

Subject: Request For Information Under California Public Records Act, § 6250 et seq.



[REDACTED] goodwinlaw.com>
to [REDACTED]@cityofpasadena.net

Tue, Dec 15, 2020, 6:21

You are viewing an attached message. Joyful Heart Foundation Mail
can't verify the authenticity of attached messages.

Dear Chief Perez,

I represent the Joyful Heart Foundation in connection with its Accountability Project and submit the enclosed letter to you on their behalf. I would appreciate your immediate attention to this matter.

Sincerely,

[REDACTED]



Goodwin Procter LLP

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December 15, 2020

BY FEDERAL EXPRESS AND ELECTRONIC MAIL

Chief John Perez
Pasadena Police Department

Dear Chief Perez:

We represent the Joyful Heart Foundation (“Joyful Heart”) in connection with its Accountability Project and submit this letter to you on its behalf. Joyful Heart is a non-profit organization focused on preventing and remediating sexual assault, domestic violence and child abuse. As part of the Accountability Project, Joyful Heart is collecting information throughout the country concerning policies and procedures on evidence processing for the crime of rape, as well as information on the processing of rape kits each year. The ultimate goal of this initiative is to end the backlog of untested rape kits throughout the United States and to work with jurisdictions to develop and implement survivor-centered reforms. Joyful Heart is hoping to collaborate with Pasadena Police Department (“PPD”) as well as other local authorities in pursuit of this goal.

This letter is a request for information from Joyful Heart pursuant to the California Public Records Act, § 6250 et seq. (the “Act”). As you are aware, the Act provides that the public must have access to public records not specifically exempt from disclosure.

Joyful Heart hereby requests that the PPD provide public records regarding each of the following:

1. Any documentation regarding the number of sexual assault evidence kits received by the PPD from January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;
2. Any documentation regarding the number of sexual assault evidence kits received by the PPD which were analyzed for DNA from January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;



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3. Any documentation regarding the number of sexual assault evidence kits received by the PPD which were not analyzed for DNA from January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;
4. Any documentation providing the reason(s) the sexual assault evidence kits identified in (3) were not sent to a crime lab for DNA analysis, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records;
5. Any documentation regarding the number of sexual assault evidence kits received by the PPD that are unprocessed and remain in any storage facilities currently under the police department's jurisdiction and control;
6. Any documentation regarding the number of sexual assault evidence kits received by the PPD which have been lost or destroyed from January 1, 2000, broken down by year and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began; and
7. Any written policies or procedures regarding the PPD's practices on the handling of sexual assault evidence kits, including testing protocols and retention and destruction policies and also including any documents defining the meaning of any terms or abbreviations used by the PPD pertaining to sexual assault evidence kits

Please note that **no** private information of individual suspects or victims is being requested, as we fully respect the privacy interests of those individuals. We are happy to work with you to ensure that all privacy regulations are upheld.

Joyful Heart also requests that, if you are not the correct contact for this request, you identify a specific individual with whom it can communicate regarding this request.

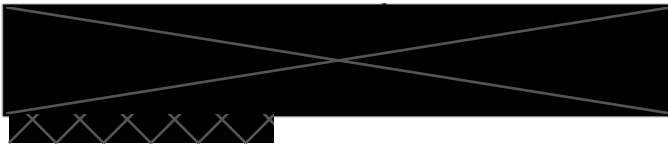
We appreciate your immediate attention to this matter. In accordance with Section 6253(c) of the Act, we expect to receive a determination as to whether this request is for disclosable public records in the PPD or the City Clerk's possession within ten (10) days of your receipt of this request. We understand that an additional fourteen (14) day period may be required to respond to this request, in which case we expect to receive notice of such extension within the 10-day period. In accordance with Section 6253(c), once the determination has been made, we also look forward to receiving an estimated date and time when the records will be made available. In any event, we expect the PPD to identify a relevant point of contact, if it is someone other than yourself, as requested above within the statutory ten (10) day period.



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In addition, pursuant to Section 6253(b) of the Act, we understand that fees covering direct costs of Duplication may be imposed in connection with this request. We would kindly request that you provide an estimate of the fees for the above listed documentation prior to incurring any such fee.

If you have any questions, please do not hesitate to contact me at



cc (via email): Joyful Heart Foundation

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Kits Sent to the Lab

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Property and Evidence

804.1 PURPOSE AND SCOPE

When evidence or property comes into the possession of the Pasadena Police Department, a public trust is created. In order to fulfill this trust, the Property Management Section is responsible for the custody, control and disposition of all evidence and property coming into possession of this department so as to minimize liability exposure.

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

804.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

804.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in a secure property locker or storage area along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

804.3.1 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

Property and Evidence

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
 - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Department has complied with the requirements of Penal Code § 33850 et seq.

The Property and Evidence Technician shall ensure the Property Supervisor is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

804.4 PACKAGING OF PROPERTY

The Property Management Section Supervisor or section personnel shall daily examine the evidence lockers, drop slot and Officer's Booking Port, and assume custody of all evidence and property placed therein during their absence. Section personnel will then cause such transfer of appropriate property/evidence into the Main Property Room or other approved storage areas for its security. The only exception is items in the drying lockers.

In addition, they shall cause:

- (a) Appropriate entries in the Evidence Tracking System which will reflect the exact location of all evidence or property in section custody at any time, including and dispositions.
- (b) Release of evidence for court in the following manner:
 - 1. The evidence to be checked out must be entered on the back of the Property & Evidence Report form, by item number. The receiving officer shall sign and date the form.
 - 2. A court disposition sheet must also be given to the officer receiving the evidence, and returned with the evidence.
 - 3. The officer shall notify section personnel of the disposition of all evidence checked out to them by returning the properly notated court disposition sheet or by completing the Property & Evidence Report form, signing the evidence back in. All evidence checked out for court must be returned by the close of the court day. Exceptions are evidence held temporarily by the court, which must be indicated on the court disposition receipt.

Property and Evidence

804.5 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the Pasadena Police Department shall be noted in the property hardcard.

804.6 PROPERTY CONTROL

Each time the Property and Evidence Technician receives property or releases property to another person, he/she shall enter this information on the property control card and the Evidence Tracking System. Officers desiring property for court shall contact the Property and Evidence Technician at least one day prior to the court day.

804.6.1 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property and Evidence Technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

804.6.2 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.
- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Department shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Department to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

Property and Evidence

804.6.3 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Pasadena Police Department determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

804.6.4 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Department shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

804.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

804.7.1 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Section Supervisor shall ensure that no biological evidence held by the Department is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor and Attorney General
- (d) Any sexual assault victim
- (e) The Criminal Investigations Division Lieutenant

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property and Evidence Section Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made

Property and Evidence

by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Department within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division Lieutenant.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief of Police and the head of the applicable prosecutor's office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Criminal Investigations Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

804.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief of Police.
- (c) An annual audit of evidence held by the Department shall be conducted by a Division Commander (as appointed by the Chief of Police) not routinely or directly connected with evidence control.
- (d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

804.9 DISPOSITION OF EVIDENCE OR PROPERTY

- (a) All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The property management personnel shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.
- (b) The investigating employee shall expedite the final disposition of evidence or property being held by the Property Management Section, except for found property and

Property and Evidence

property held for safekeeping, which will be disposed of by section personnel when appropriate.

- (c) If evidence or property is released to any person or agency, the following shall be recorded on the Property & Evidence form.
 - 1. The name, address and signature of the person receiving the property; and
 - 2. Legible signature of the person authorizing the release.
- (d) With the exception of firearms and other property specifically regulated by statute, found property will be held for a minimum of 90 days and property held for safekeeping shall be held for a minimum of 60 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6), donated to a charitable or non-profit organization (Welfare and Institution Code 217) or converted for official Police Department use (Civil Code 2080.4). The final disposition of all such property shall be fully documented in related reports.
- (e) Property management personnel shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Section for filing with the case. If some items of property have not been released the property card will remain with the Property Management Section. Upon release, the proper entry shall be documented on the Property card.

804.10 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

804.11 DESTRUCTION OF NARCOTICS & DANGEROUS DRUGS

The Major Narcotics and Special Investigation Section, with the approval of the CID Commander, will be responsible for destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364. The destruction order will be co-signed by the Property Management Supervisor and CID Commander.

Property and Evidence

804.12 DISPOSITION OF PROPERTY

- (a) The investigating employee shall expedite the final disposition of evidence or property being held by the Property Management Section, except for found property and property held for safekeeping, which will be disposed of by section personnel when appropriate.
- (b) If evidence or property is released to any person or agency, the following shall be recorded on the Property & Evidence Report form:
 - 1. The name, address and signature of the person receiving the property and
 - 2. Legible signature of the person authorizing the release.

804.13 EXCEPTIONAL DISPOSITIONS

- (a) The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:
 - 1. Weapons declared by law to be nuisances (Penal Code §§ 12028, 12029, 12251) Furthermore, firearms designated for disposal pursuant to California Penal Code Part IV, Title II, Section 12028, shall be treated as follows:
 - (a) At the direction of the Property Management Section Administrator, and upon a determination of appropriateness, inventories of (1) firearms to be destroyed; and (2) firearms retained under Penal Code Section 12030 shall be prepared and submitted to the police chief for approval.
 - (b) Upon approval of destruction, the Section Administrator shall be responsible for overseeing said destruction and for verifying beyond any doubt that each weapon inventoried was, in fact, destroyed and therefore incapable of being salvaged.
 - (c) Mode of destruction shall be established by the Property Management Section Administrator with the approval of the police chief.
 - (d) A certification of destruction verified in writing by an official of the destructing agency and attested to by witnessing police personnel shall be maintained in the Main Property Room for five years.
 - 2. Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
 - 3. Counterfeiting equipment (Penal Code § 480)
 - 4. Gaming devices (Penal Code § 335a)
 - 5. Obscene matter ordered to be destroyed by the court (Penal Code § 312)
 - 6. Altered vehicles or component parts (Vehicle Code § 10751)

Property and Evidence

7. Narcotics (Health & Safety Code § 11474, etc.)
8. Unclaimed, stolen or embezzled property (Penal Code § 1411)
9. Destructive devices (Penal Code § 12307)

804.14 UNCLAIMED MONEY

- (a) If found or seized money is no longer required as evidence and remains unclaimed after three years, the Department shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency (City of Pasadena) on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).
- (b) Any individual item with a value of less than fifteen dollars (\$15.00), or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).
- (c) If the money remains unclaimed as of the date designated in the published notice, the money will become the property of the City of Pasadena and be deposited in the City's General Fund. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

804.15 REFERENCE

See [PPD Procedure Manual section 804p](#) and the [PPD Property Patrol Guide](#).

Sexual Assault Examinations

601.1 PURPOSE AND SCOPE

The policy of the Pasadena Police Department is to provide a victim of sexual assault with an initial medical examination at an approved forensic sexual assault hospital or medical facility.

NOTE: Sexual Assault Forensic Examinations do not require a law enforcement witness.

601.2 VICTIM SEXUAL ASSAULT EXAMINATIONS

- (a) The purpose of this procedure is to provide a witness to the examination and collection of sexual assault evidence. A Sexual Assault Nurse Examiner (S.A.N.E.) at the facility is to be used to avoid any possible embarrassment on the part of the victim. S.A.N.E. certified personnel are trained to testify at any required court proceedings.
- (b) An 'acute' Sexual Assault Forensic Examination (S.A.F.E.) should be conducted on all victims as soon as possible within 96 hours of the assault. A 'non-acute' examination can be conducted if the assault occurred more than 96 hours prior to the examination. Officers should consult with the S.A.N.E. regarding the circumstances to determine if a 'non-acute' examination should be conducted.
- (c) Current S.A.F.E. facilities will conduct examinations on victims of any age.
- (d) It is the investigating officer's responsibility to inform the victim of the right to have an advocate or other support person present during the S.A.F.E. It shall be standard practice to request an advocate to be present at the facility when the examination is conducted. The purpose of the advocate is to provide support to the victim as well as provide follow-up support services (Penal Code 679.04(a))
- (e) The S.A.N.E. shall receive all evidence and deliver it to the investigating officer.
- (f) When the investigating officer or Field Identification Technician is not available at the time of medical examination and evidence collection, the S.A.N.E. will secure the evidence at the facility. Chain of custody will be maintained by securing the evidence until a member of the Pasadena Police Department assumes custody of the evidence.
- (g) Requests for evidence collection outside standard procedures are to be coordinated through the medical personnel so as not to interfere with the best interests of the victim-patient.
- (h) Any problems associated with this procedure are to be reported to the watch commander on duty at the time of the investigation.

601.3 SUSPECT SEXUAL ASSAULT EXAMINATIONS

- (a) A S.A.F.E. shall be conducted on all suspects who are apprehended within 24 hours of the assault. This time may be extended depending on the suspect's hygiene practices.

Sexual Assault Examinations

The suspect does not have the right to refuse the examination (withhold evidence) or to have an attorney present during the examination.

- (b) The S.A.F.E. may be conducted at the same facility as the victim, however, the suspect should not be present at the facility at the same time as the victim.
- (c) Care should be taken to preserve any evidence that may be on the suspect's person prior to the examination. Do not allow the suspect to wash his/her hands and consider safeguarding potential evidence on the hands by covering them with paper bags. Discourage the suspect from using the restroom prior to the exam. If the suspect must use the restroom he/she must be closely monitored to ensure that evidence is not destroyed.
- (d) If a S.A.F.E. is not conducted on the suspect (i.e. greater the 24 hours from the time of assault) a DNA reference sample shall be collected during booking using the LASD Suspect Buccal Swab Collection Kit. This DNA reference sample is collected in addition to the CAL DOJ DNA sample that is collected by jail personnel.

601.4 REFERENCE

See PPD Procedure Manual 601p.