



# MEDFORD

CITY ATTORNEY'S OFFICE

September 8, 2021

Samuel Sinyangwe  
[Via Records Portal](#)

Re: Public Records Requests of September 1, 2021

Dear Mr. Sinyangwe:

This letter relates to your request for the following:

- 1. the total number of use of force incidents reported by law enforcement, separated by year and by type of force used from 2013-2020 (for example, "27 taser incidents in 2019, 3 baton incidents in 2020, etc.)*
- 2. the total number of civilian complaints alleging any form of law enforcement misconduct that were reported and the total number sustained from 2013-2020, separated by year (for example, 8 complaints in 2016, 2 complaints sustained in 2016, 4 complaints in 2017, 1 complaint sustained in 2017, etc.)*
- 3. the total number of civilian complaints alleging law enforcement use of excessive force that were reported and the total number sustained from 2013-2020, separated by year.*
- 4. the total number of civilian complaints alleging biased policing or racial profiling that were reported and the total number sustained from 2013-2020, separated by year.*
- 5. the total number of civilian complaints alleging criminal conduct that were reported and the total number sustained from 2013-2020, separated by year.*
- 6. all information reported to the FBI's National Use-of-Force Data Collection program to date.*
- 7. a list of all officer involved shootings that were directed at a person from 2013-20 (excluding shootings of animals and accidental discharges that are not directed at a person).*
- 8. the total amount of money paid out in lawsuits and settlements relating to allegations of police misconduct per year from 2013-20. This includes copies of all reports, lists, databases, or individual documents that detail lawsuits brought against the city's police department and the outcome of lawsuits brought against the city's police department including any financial settlement occurring from 2013-20. It should also include any documents that your department submits to local, state, or federal agencies listing the number and/or status of lawsuits brought against the police department. This request includes any documents compiled quarterly, annually, or in other increments as well as any documents or databases that contain responsive information.*

**Denial of request:**

The request seeks creation of new documents, specifically spreadsheets with the data rows and data fields specified. Oregon public records law does not require public bodies to create new public records. See, e.g., Public Records Order, Nov 14, 1996, *Schwartzock* (public body not required to create an investigatory report in response to a records request); *Attorney General's Public Records and Meeting Manual*, page 7.

**Estimate of cost:**

Even if the request was reworded to avoid creation of new documents, or if the City waived that basis for denial, substantial cost would be involved in responding.

We estimate that generating and reviewing the requested data will take 160 hours of labor from our Professional Standards Sergeant. Our Professional Standards Sergeant's regular effective hourly rate is \$86.06 per hour and the overtime rate is more than that. Before assessing an overtime rate to a public records request, the public entity should articulate why the request could not be accommodated with additional temporary employees. Here, overtime might be necessary because the Professional Standards Sergeant has regular duties during his work hours that cannot be delayed to incorporate a project of this size during the normal work hours without neglecting other job duties. Hiring temporary employees is not an option due to the type of information this request involves. There would be additional time for an attorney to compile and review the settlement matters requested. The hourly wage of the attorney is approximately \$70 per hour and we estimate 10 hours to compile that information.

As such, the cost to the City in responding to this request would be at least \$14,469.60. Oregon public records law generally allows a municipality to recoup those costs from a requesting party. Pursuant to ORS 192.324(4)(c), the City has not begun incurring these costs in compiling the records request as drafted, and would not, without your confirmation that you are willing to pay those fees. If this estimate were to ultimately prove to be an overpayment, the amount of any overpayment would be refunded. If the estimate proves insufficient to fulfill the request, additional sums may be requested.



**Areas likely to be exempt from disclosure:**

As noted in the *Attorney General's Public Records and Meeting Manual*, although all applicable exemptions do not need to be identified prior to records being compiled, it is best practice where possible to advise a requester beforehand if significant portions of the records are likely to be exempt from disclosure. Without waiving other exemptions and privileges that may apply after review of compiled record, please be aware that the following are expected to apply to portions of the requested records:

- A personnel discipline action, or materials or documents supporting that action, ORS 192.345(12)
- Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law, ORS 192.355 (9), 181A.

**Potential next steps:**

If you are interested in revising the request to eliminate the basis or denial and/or reduce or eliminate the cost of compiling responsive records, please let our office know.

Appeals of a public records response should be directed to the Jackson County District Attorney.

If you would like to ask the City to waive the basis for denial and move forward with the City gathering the requested information, please provide prepayment of the estimated cost.

Sincerely,

/s/ Katherine M. Zerkel

Katherine M. Zerkel  
Senior Assistant City Attorney