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August 7, 2008

John P. Mullen, Esq.
City Attorney
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054-2885

Re: Hillestad CPRA requests
City Attorney File No. 2008PR110

Dear Mr. Mullen:

I am writing on behalf of William and Julie Hillestad regarding California Public Records Act (CPRA) requests they made to the Oceanside Police Department in connection with events surrounding the suicide of their son Grant Sattaur on December 26, 2007.

By letter dated March 19, 2008, your office responded to the Hillestads' initial request and provided certain documents concerning training requirements and procedures in general. However, your office declined to produce other information, including the "name of the crisis negotiator" and the training actually "received by the crisis negotiator" and the "on scene commander," citing Penal Code section 832.7.

By letter dated July 9, 2008, to the chief of the Oceanside Police Department, the Hillestads followed up on their original request and specifically asked for the "full names and titles of personnel in telephone contact with Mr. Sattaur" and the "full names and titles of all personnel who were on the scene of the incident, including the on-scene commander." To my knowledge, the Hillestads have not received a response to their July 9 letter, as required by Government Code section 6253(c). This letter amplifies the July 9 request by clarifying that it seeks all documents containing the name and rank of all officers involved in the events culminating in Mr. Sattaur's suicide and the role played by all such officers in those events.

The public has a vital interest in understanding and evaluating a police department's response to a suicidal individual. The public needs to know the name and

rank of all officers who responded and the roles they played in order to evaluate the department's response, verify that the department complied with its own policies and procedures, determine if the department's response conformed to best practices, and suggest changes to policies and procedures in responding to future similar incidents. The public also has a significant interest in verifying that officers deployed to respond to and negotiate with a suicidal individual have been properly trained and in suggesting how such training might be improved.

Names and ranks of police officers are not automatically exempt from public disclosure. *Commission on Peace Officer Standards and Training v. Superior Court* (2007) 42 Cal.4th 278. "Law enforcement officers carry upon their shoulders the cloak of authority to enforce the laws of the state. In order to maintain trust in its police department, the public must be kept fully informed of the activities of its peace officers." *Id.* at 297.

The Attorney General recently concluded "the name of a peace officer involved in a critical incident is not categorically exempt from disclosure" under the CPRA or Penal Code. Opinion No. 07-208, 91 Ops. Cal. Atty. Gen. 11. The Attorney General specifically noted "a request just for the names of officers involved in a particular incident may be provided without revealing any investigatory or disciplinary matter that may have arisen out of the incident." *Ibid.* The "identities of officers involved in a particular incident that occurred in the course and scope of their duties as peace officers is clearly information related 'to the conduct of the public's business'" and is subject to disclosure if "it is recorded in any manner and can be redacted to protect any confidential material." *Ibid.* The officers' identities may be withheld only if the government can carry its heavy burden to prove "the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." *Ibid.* (quoting Govt. Code, § 6255(a).) For example, that narrow exception might apply to an undercover officer or an incident involving a street gang and the prospect of retribution by the gang. *Ibid.* However, the exception cannot apply indiscriminately to any incident in which an officer is involved.

Also, while your office provided a summary of training requirements in general for crisis negotiators and scene commanders, the City has not disclosed records confirming the training actually received by the scene commander and the officer who negotiated with Mr. Sattaur. I respectfully disagree that such information is protected by Penal Code section 832.7. The definition of "personnel records" in section 832.7 is provided in section 832.8, and section 832.8 does not specifically refer to records of officer training. Records that "do not reflect any of the items enumerated" in section 832.8 are not exempt from disclosure under section 832.7. *International Federation of Professional and Technical Engineers, Local 21, AFL-CIO v. Superior Court* (2007) 42 Cal.4th 319, 346.

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Page 3 of 3

Please call me if you have any questions. I look forward to your response. I hope to resolve this matter without litigation if possible, but the ACLU is prepared to litigate these issues if necessary and appropriate. Thank you for your attention to this matter.

Sincerely yours,

David Blair-Loy
Legal Director