



# Memorandum

**TO:** RULES AND OPEN GOVERNMENT COMMITTEE      **FROM:** Anthony Mata

**SUBJECT:** PUBLIC RECORDS APPEAL - KATHERINE WEILAND      **DATE:** November 9, 2021

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Approved		Date	11/10/21
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## RECOMMENDATION

Deny the appeal from Katherine Weiland (aka Katherine Reichenbach) regarding the City’s response to her request for public records seeking records, specifically body worn camera footage, related to a complaint submitted to the San Jose Police Department’s Internal Affairs Unit (number I2020-2023), related to event number 20-211-0547.

## BACKGROUND

Ms. Weiland represents herself, as a party to event number 20-211-0547.

A request (Attachment A) was received July 2021 by the Operational Support Services Division, who provided the request to the Research & Development Unit. This request sought “SJPD bodycam footage” in connection to a complaint that had been submitted to the Internal Affairs Unit. Further details were provided by the requester to determine the event of interest, resulting in the identification of event number 20-211-0547. Due to the circumstances of the event, the requester was informed that additional discussion would be required to review the event.

A denial notification (Attachment B), dated July 28, 2021, was provided via email to Ms. Weiland. This email informed the requester that the request for body camera footage had been denied.

On July 28, 2021, Ms. Weiland requested an explanation as to why her request was denied and asked to discuss the situation with other personnel (Attachment B).

On July 29, 2021, further explanation as to why the request was denied was provided and Ms. Weiland was advised that her request to speak with someone would be presented to the Commander of the Research & Development Unit. At this time, a contact number was requested (Attachment B).

On July 29, 2021, Ms. Weiland provided a contact number and referenced additional incidents (Attachment B).

On July 29, 2021, Ms. Weiland was asked to provide event numbers for the referenced additional incidents, to be reviewed by the Department (Attachment B).

On July 29, 2021, Ms. Weiland provided additional event numbers for the referenced additional incidents (Attachment B).

On August 4, 2021, Ms. Weiland was advised that the incidents required further review by sworn staff (Attachment C).

On August 7, 2021, Ms. Weiland was advised that the incidents required further review by the City Attorney's Office due to the circumstances of all event numbers provided (Attachment C).

On August 11, 2021, Lieutenant Steve Donohue, Commander of the Research & Development Unit, contacted Ms. Weiland via phone to discuss the request. At this time, Ms. Weiland was advised that the request for body worn camera footage was not approved.

On October 8, 2021, Ms. Weiland submitted an appeal (Attachment D) to the Office of the City Clerk regarding the denial of her request for body worn camera footage.

## **ANALYSIS**

Ms. Weiland requested body worn camera footage pertaining to an Internal Affairs Complaint and call for service, both responded to by the San Jose Police Department.

The California Public Records Act generally exempts most records of law enforcement investigative records from public disclosure under Government Code Section 6254(f). Specifically, this Section defines the circumstances in which a party would be entitled to investigative records, in this instance, the requested body worn camera footage. The incident implicated by Ms. Weiland's request does not meet the definition of a crime due to the circumstances of the call for service. Therefore, it was determined that there was no crime victim or other entitled party. The incident does not meet the circumstances in which Ms. Weiland would be entitled to the investigative records.

It is important to note, that if the City were to waive the exemption under Government Code Section 6254(f) and provide these investigative records without a subpoena or court order to a person to whom the Public Records Act does not require disclosure be made, the City would then have to provide these specific investigative records to any member of the public that requests them.

## **CONCLUSION**

Based on the foregoing, staff made the decision to withhold the requested records. Staff recommends that the decision to withhold the requested records be upheld by the Rules and Open Government Committee.

**COORDINATION**

This memorandum was coordinated with the City Attorney's Office.

/s/  
ANTHONY MATA  
Chief of Police

Attachments

For questions, please contact Lt. Steve Donohue, Research & Development Unit, at (408) 277-5200.



# SAN JOSE POLICE DEPARTMENT

201 West Mission St., San Jose, CA 95110

## Public Records Request Form

This form is not required to submit a request, but helps the Department with tracking and responding.

### To be Completed by Requestor

Name of Requestor:

Agency/Company:

Address:

Telephone:

Fax:

Email:

Please indicate how you would like the Department to respond to your request:

Walk in /Personal Pick-Up

Fax

Computers/Email

Mail

Other DV advocate <sup>(Amenda)</sup> Next Door / Slushy  
agould@nextdoor.org

### Requested Documents (Please be as specific as possible)

SJPD BodyCAM footage for Internal Affairs complaint #12020-0203  
From incident July 29<sup>th</sup> 2020 officer Miskeenyar Badge #4849.  
Response to DVRO violation at home [Redacted]

For internal use only.

Request Received	Request Completed (Notification Given of Record Availability)	Request Picked-Up/Mailed/Faxed
Date Due: _____ Staff Initials: _____	Date: _____ Staff Initials: _____	Staff Initials: _____
How Request Was Received	Notification	Completion
<input type="checkbox"/> Walk-in <input type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Phone <input type="checkbox"/> Email <input type="checkbox"/> Other	Assigned to: _____ 1st Response: _____ 2nd Response: _____	<input type="checkbox"/> Pick-Up <input type="checkbox"/> Faxed <input type="checkbox"/> Mailed <input type="checkbox"/> Other

**SAN JOSE POLICE DEPARTMENT - INCIDENT CARD (English & Spanish)**  
Operational Support Services Division - Records Unit, 201 W. Mission St., San Jose, CA 95110

CASE NUMBER: 20212-9707 DATE: 7/30/20  
TYPE OF INCIDENT: DURO VIOLATION REPORT TAKEN:  YES  NO  
OFFICER/BADGE #: CERVANTES #3688 PHONE #:

**INSTRUCTIONS:** If you are a crime victim, you will need this information for your contact with the San Jose Police Department, for insurance report, and tax purposes. Visit our website at [www.sjpd.org](http://www.sjpd.org) for more information about obtaining a copy or primary of a police report. To supply additional information concerning suspects, witnesses, or victims, contact the San Jose Police Department Non-Emergency Line (311).

**For property collected for safekeeping,** contact the Property Warehouse (277-4268) to claim your property. NOTE: Property not claimed within 90 days will become the property of the City of San Jose and will be recycled, auctioned, donated, or disposed of as refuse.

**For property located within a vehicle which has been towed,** the registered owner of the towed vehicle must contact the tow company. Contact the San Jose Police Department Non-Emergency Line (311) for a civil standby if issues arise during property recovery process.

**INSTRUCCIONES:** Si usted fue una víctima de un crimen, necesita el número de reporte (escrito arriba) cuando se comunice con el Departamento de Policía y para sus seguros o impuestos. La página web [www.sjpd.org](http://www.sjpd.org) les explicará cómo obtener información de su reporte. Para dar información adicional con respecto a su caso/reporte, llame al Departamento de Policía de San José al número 311. ATENCIÓN: Si la policía les retiró propiedad por seguridad, llame al almacén de la policía al número 408-277-4268 para reclamar su propiedad. Propiedad que no se reclame antes de 90 días será dispuesta. Para recoger propiedad que fue llevada en un carro que fue remolcado, el dueño registrado del carro debe que contacta la compañía de remolcar. Llame la línea de el departamento de Policía de San José al número 311 para en espera civil si tiene problemas durante el proceso de recuperación de la propiedad.

FVU: 408-277-3700

SAN JOSE POLICE DEPARTMENT - INCIDENT CARD (English & Spanish)  
Operational Support Services Division - Records Unit, 201 W. Mission St., San Jose, CA 95110

NO-254-0451

DATE: 9/16/20

REPORT: 273.6 PC

REPORT TAKEN:  YES  NO

OFFICER: MEXICANA 4849

PHONE: 408-277-4637

If you are a crime victim, you will need this information for your contact with the San Jose Police Department, and for purposes. Visit our website at [www.sjpd.org](http://www.sjpd.org) for more information about obtaining a copy of this report. To supply additional information concerning suspects, witnesses, or victims, contact the San Jose Police Department non-Emergency Line (311).

Property collected for safekeeping, contact the Property Warehouse (277-4298) to claim your property. NOTE: Property not claimed within 90 days will become the property of the City of San Jose and will be recycled, auctioned, donated, or otherwise disposed of.

Property located within a vehicle which has been towed, the registered owner of the towed vehicle must contact the San Jose Police Department non-Emergency Line (311) for a civil standby if services are needed.

Si usted es una víctima de un crimen, necesita el número de reporte (evento) emitido cuando se reportó el crimen. Visite nuestro sitio web en [www.sjpd.org](http://www.sjpd.org) para obtener más información sobre cómo obtener una copia de este reporte. Para suministrar información adicional con respecto a sospechosos, testigos o víctimas, contacte al Departamento de Policía de San José en su línea no de emergencia al número 311. Visite nuestro sitio web en [www.sjpd.org](http://www.sjpd.org) para obtener más información sobre cómo obtener una copia de este reporte. Para suministrar información adicional con respecto a sospechosos, testigos o víctimas, contacte al Departamento de Policía de San José en su línea no de emergencia al número 311.

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Si usted es una víctima de un crimen, necesita el número de reporte (evento) emitido cuando se reportó el crimen. Visite nuestro sitio web en [www.sjpd.org](http://www.sjpd.org) para obtener más información sobre cómo obtener una copia de este reporte. Para suministrar información adicional con respecto a sospechosos, testigos o víctimas, contacte al Departamento de Policía de San José en su línea no de emergencia al número 311. Visite nuestro sitio web en [www.sjpd.org](http://www.sjpd.org) para obtener más información sobre cómo obtener una copia de este reporte. Para suministrar información adicional con respecto a sospechosos, testigos o víctimas, contacte al Departamento de Policía de San José en su línea no de emergencia al número 311.

**From:** [Villarreal, Monique](#)  
**To:** [Lowry, Jessica](#)  
**Subject:** Fw: Public Records Request  
**Date:** Wednesday, November 10, 2021 1:17:06 PM

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**From:** Villarreal, Monique  
**Sent:** Thursday, July 29, 2021 1:32 PM  
**To:** Katherine Weiland [REDACTED]  
**Subject:** RE: Public Records Request

Hello Katherine,

Thank you for the additional information. Please provide any other event numbers, so that all documentation can be reviewed and considered for your request.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

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**From:** Katherine Weiland [REDACTED] >  
**Sent:** Thursday, July 29, 2021 6:41 AM  
**To:** Villarreal, Monique <Monique.Villarreal@sanjoseca.gov>  
**Subject:** Re: Public Records Request

[External Email]

It was a Dvro violation and the officer didn't report it correctly so I reported in person the next day with my DV advocate and then after I started my internal affairs complaint the same officer came back to my home unannounced and told me I was required to report to him with a supervisor.

He did not follow procedure and recognize the severity of the DVRO violation a couple weeks before my trial- where my husband was purchasing large amounts of guns and gun parts. But he also treated me very poorly- and that was ignored and found unfounded as a courtesy complaint because they said he didn't scream at me or use profanities or get violent.

I had to file a different report. Twice. But this is the incident that I would like to see.

The family court judge recognized and had my husband admit to buying guns and pieces up to thousands of dollars but did nothing as well because he claimed it was "for his cousin".

I would very much like you to look into the situation and I could supply the Dvro or conclusion of the internal affairs.

[REDACTED]

I feel very lucky that the guns purchased were not used against me prior to my DVRO hearing and fighting for my safety and children's safety.

Sent from my iPhone

On Jul 29, 2021, at 2:31 AM, Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)> wrote:

Hello Katherine,

California Government Code 6254(f) is the reference language supporting why the request was denied. The Government Code is the primary source considered when reviewing events to determine if a requestor is an entitled party to receive records related to an investigation. Said interested parties include victims of incidents specified within the Government Code, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss.

Notes of the event state that you were the reporting party. The notes do not indicate that a crime occurred.

I can request an additional review of the event and present your request to speak with someone to the Commander of the Research & Development Unit. Please advise of the best contact phone number to reach you.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

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**From:** Katherine Weiland <[REDACTED]>  
**Sent:** Wednesday, July 28, 2021 8:51 PM  
**To:** Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)>  
**Subject:** Re: Public Records Request

[External Email]

Hi,

I did want to clarify and find out specifically what is the grounds of denial as I am the victim in this situation and was the one reporting a crime.

Can you be more specific about the denial to release the footage and if there is any way to speak to anyone else on the matter prior to the appeal?

Sent from my iPhone

On Jul 28, 2021, at 6:39 PM, Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)> wrote:

Hello Katherine,

Incident number 20-211-0547 has been reviewed.

The requested record of body camera footage is considered a record of investigation. California Government Code 6254(f) details to whom records of records of investigation can be provided.

*(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the Office of Emergency Services and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, **to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation.** However, this subdivision does not require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.*

The incident was determined not to fall under the parameters referenced in California Government Code 6254(f). Therefore, the request is being denied.

Should you desire to appeal this response, please submit your appeal to:

Open Government Manager  
City of San José, Office of the City Manager  
200 East Santa Clara Street  
San José, CA 95113  
[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)

Or City of San José, Office of the City Clerk  
200 East Santa Clara Street  
San José, CA 95113  
[cityclerk@sanjoseca.gov](mailto:cityclerk@sanjoseca.gov)

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

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**From:** Villarreal, Monique  
**Sent:** Tuesday, July 27, 2021 3:47 PM  
**To:** Katherine Weiland [REDACTED]  
**Subject:** RE: Public Records Request

Thank you for the quick response. The incident will be reviewed and a determination will be provided by August 6.

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**From:** Katherine Weiland <[REDACTED]>  
**Sent:** Tuesday, July 27, 2021 3:42 PM  
**To:** Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)>  
**Subject:** Re: Public Records Request

You don't often get email from [REDACTED]. [Learn why this is important](#)

[External Email]

This was the original incident and card I have from officer miskeenyar.

The case number was 20-211-0547

Please let me know if this is what you would need and what the status would be. Thank you so much.

<image001.jpg>

Sent from my iPhone

On Jul 27, 2021, at 6:36 PM, Villarreal, Monique  
<[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)> wrote:

Hello Katherine,

The attached request was received by the Operational Support Services Division of the San Jose Police Department and provided to the Research & Development Unit for processing.

The request requires review of the referenced incident as the requested body camera footage is considered records of investigation and California Government Code 6254(f) details to whom records of records of investigation can be provided. I am not able to search for the incident using the referenced Internal Affairs complaint number. Please advise if you have the event number or I would need to submit a request to the Internal Affairs Unit.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110

Direct: 408.537.1656, Main: 408.277.5200



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**From:** [Villarreal, Monique](#)  
**To:** [Katherine Weiland](#)  
**Subject:** RE: Public Records Request  
**Date:** Saturday, August 7, 2021 11:10:00 PM

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Hello Katherine,

Due to the circumstances of all events provided, further discussion is required with the City Attorney's Office (CAO). I hope to connect with the CAO on Monday and will advise of the outcome as soon as possible.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

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**From:** Villarreal, Monique  
**Sent:** Wednesday, August 4, 2021 11:23 AM  
**To:** Katherine Weiland <[REDACTED]>  
**Subject:** RE: Public Records Request

Hello Katherine,

I was out of the office due to funeral services.

The circumstances of your experience require further review by sworn staff. Staff will be available tomorrow to review all events provided. I will provide a final decision after this process is complete.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

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**From:** Katherine Weiland <[REDACTED]>  
**Sent:** Tuesday, August 3, 2021 3:50 PM  
**To:** Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)>  
**Subject:** Re: Public Records Request

[External Email]

Hi Monique

I wanted to check the status of my request. I had sent the two other incident numbers but haven't heard back. There is no investigation currently for the incident in July and again I was the victim of the crime that went unreported in that moment until I went in person to the mission SJPD ago report.

Please let me know the status with the new information and if I should appeal.

Thank you,

Katherine Reichenbach

Sent from my iPhone

On Jul 27, 2021, at 6:36 PM, Villarreal, Monique <[Monique.Villarreal@sanjoseca.gov](mailto:Monique.Villarreal@sanjoseca.gov)> wrote:

Hello Katherine,

The attached request was received by the Operational Support Services Division of the San Jose Police Department and provided to the Research & Development Unit for processing.

The request requires review of the referenced incident as the requested body camera footage is considered records of investigation and California Government Code 6254(f) details to whom records of records of investigation can be provided. I am not able to search for the incident using the referenced Internal Affairs complaint number. Please advise if you have the event number or I would need to submit a request to the Internal Affairs Unit.

Best regards,

*Monique Villarreal*  
San Jose Police Department  
Research & Development Unit  
201 W. Mission Street, San Jose, CA 95110  
Direct: 408.537.1656, Main: 408.277.5200

<PRAR Katherine Reichenbach.pdf>

sources.

## Villarreal, Monique

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**From:** Katherine Weiland <[REDACTED]>

**Sent:** Friday, October 8, 2021 4:15 PM

**To:** City Clerk <[city.clerk@sanjoseca.gov](mailto:city.clerk@sanjoseca.gov)>

**Subject:** Appeal for Body Cam Footage/public records

[You don't often get email from [REDACTED]. Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

[External Email]

To whom it may concern

I requested body cam footage from a report that took place in 2020 and was denied despite being the victim of the crime. I was told I could appeal and it be reviewed through this email.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.