

Alameda County Superior Court

If you filed a Public Records Act request with the Oakland Police Department, a class action settlement may affect your rights.

A California state court authorized this notice. This is not a solicitation from a lawyer.

- Under a proposed settlement, the Oakland Police Department has agreed to clear its backlog of outstanding Public Records Act requests and make certain changes to its records request procedures. Among other terms, the Oakland Police Department has agreed to clear its backlog of Public Records Act requests within 144 days of approval of this settlement, except for S.B. 1421 requests (related to certain police misconduct and use-of-force records), which the Oakland Police Department has agreed to clear within 419 days.
- The Settlement resolves a lawsuit over whether the Oakland Police Department has violated the Public Records Act and the Oakland Sunshine Ordinance. The two sides disagree about whether Oakland has violated those laws, and about which changes, if any, must be implemented to bring the Oakland Police Department into compliance.
- This Settlement only resolves claims with the Oakland Police Department; if you have a pending Public Records Act request with any other department in the City of Oakland, this lawsuit does not affect your rights.
- The Alameda Superior Court still has to decide whether to approve this Settlement. You have the right to make your views known to the Court.
- Your rights and options — and the deadlines to exercise them — are explained in this notice. **Your legal rights are affected whether you act or don’t act.** Read this notice carefully.

WHAT ARE YOUR OPTIONS?	
DO NOTHING	If you do nothing and it is determined that you are part of the Proposed Class, and the Court approves the Settlement, you will receive your requested documents (if any) within 144 or 419 days of final approval (depending on whether your documents relate to police misconduct), and likely sooner. You will not be able to bring your own lawsuit related to the timing of the production of documents and you will be bound by the Release described in the Settlement. You may still challenge the substance of the Oakland Police Department’s production of records if you believe documents have been unlawfully withheld or redacted.
EXCLUDE YOURSELF	No change to your current status. If you exclude yourself from this Settlement, or in other words “opt out,” your records request will remain pending and may be addressed by the Oakland Police Department without regard to this Settlement. You may be entitled to file your own case against the Defendants in this case concerning the adequacy of the Oakland Police Department’s Records Determination and the promptness of its production of documents. The deadline to opt out is February 14, 2022.
OBJECT	If you do not like all or part of this Settlement, you can write to the Judge, who will consider your objection before deciding whether to approve this Settlement. The deadline for submitting a written objection is February 14, 2022.
GO TO THE FINAL FAIRNESS HEARING	You are not required to attend or speak at the hearing on this matter, which is called the final Fairness Hearing. But you may appear at the hearing and ask the Judge to allow you to share your views of the Settlement. The final Fairness Hearing is scheduled for March 24, 2022 at 3:30 p.m. in Department 17 of the Alameda Superior Court.

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BASIC INFORMATION ABOUT THIS LAWSUIT

1. Why did I get this notice package?

You may have filed a Public Records Act request with the Oakland Police Department between August 19, 2017 and November 18, 2021. If so, you are a member of a Proposed Class, and may be entitled to benefit from a proposed class action settlement.

The Court authorized this Notice because you have a right to know about the proposed Settlement, and about all of your options (including your right to exclude yourself) before the Court decides whether to approve the Settlement.

This package explains the lawsuit, the proposed Settlement, your legal rights, what benefits are available, who is eligible for them and the process for excluding yourself.

The Court in charge of the case is the Alameda Superior Court, and the case is known as *Morris, et al. v. City of Oakland, et al.*, Case No. RG20072029.

The people who sued — three local journalists, a privacy activist, and a privacy organization — are called the Plaintiffs. The City of Oakland, the Oakland Police Department and several of their employees named in this suit are called the Defendants.

2. What is this lawsuit about?

According to the Plaintiffs, the Oakland Police Department has failed to properly respond to Public Records Act requests. At the time the lawsuit was filed in August 2020, Plaintiffs alleged that the Oakland Police Department had over 5,700 outstanding Public Records Act requests, many of which were open for years. (Since this lawsuit was filed, the Oakland Police Department has responded to many of those requests, and as of the date of this Notice there are fewer than 1,000 requests outstanding.) Plaintiffs further alleged that the Oakland Police Department failed to properly respond to Public Records Act requests because it did not timely notify requesters of an estimated date for production of documents, which documents would be withheld (if any) and the basis for withholding documents. The Plaintiffs sought to represent a class of all records requesters who had not received an adequate response from the Oakland Police Department (the “Proposed Class”), and to compel the Oakland Police Department to provide a response to its backlog of requests. For similar reasons, the Plaintiffs further alleged that the Oakland Police Department violated the Oakland Sunshine Ordinance, a law that promotes access to government documents and requires timely notice of public meetings. Defendants deny that their responses to records requests violate the Public Records Act, deny that they have violated the Sunshine Ordinance, and believe that the Plaintiffs will not be permitted to maintain this lawsuit as a class action if the case proceeds on its merits.

3. Why is this a class action?

In a class action, one or more people are called Class Representatives. The Class Representatives sue on behalf of people who have similar claims. Those people are known as Class Members, and the entire group is known as the Class. If the Class Members have common or similar claims, one court can resolve the issues for all Class Members, except for those who opt to exclude themselves from the Class. Alameda Superior Court Judge Frank Roesch is in charge of this class action.

Class Representatives can only propose a Class. The Court has the ultimate authority to approve a Class. The Proposed Class will only become a Class if the Court determines that the Proposed Class Members have enough in common to merit pursuing the case as a group (instead of pursuing numerous cases as individuals). That is known as “certifying a class.”

The Class Representatives are four individuals (Scott Morris, Brian Kranz, Sarah Belle Lin, and Michael Katz) and one entity (Oakland Privacy).

4. Why is there a Settlement?

Further litigation regarding the adequacy of the Oakland Police Department's responses to Public Records Act requests would have taken many more months, and its outcome would be uncertain. Defendants wish to avoid the burden and expense of further litigation. Plaintiffs wish to avoid the uncertainty that the Court would not have certified a Class or given relief as comprehensive as that agreed to in the Settlement. Plaintiffs further believe that securing this Settlement now to compel the Oakland Police Department to clear its outstanding Public Records Act requests will result in faster responses than if Plaintiffs had to complete discovery and move the Court for relief.

WHO IS IN THE SETTLEMENT

5. Who is eligible to benefit from the Settlement?

You can receive the benefits of the Settlement if you are a member of the Proposed Class and do not opt out. You will receive the benefits if the Court ultimately approves the Settlement after it has heard from Class Members.

6. How do I know if I'm a member of the Proposed Class?

The Court has decided that everyone who fits this description is a member of the Proposed Class:

Any person who filed a Public Records Act request with the Oakland Police Department between August 19, 2017 and November 18, 2021 which was outstanding as of December 9, 2021.

7. Are there exceptions to being included?

Yes. The following requests and requesters are excluded from the Proposed Class:

- The Public Records Act requests at issue in *BondGraham, et al. v. City of Oakland, et al.*, Alameda Superior Court Case No. RG20071657.
- Anyone who excludes themselves (or "opts out").

8. I already received documents in response to my request.

If you filed a request with the Oakland Police Department between August 19, 2017 and November 18, 2021 which was outstanding as of December 9, 2021, you are a member of the Proposed Class.

You may have received documents in response to your request after the Court authorized this Notice. Whether or not your request has been closed and completed to your satisfaction, you are still a member of the Proposed Class. You are entitled to object to the terms of the Settlement that cover changes to the Oakland Police Department's Public Records Act procedures. If you do not object, you give up the same rights as other members of the Proposed Class. Like other Proposed Class Members, you are not giving up any rights to challenge the adequacy of the Oakland Police Department's production of documents.

9. I'm still not sure if I'm included.

If you are still not sure whether you are included in the Proposed Class, you can ask for free help. You can call (925) 256-0400, visit www.OPDPublicRecordsSettlement.com or email info@OPDPublicRecordsSettlement.com for more information.

THE SETTLEMENT – WHAT YOU GET AND WHAT YOU GIVE UP**10. What does the Settlement provide?**

There are three aspects to the Settlement.

First, the Oakland Police Department has agreed to clear its backlog of outstanding Public Records Act requests. Within 144 days of final Court approval of this Settlement, the Oakland Police Department will complete all Public Records Act requests submitted by Class Members, except for S.B. 1421 requests related to certain police misconduct and use-of-force records. For S.B. 1421 requests, the Oakland Police Department has agreed to clear its backlog of outstanding requests submitted by Class Members within 419 days, including a release of documents every two weeks until the deadline.

When requesters receive their records (if any), they will also receive a written response from the Oakland Police Department explaining which documents, if any, have been withheld, including a statutory justification for withholding such documents and an explanation why any exemption to disclosure applies.

Second, the Oakland Police Department has agreed to change the way it responds to Public Records Act requests. The Settlement provides:

- After the Oakland Police Department receives a Public Records Act request, it will conduct a search for documents within 10 days, or 24 days in unusual circumstances (the timeframes currently set forth in the Public Records Act).
- The Oakland Police Department will then send records requesters a “records determination” within 10 or 24 days providing a general description of the documents it has located from its search, including a rough quantity of the documents it has located and a description of the general categories of documents it has located. The Oakland Police Department will also inform requesters an estimated date of production for the documents it has located. The search description will enable each requester to confirm that the Oakland Police Department has actually searched for records and that their request is being processed.
- If the Oakland Police Department intends to withhold any documents, it will provide a justification for doing so, including a citation to any statutory exemption to disclosure that applies, and why that statutory exemption applies to the specific records requested.
- If the Oakland Police Department requires an extension from 10 to 24 days to provide a records determination, it will notify each requester of the specific reasons under the Public Records Act why an extension is necessary.

Third, the Settlement implements other reforms:

- The Oakland City Attorney’s Office will provide Public Records Act training to Oakland Police Department staff responsible for implementation of this Settlement and the Public Records Act. The Oakland City Attorney’s office will draft a training manual for staff use.
- The Oakland Police Department will update its internal regulations (known as “Departmental General Orders” or “DGOs”) to reflect the terms of this Settlement. Under the updated DGOs, division commanders in the Oakland Police Department will be responsible for their division’s compliance with the Public Records Act.
- For the next two years, the head of the Public Records Unit in the Oakland Police Department will prepare a report identifying delinquent requests every two weeks for the Chief of Police, the Chief’s executive team, and each division commander to ensure ongoing compliance.
- The Oakland Police Department will make a personnel roster, its policies, and DGOs available on the City’s website as they are updated from time to time.

11. What do I have to do to participate in the Settlement?

Nothing. You do not have to do anything to participate in the Settlement. All members of the Proposed Class are automatically included unless they take steps to exclude themselves or “opt-out.” The process for opting out is explained below.

You may also object to the Settlement if you disagree with its terms. The process for objecting is also explained below.

12. When will I get my records?

Proposed Class Members will receive their records within 144 days of approval of this Settlement, unless you made a request that includes police misconduct or use-of-force records under S.B. 1421, in which case you will receive your records within 419 days. Most Proposed Class Members will receive their records earlier as the Oakland Police Department will be releasing documents on a rolling basis as it clears the backlog.

13. Will Plaintiffs or Proposed Class Members receive any money?

No. Plaintiffs did not file any claim for money damages in this case. The Public Records Act does not authorize money damages.

14. How do I know the Oakland Police Department will abide by the Settlement?

The Court will retain jurisdiction over this Settlement until the Oakland Police Department has cleared its backlog of both S.B. 1421 and non-S.B. 1421 requests to ensure compliance with the Settlement. During that timeframe (or the last six months prior to dismissal), the Oakland Police Department will be required to meet its estimates for document production 80% of the time.

While the Court retains jurisdiction over the Settlement, the Oakland Police Department must abide by the following estimates for production of documents:

- Crime Reports (except for homicide): 15 days from receipt of request.
- Tow Reports: 10 days from receipt of request.
- Computer Assisted Dispatch logs for a single incident: 20 days from receipt of request.
- Call for Service Logs at a single address: 20 days from receipt of request.

The Oakland City Attorney and Chief of Police will also prepare periodic reports for the Oakland City Council and the Court regarding Defendants’ compliance with the Settlement while Class Members’ requests remain outstanding. After the first such report — approximately two months after approval of the Settlement — the City Attorney and Chief of Police will publicly appear at an open meeting of the City Council to answer questions regarding compliance with the Settlement.

15. What rights am I giving up if I stay in the Proposed Class?

If you stay in the Proposed Class, you give up three important rights.

First, you agree to waive any claims that the Oakland Police Department has not promptly provided you with documents in response to your Public Records Act request(s) that are covered by this lawsuit, i.e. those requests filed between August 19, 2017 and November 18, 2021.

Second, you agree to waive any claims that the Oakland Police Department has failed to provide you with an adequate records determination in response to your Public Records Act request(s) that are covered by this lawsuit, i.e. those requests filed between August 19, 2017 and November 18, 2021.

Third, you agree to waive all claims with respect to the adequacy of the Oakland Police Department’s forward-looking commitments outlined in paragraph 10, namely the “records determination” reforms.

16. What rights do I preserve even if I stay in the Proposed Class?

You are NOT giving up any rights to challenge the Oakland Police Department’s eventual response to your Public Records Act request. In other words, once you are provided with documents (or notified documents will be withheld), if you believe the Oakland Police Department has improperly redacted or withheld documents, you can still sue them, subject only to the rules that would otherwise apply, such as the statute of limitations.

You are NOT giving up any rights if the Oakland Police Department fails to abide by the terms of this Settlement.

You are NOT giving up any rights to challenge the Oakland Police Department’s estimated date of production of documents for future requests.

You are NOT giving up any rights to challenge any exemptions to withholding that the Oakland Police Department asserts in the future.

17. What happens if I exclude myself (i.e. “opt out”)?

If you opt out, you will not be bound by the terms of the Settlement. You will preserve your rights to challenge both the promptness of the Oakland Police Department’s production of documents in response to your outstanding Public Records Act request, and the adequacy of the Oakland Police Department’s records determination. You may or may not receive documents by the deadlines set under the Settlement.

You can separately sue to try to obtain your documents sooner than the deadlines agreed to in this Settlement. You may need to file your own lawsuit and retain your own lawyer if you wish to pursue individual claims outside of this Settlement.

THE LAWYERS REPRESENTING YOU

18. Do I have a lawyer in this case?

The Court has asked three law firms — Ferguson Law PC, The Meade Firm p.c. and Reiser Law, P.C. — to represent you and other members of the Proposed Class. These lawyers are called Class Counsel. You will not be billed for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

19. How will the lawyers be paid?

Class Counsel filed this case on a contingency basis, meaning they did not know whether they would be paid when they filed this lawsuit. Class Counsel have incurred approximately \$10,000 in costs on behalf of Plaintiffs and the Proposed Class. Defendants have agreed to pay Class Counsel \$127,500 as part of the Settlement Agreement. Under the Public Records Act, a prevailing party is entitled to reasonable attorney’s fees. Defendants do not agree that the Plaintiffs are the prevailing parties, but as part of the Settlement have agreed to pay Class Counsel a lump sum to settle claims related to Plaintiffs’ alleged entitlement to attorney’s fees and costs.

EXCLUDING YOURSELF FROM THE SETTLEMENT

20. What does it mean to be excluded, or “opt out”?

If you don’t want to participate in this Settlement, but you want to keep the right to sue the Oakland Police Department and the other defendants named in this lawsuit on your own about the legal issues in this case, then you must take steps to get out. This is called excluding yourself, or “opting out” of the Proposed Class.

21. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail entitled “Request for Exclusion.” **You must clearly say “I want to be excluded from the settlement *Morris, et al. v. City of Oakland, et al.* (Ala. Sup. Ct. Case No. RG20072029).”** You must also include: (1) your full name and address, and (2) the number assigned to your Public Records Act request(s) in Oakland’s NextRequest platform (if known), or the text of your Public Records Act request(s) (if available). You must personally sign your request to be excluded.

You must mail your exclusion request **postmarked no later than February 14, 2022** to:

Morris v. City of Oakland Exclusions
c/o Reiser Law
1475 N. Broadway, Suite 300
Walnut Creek, CA 94596

FAILURE TO COMPLY WITH THESE REQUIREMENTS AND TO TIMELY SUBMIT THE REQUEST FOR EXCLUSION WILL RESULT IN YOUR BEING BOUND BY THE TERMS OF THE SETTLEMENT.

22. Can I send my request for exclusion through NextRequest?

No. Do not send your request for exclusion through NextRequest. It must be signed and mailed to the address listed above.

*****DO NOT SEND OR POST YOUR REQUEST FOR EXCLUSION TO NEXTREQUEST*****

23. Can I sue the Oakland Police Department and its co-defendants later if I don’t exclude myself?

If you stay in the Settlement, you may **NOT** sue the Oakland Police Department regarding whether they have complied with their obligation to promptly produce documents for any requests submitted between August 19, 2017 and November 18, 2021, which were pending as of December 9, 2021. You also may **NOT** sue the Oakland Police Department over the sufficiency of their communication(s) to you (if any) prior to producing documents for any of these requests. You **MAY** sue the Oakland Police Department later if you believe that their production of documents violates the Public Records Act. You **MAY** sue the Oakland Police Department related to future requests that were submitted after November 18, 2021. You **MAY** sue the City of Oakland if you have a dispute related to any Public Records Act requests for records maintained by other City departments (i.e., requests for records other than Oakland Police Department records).

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don’t agree with the Settlement or some part of it.

24. What is an objection?

If you’re a member of the Proposed Class, you can object to the Settlement if you don’t like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

25. How do I object to the Settlement?

You must do two things: **FILE** your objections with the Court and **SEND** your objections to the lawyers in this case.

You must **file a written objection with the Court by February 22, 2022**. You must include a statement that you are objecting to the Settlement in *Morris, et al. v. City of Oakland, et al., Alameda Superior Court Case No. RG20072029*. You also must state in your objection (1) your full name, address and telephone number(s) and (2) the number assigned to your Public Records Act Request on NextRequest (if known) or the text of your request (if available); and (3) whether you wish to be heard at the final Fairness Hearing.

You must also send your objections to lawyers for both sides, postmarked no later than **February 14, 2022**, at the following addresses:

CLASS COUNSEL	DEFENSE COUNSEL
<p style="text-align: center;">Michael Reiser Reiser Law 1475 N. Broadway, Suite 300 Walnut Creek, CA 94596</p>	<p style="text-align: center;">Erin Bernstein Bradley Bernstein Sands LLP 3811 Harrison St. Suite 100 Oakland, CA 94611</p>

26. May I be deposed if I object?

If you object, the parties to the Settlement may ask for your deposition, or seek documents or other information from you relevant to your objection.

27. What's the difference between objecting and excluding or "opting out"?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Proposed Class. Excluding yourself ("Opting Out") is telling the Court that you don't want to be part of the Class and the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

IF YOU DO NOTHING

28. What happens if I do nothing?

If you do nothing and you are part of the Proposed Class, you will receive your documents within 144 or 419 days of final approval of this Settlement, depending on whether your request seeks police misconduct records under S.B. 1421.

THE COURT'S FAIRNESS HEARING

29. What is a Fairness Hearing?

The Court will hold a Fairness Hearing (also called a Final Approval Hearing) to decide whether to approve the Settlement. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement.

30. When and where is the Fairness Hearing?

The Fairness Hearing will take place on March 24, 2022 at 3:30 P.M. in Department 17 of the Alameda Superior Court. Please check the settlement website or the Court's website closer to the hearing date for details on how to attend virtually.

31. Do I have to attend the hearing?

You may attend, but do not have to. If you send in a written objection, the Court will consider that objection and you don't have to attend the hearing or speak about it. Class Counsel will answer any questions from the Court about the Settlement.

32. Can I speak at the Fairness Hearing?

If you wish to speak, you must comply with the objection requirements set forth in Question 25 above — namely, you must file an objection, and state your intention to speak at the Fairness Hearing therein.

GETTING MORE INFORMATION

33. Are there more details about the settlement?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by writing to Reiser Law, 1475 N. Broadway, Suite 300, Walnut Creek, CA 94596, or by visiting www.OPDPublicRecordsSettlement.com. You can also get more information or answers to any questions about the Settlement from this same website, by calling (925) 256-0400, or emailing Info@OPDPublicRecordsSettlement.com