. Schafer
VP, Assistant General Counsel, Litigation
Paramount Global
1515 Broadway
New York, NY 10036

November 15, 2023

Joseph Speaker
Assistant City Attorney
City Attorney's Office
311 Vernon Street
Roseville, CA 95678

Re: CBS CPRA Request for Critical Incident Video

Mr. Speaker.

Thank you for your response to our October 27, 2023 correspondence. We have reviewed it and write again because it is your office not CBS that has rewritten the law to support your office's ultimately untenable position. As explained further below, your office's position is contrary to the statutory text, is contrary to legislative history, and is contrary to how police departments around California—including in the context of the particular critical incident at issue here—interpret the requirements imposed on them by AB 748.

Your Office Has Rewritten The Statutory Text

First, while your apparently boilerplate response alleges that CBS has rewritten the statutory text, it is, in fact, your office that has done so. The text is clear. It defines "relating to a critical incident" as follows:

(C) For purposes of this paragraph, a video or audio recording relates to a critical incident if it depicts any of the following incidents:

(i) An incident involving the discharge of a firearm at a person by a peace officer

You look at this and say "[s]o as you can see, the statute is very clear and expressly says 'relates to' means that it 'depicts' a 'critical incident' (which is the discharge of a firearm at a person by a peace officer)." But

that is not what the statute says. Indeed, in that very sentence you have quite literally rewritten and rearranged the statutory language to fit your preferred outcome.

Your revisionary language swaps the purpose of the statutory provision from defining “relating to a critical incident” to defining “critical incident.” It then goes further and deletes “an incident involving” to leave only “the discharge of a firearm at a person by a peace officer.” In fact, under your office’s reading, “incident” has to be written out of the statute entirely, otherwise it is meaningless surplusage. Thus, in the end, your office rewrites the statute to say: “For purposes of this paragraph, a video or audio recording of a critical incident depicts any of the following: the discharge of a firearm at a person by a peace officer.” But, again, that is simply not what the statutory language says.

To be sure, the legislature could have written the statute that way, but it did not. Instead, it spoke broadly of video or audio *relating to* a critical incident, which it defines as video or audio *depicting an “incident”* that *involv[es]* the “discharge of a firearm at a person by a peace officer”—not just video or audio depicting the discharge of a firearm. As a result, and until the legislature shares your office’s view and amends the law, your office is obligated to disclose the video and audio as requested of the entire “incident.”

Your Office’s Reading Is Contrary To The Legislative Intent

While the statutory language is clear and thus resort to legislative intent is unnecessary, we note that your reading is directly contrary to what the author of the legislation intended. We know this because the author has come out against your reading.

As San Francisco Assemblymember Phil Ting recently explained of the bodycam video sought here, “The video is public property.” See Julie Watts, *FAILED POLICIES - PART 2 : Why the CHP Roseville park shootout could set a concerning precedent for police shootings*, CBS Sacramento (Nov. 14, 2023), <https://www.cbsnews.com/sacramento/video/heres-why-aprils-roseville-park-shootout-could-set-a-concerning-precedent-for-police-shootings>. In fact, CBS asked Assemblymember Ting about whether his intent was consistent with your office’s position of non-disclosure as to the video here. He made clear that your office’s position is inconsistent with the legislative intent:

Ms. Watts: When you drafted this legislation, did you intend to define the critical incident as only the moments of the discharge of a firearm?

Asm. Ting: Absolutely not. Because if that was the case, that would have been written into law. In order to provide transparency, you need to know what’s happening leading up to the confrontation.

Consistent with Assemblymember Ting’s concern about providing the public the full context of a critical incident, we again have to express our surprise that your office would endorse a reading of the statute that puts out into the world contextless video of the discharge of firearms by police officers.

Your Office’s Reading Is Contrary To Other Police Departments’ Reading

Confirming that your reading is without basis—either in the text or the legislative intent—even the California Highway Patrol disagrees with it and has released contextualized video of the very incident at issue here. Specifically, on November 13, 2023, the California Highway Patrol informed CBS that its request for video of the incident at Mahany Park “relates to video footage pursuant to Government Code section 7923.625,” *i.e.* AB 748.

As a result, it released nearly *a half hour* of footage of that incident, further undercutting your office’s assertion that only small snippets of footage of the actual discharge of a firearm need be disclosed. *See* Julie Watts, *EXCLUSIVE: CBS Sacramento obtains never-before-seen CHP video from deadly Roseville park shootout*, CBS News Sacramento (Nov. 13, 2023), <https://www.cbsnews.com/sacramento/news/chp-releases-25-minutes-of-dashcam-footage-from-deadly-roseville-park-shootout>.

Zooming out a bit, your office’s position is also directly at odds with how other law enforcement entities understand what is required of them by AB 748 as a general matter. For example, L.A.P.D. guidance makes clear, consistent with CBS’s interpretation of the statute, that under AB 748 “release shall consist of relevant video imagery that depicts the actions *and events leading up to and including the ‘Critical Incident.’*” *See* L.A.P.D. Admin. Order No. 14 (Aug. 28, 2020) (emphasis added). That same guidance makes also clear that the “release of video shall be accompanied by *additional information to provide context* based on the evidence available at the time of release.” *Id.* (emphasis added).

S.D.P.D.’s treatment of critical incident videos is also at odds with your office’s understanding. If you visit S.D.P.D.’s *Critical Incident Videos* website, you can see that that department releases the entire critical incident video as defined by the statute (and makes them conveniently available online). *See Critical Incident Videos*, City of San Diego, <https://www.sandiego.gov/police/data-transparency/critical-incident-videos>. Consistent with this policy of disclosure, S.D.P.D. has released videos well north of 10 minutes in length. *See, e.g.*, Southeastern Division – 07/07/22, S.D.P.D. (July 18, 2022), https://www.youtube.com/watch?v=VVHSFwOaR7o&list=PLfLWSO3y8hfODiB6ZfFRlxRh11xsWDfc_&index=11. Other law enforcement departments take a similar approach. *See, e.g., Critical Incident Videos*, Kern Co. Sheriff’s Office, <https://www.kernsheriff.org/Transparency/CriticalIncidents>. So, as you can see, it is Roseville Police Department that is an outlier in construing AB 748 so narrowly.

* * *

In light of the foregoing, your office's interpretation of AB 748 is utterly without merit as it is contrary to the statutory text, the legislative history, and law enforcement practice around California, including in the context of this very critical incident. Therefore, we ask again that your office reconsider its position and release the relevant video. We look forward to hearing from you by no later than November 22, 2023.

Respectfully,

Beth F. Jones
Matthew L. Schafer

EXHIBIT 6

From: [Speaker, Joseph](#)
To: [Schafer, Matthew](#)
Cc: [Jones, Beth \(STC\)](#)
Subject: RE: CBS CPRA Request for Critical Incident Video
Date: Friday, December 1, 2023 7:19:54 PM
Attachments: [image001.png](#)
[image008.png](#)

External Email

Hi Mr. Schafer,

Thank you for your patience as we come off the holiday week last week, we wanted to ensure we took the proper time to address your concerns. Please allow this email to respond to your correspondence. First, I want to preface this by saying we acknowledge and respect transparency and know that your efforts are aimed at this. This said, we respectfully disagree with you on your interpretation of AB 748. I believe our disagreement boils down to what “critical incident” means and how much video captured in close temporal proximity to a “critical incident” is required to be released.

Your letter states:

“Your revisionary language swaps the purpose of the statutory provision from defining ‘relating to a critical incident’ to defining ‘critical incident.’...Thus, in the end, your office rewrites the statute to say: ‘For purposes of this paragraph, a video or audio recording of a critical incident depicts any of the following: the discharge of a firearm at a person by a peace officer.’ But, again, that is simply not what the statutory language says.”

The legislature clearly defined “critical incident” to mean, in relevant part, “an incident involving the discharge of a firearm at a person by a peace officer” (this is a direct quote from the legislative bill analysis). We disagree with you that under our read “incident” is a “meaningless surplusage”. The legislature clearly contemplated that a “critical incident” may be a much narrower and limited “incident” within a larger criminal event (as is the case here). Our position is that (in this case) AB 748 only requires disclosure of audio and video that relates to the limited “incident involving the discharge of a firearm at a person by a peace officer”. We recognize that “relates to a critical incident” includes some time period before and after the actual discharge of a firearm, hence the City of Roseville providing nearly six minutes of video and audio surrounding the very limited discharge of a firearm. That is the “incident” contemplated under AB 748.

Your position appears to be that “critical incident” has another definition (though you have not provided it) and that the legislature intended the release of all audio and video from the larger criminal event, if at any point during that larger criminal event an officer discharged a firearm at a person. That broad read is where we fundamentally disagree.

I recognize that you, operating from New York, may be reviewing this California statute without the

benefit of having been involved in tracking its creation. Prior to AB 748 being passed, audio and video of criminal events were not releasable under California law. AB 748 provided a night and day departure from that standard. As you can imagine, there was significant interest and concern over the integrity of criminal investigations and victim/suspect/witness/officer privacy. That resulted in many concessions being made to the final bill to limit its application to only the two narrow “critical incidents”.

I respect that the author may have intended for a broader bill than what was ultimately passed, but what was actually passed (not just by the author, but by the legislature) was much narrower. Indeed, this is captured in the express language of the legislative bill analysis for AB 748. If you review the final Assembly Committee on Privacy and Consumer Protection analysis on AB 748 from August 31, 2018 (the same day it was passed by the Assembly and after it was amended and passed by the Senate) the legislature clarified this narrowing. The bill analysis expressly says in pertinent part:

6) Recent amendments narrow the bill to address oppositions’ concerns: In

seeking to address a number of concerns raised by the opposition, the author has agreed to a variety of amendments.

...

Notably, the author also limited this bill to ‘critical incidents,’ defined as an incident involving the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which the use of force by a peace officer or custodial officer against a person resulted in death or in great bodily injury. [Emphasis in original].

The legislative history along with the plain language of the statute makes clear that the bill narrowly defines “incident” to mean in relation to the “critical incident”, not the entire criminal event. While we recognize that some criminal events may consist only of a “critical incident”, that is not always true, as the facts of the present matter show.

By way of example using this matter, if during the suspect’s later escape from the medical facility, had a county sheriff discharged their firearm in an effort to stop the suspect from fleeing, by your read, all agencies who assisted in the two-day search would be required to release two days’ worth of audio and video captured by hundreds of personnel. This audio and video clearly bear no connection to the discharge of the firearm and the public’s right to know the circumstances surrounding the discharge of the firearm, yet is all part of the larger criminal event. The purpose of AB 748 is to provide the public access to audio or video related to the discharge of the firearm, not every minute of an underlying criminal event.

Indeed, our position is echoed by the California News Publishers Association (CNPA) who was a co-sponsor of AB 748. In the same bill analysis cited above, they wrote:

The public’s interest in public access to information about law enforcement activity is ‘particularly great’ when an officer fires a gun, or uses force that results in serious bodily injury or death. Regular disclosure ***of this footage*** reassures the public that law enforcement is not suppressing facts to support its version of events in critical incidents. [Emphasis added.]

Notwithstanding the analysis and discussion above, and without waiving that position, assuming arguendo that you are correct and that the legislature meant to make available all audio and video of a larger criminal event, AB 748 also expressly provides for the ability to withhold all audio and video (even if it “relates to a critical incident”). AB 748 provides clear discretion for a jurisdiction to withhold producing any audio and video if it could jeopardize a criminal investigation or privacy of a victim/witness. You must acknowledge that regardless of whether your position is correct (which we clearly dispute), the City of Roseville would be able to withhold providing any additional audio and video since there is an active criminal investigation and substantial privacy concerns. Given the nature of this specific criminal event, the victims and their family do not deserve to have to watch that day play out over and over (especially when they and other witnesses in the criminal case live locally and cannot have their recollection tainted by viewing evidence in advance of the criminal trial).

I point this out because the City of Roseville could have, in balancing the law and interests at play, withheld producing all audio and video, but it did not. It released the audio and video the law requires. That was done because we too agree that transparency is key, but we also have a responsibility to maintain a fair trial and preserve witness and victim privacy. An obligation that AB 748 clearly recognizes and protects.

I think it is important to clarify what I suspect is the true basis for your push, i.e. that you think we are withholding video depicting this limited “critical incident”. Based on everything discussed above, the City of Roseville produced all the video that depicts the limited “critical incident”. We are not sure why you think such video is being withheld. You seem to take issue with the length of the video produced. The limited discharge of a firearm in this matter took only fractions of a second, yet minutes of video footage was released (necessarily establishing we released the footage surrounding the discharge). We have no control over what the body camera ultimately captures, and frankly what it doesn’t capture, in such a limited “critical incident” such as this. We respect that you want as much video as possible. Your desire for more, however, does not mean we have produced less than required.

Lastly, what other agencies decide to release (who do not have the responsibility of preserving the integrity of the current criminal investigation and key witnesses and victims living in their jurisdiction) is irrelevant. We recognize the law allows jurisdictions to provide more than the minimums established in AB 748, but it clearly does not mandate it. The decision to release more than the law requires is up to each jurisdiction, based on the facts of their situation. For all the reasons discussed above, we will not be releasing additional audio or video. We take very seriously our obligation to protect criminal due process and maintain the privacy of the victims and their family during this extremely difficult time in their lives.

Sincerely,

Joseph Speaker
Assistant City Attorney
City Attorney’s Office
o: (916) 774-5325

f: (916) 773-7348

Civic Center | 311 Vernon Street | Roseville, CA | 95678



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From: Speaker, Joseph
Sent: Monday, November 27, 2023 2:09 PM
To: Schafer, Matthew <matthew.schafer@paramount.com>
Cc: Jones, Beth (STC) <Beth.Jones@paramount.com>
Subject: RE: CBS CPRA Request for Critical Incident Video

Hello Mr. Schafer,

I did have a nice Thanksgiving and I hope the same was true for you and your family.

We are finalizing a response to you, but with the holiday, it was delayed. I intend to have it to you in the next few days. Thank you for your patience.

Sincerely,

Joe

Joseph Speaker
Assistant City Attorney
City Attorney's Office

o: (916) 774-5325

f: (916) 773-7348

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From: Schafer, Matthew <matthew.schafer@paramount.com>

Sent: Monday, November 27, 2023 8:40 AM

To: Speaker, Joseph <JSpeaker@roseville.ca.us>

Cc: Jones, Beth (STC) <Beth.Jones@paramount.com>

Subject: RE: CBS CPRA Request for Critical Incident Video

EXTERNAL: This email originated from outside of the organization. Do not click on any links or open attachments unless you recognize the sender and know the content is safe.

Mr. Speaker.

We hope you had a nice holiday. If your office does not intend to respond to our November 15 correspondence, can you please confirm as much. Thank you.

MATTHEW SCHAFER

VP, Assistant General Counsel, Litigation

Paramount Global

212.846.3252

Matthew.Schafer@Paramount.com

1515 Broadway

New York, NY 10036



Paramount



From: Schafer, Matthew

Sent: Wednesday, November 15, 2023 8:54 PM

To: Speaker, Joseph <JSpeaker@roseville.ca.us>

Cc: Jones, Beth (STC) <Beth.Jones@paramount.com>

Subject: RE: CBS CPRA Request for Critical Incident Video

Mr. Speaker.

Please find the attached.

MATTHEW SCHAFER

VP, Assistant General Counsel, Litigation

Paramount Global

212.846.3252

Matthew.Schafer@Paramount.com

1515 Broadway

New York, NY 10036