

1 **DANTE T. PRIDE, ESQ (SBN 262363)**  
2 dpride@pridelawfirm.com  
3 **THE PRIDE LAW FIRM**  
4 2831 Camino Del Rio South, Suite 104  
5 San Diego, CA 92108  
6 Tel: 619.516.8166  
7 Fax: 619.785.3414

8 Attorney for Petitioner  
9 **LESLIE FURCRON**

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12  
13 **COUNTY OF SAN DIEGO**

14 **LESLIE FURCRON** an individual,  
15  
16 Petitioner/Plaintiff,  
17  
18 v.

19 **CITY OF LA MESA; LA MESA POLICE**  
20 **DEPARTMENT; and DOES 1 thru 25,**  
21 inclusive,  
22  
23 Respondents/Defendants.

CASE NO. 37-2020-00021187-CU-WMA-CTL  
**WRIT FOR DECLARATORY RELIEF  
AND VERIFIED PETITION FOR  
PEREMPTORY WRIT OF MANDATE  
ORDERING COMPLIANCE WITH THE  
CALIFORNIA PUBLIC RECORDS ACT  
AND MEMORANDUM OF POINTS AND  
AUTHORITIES**  
[Civ. Proc. Code §§ 1060, 1085, *et seq.*;  
Cal. Gov. Code §§ 6250 *et seq.*; § 6259]

24 By this verified petition, Petitioner **LESLIE FURCRON** (hereafter “**FURCRON**”, “**MS.**  
25 **FURCRON**”, and, collectively “**Petitioner**” or “**Plaintiff**”) seek a writ of mandate pursuant to  
26 California Government Code §§ 6250, *et seq.*, and § 6259 to compel the **CITY OF LA MESA** and  
27 the **CITY OF LA MESA POLICE DEPARTMENT** (hereafter “**LMPD**” and, collectively  
28 “**Respondents**” or “**Defendants**”) to comply with lawfully submitted California Public Records Act  
(hereafter “**CPRA**”) requests. In support, Petitioner allege as follows:

///  
///  
///  
///  
///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2  
3 INTRODUCTION AND PROCEDURAL STATUS

4 1. On May 31, 2020 at around 5:00 pm, largely peaceful protests ensued outside of the  
5 La Mesa Police Department in response to the recent deaths of George Floyd and other Black  
6 Americans at the hands of Police.

7 2. In response to the largely peaceful protestors, La Mesa Police officers released tear  
8 gas, rubber bullets, lead bean bag shots, and various other projectiles. To Petitioner’s knowledge,  
9 and various other witnesses, La Mesa Police Officers did not warn peaceful protestors that their  
10 actions would be met with police force. Based on Petitioner and multiple eye witness accounts, La  
11 Mesa Police officers shot projectiles within close range of protestors, showing an intent to severely  
12 injure the patrons.

13 3. Petitioner arrived at the largely peaceful protests at about 8:00pm; and at around 8:15  
14 pm, La Mesa Police shot Ms. Furcron between the eyes with a lead-projectile beanbag gun.  
15 Protestors proceeded to check on Ms. Furcron and call out to the LMPD for help procuring a medic  
16 or assisting Ms. Furcron with her injuries. Eventually, a group of protestors transported Ms. Furcron  
17 to the hospital in their personal vehicles.

18 4. Ms. Furcron sustained extensive optical, brain, and nerve damage from the lead-  
19 projectile bean bag shot. To date, Ms. Furcron cannot see out of her left eye, suffers from multiple  
20 facial fractures, and she will face a lifetime of recovery from the injuries.

21 5. Petitioner brings this request for extraordinary writ relief to compel Respondents  
22 CITY OF LA MESA and LA MESA POLICE DEPARTMENT to produce the NAME of the officer  
23 and/or officers who were firing projectile "bean bag" rounds from the mezzanine and/or the upper  
24 levels of the La Mesa Police Department beginning on May 30, 2020 at around 5 p.m. in the evening,  
25 and continuing until May 31, 2020 until 3:00 a.m. to satisfy the lawful request for such records  
26 initiated and submitted by and through Petitioner’s attorney on record, Dante T. Pride, on June 5,  
27 2020. (See Exhibit A; CPRA Request dated June 5, 2020) The records request (hereafter the  
28 “Records Request”) was submitted to all Respondents. The CITY OF LA MESA and LMPD denied

1 the Records Request, stating the Records are “exempt from disclosure . . . pursuant to Penal Code  
2 section 832.7.” (See Exhibit B; City of La Mesa Denial Letter dated June 15, 2020)

3 6. Respondents added that because “there is a current and ongoing investigation”  
4 records requested are exempt from disclosure under Gov. Code § 6254(f). Additionally,  
5 Respondents feel that disclosing the officer’s name would “endanger those officer’s safety.”

6 7. Respondents have failed to honor the Records Request due to alleged exemptions  
7 under Gov. Code § 6254(f) and Penal Code § 832.7. As described in greater detail below,  
8 Respondents fail to acknowledge all relevant portions of the aforementioned statutes. Specifically,  
9 Respondents do not discuss the exemption for release of records under Penal Code section  
10 832.7(b)(ii) when there is an incident in which force by a peace officer “result[s] in death, or in great  
11 bodily injury” that occurred to Petitioner. Nor do they discuss or cite case law to support their  
12 position that the officer who shot Petitioner fear for safety outweighs the public interest in releasing  
13 the officer’s name.

14 PARTIES

15 8. Petitioner FURCRON is an individual who now, and at all times mentioned in this  
16 Petition was a resident of Lemon Grove, California.

17 9. Respondent City of LA MESA and LMPD are now, and at all times mentioned in  
18 this Petition, a local public agency within the meaning of Government Code § 6252(d).

19 10. Respondent LMPD is a public law enforcement department of the City of La Mesa  
20 located in LA Mesa, California, and is now, and at all times mentioned in this petition, was a local  
21 public agency within the meaning of Government Code § 6252(d).

22 JURISDICTION AND VENUE

23 11. This Court has jurisdiction to issue declaratory judgments pursuant to Code of Civil  
24 Procedure section 1060 (declaratory relief), and to issue writs of mandate pursuant to Code of Civil  
25 Procedure section 1085 (traditional mandamus) and Government Code section 6250 and 6259  
26 (CPRA).

27 12. Venue is proper in this Court because the records in question are situated in the  
28 County of San Diego. Additionally, Venue is proper in this Court under Code of Civil Procedure

1 sections 393, 394, and 395, because all of the acts or omissions depicted herein took place within  
2 the County of La Mesa, LMPD and CITY OF LA MESA operate in San Diego County, and the  
3 individuals affected by Respondents' actions or omissions are located in San Diego County.

4 GENERAL ALLEGATIONS

5 13. Petitioner submitted a public records request to both CITY OF LA MESA and LMPD  
6 on June 5, 2020.

7 14. LMPD responded on June 15, 2020 to the June 5, 2020 CPRA request by declining  
8 to disclose the Records due to the following alleged exemptions:

9 I. The Records sought were exempt from disclosure under California Penal  
10 Code §832.7, Government Code § 6254(f) and 6255.

11 II. The Records relate to a current and ongoing investigation and are not subject  
12 to public disclosure pursuant to Government Code § 6254(f).

13 III. The Records can be withheld because the information would endanger the  
14 officer's safety and, in this incident, "the public interest served by not disclosing the record clearly  
15 outweighs the public interest served by disclosure of the record."

16 15. With the passage of SB 1421, disclosure of peace officer records are required when  
17 there are claims for use of force, sexual assault or dishonesty. As such, under section 832.7(b)(A)(ii),  
18 "notwithstanding . . . subdivision (f) of Section 6254 of the Government Code... records maintained  
19 by any state or local agency shall not be confidential and shall be made public for inspection  
20 pursuant to the California Public Records Act [where] . . . an incident in which the use of force by  
21 a peace officer or custodial officer against a person resulted in death, or in great bodily injury."

22 16. In the event extraordinary circumstances are alleged where release of records poses  
23 potential safety issues, the agency claiming this must show "the public interest served by not  
24 disclosing the information clearly outweighs the public interest served by disclosure of the  
25 information." Cal. Pen. Code § 832.7(b)(C)(6). Case law supports officer names and badges being  
26 released to the public because such information can be easily observed. *See, e.g., Comm'n on Peace*  
27 *Officer Standards & Training v. Superior Court*, 42 Cal. 4th 278 (2007) (holding that a newspaper's  
28 request for certain police officers' names in police departments across California was public

1 information to be disclosed upon request.) (“an officer's name and employing agency is information  
2 that ordinarily is made available, even to a person who is arrested by the officer, in any number of  
3 ways—for example, the officer may identify himself or herself, wear a badge with a name or  
4 identification number (as is required for uniformed officers by section 830.10), or sign the police  
5 report.”) Even when an incident involves unlawful police shootings and potential community  
6 outrage, the Court has found that releasing the police officer names is in the best interest of justice.  
7 *See, e.g., Long Beach Police Officers Assn. v. City of Long Beach*, 59 Cal. 4th 59, 325 (2014)  
8 (holding that the CPRA permitted the disclosure of police officer names involved in a shooting when  
9 requested by a newspaper.) (“In a case such as this one, which concerns officer-involved shootings,  
10 the public's interest in the conduct of its peace officers is particularly great because such shootings  
11 often lead to severe injury or death. Here, therefore, in weighing the competing interests, the balance  
12 tips strongly in favor of identity disclosure and against the personal privacy interests of the officers  
13 involved.”)

14         17.     Petitioner, a 59-year-old African American woman, was shot while protesting.  
15     Petitioner sustained extensive injuries that have left her blind in her left eye, unable to walk without  
16     assistance, and needing to undergo a lifetime of recovery. Petitioner’s injuries qualify as being great  
17     bodily injury and is the type of circumstance conceptualized by Penal Code section 832.7(b)(A)(ii).  
18     Respondents attempt to only cite the law that benefits their motives of not disclosing pertinent  
19     information needed for Petitioner to seek justice against her assailant(s). The law specifically says  
20     that “notwithstanding” Government Code Section 6254(f), if a person suffers “great bodily injury”  
21     by a peace officers, records of the incident shall be released pursuant to the CPRA. Thus,  
22     Respondents should be compelled to release the name of the officer(s) responsible for injuring  
23     Petitioner.

24         18.     Additionally, Respondents claim that releasing the officer(s) name that injured  
25     Petitioner could endanger the officer’s safety. Respondents believe that the officer’s fears outweigh  
26     Petitioner’s right to pursue justice for the violence committed against her and the public’s right to  
27     be informed. Respondents do not provide any evidence of threats from the public to corroborate the  
28     officer’s fears. Rather they employ boilerplate language to distract from the insufficient facts that

1 would support not disclosing the requested information. In applying the balancing test described in  
2 California Penal Code section 832.7(b)(C)(6), it is clear now more than ever, that it is in the best  
3 interest of the public to share information related to police brutality in order to hold peace officers  
4 accountable for their actions and restore the public’s faith in law enforcement. As such, Petitioner  
5 respectfully asks the Court to compel Respondents to release the name of the officer(s) responsible  
6 for harming Petitioner.

7 THE CALIFORNIA PUBLIC RECORDS ACT

8 19. Generally, under California law the CPRA provides members of the public with a  
9 statutory right to examine public documents upon submitting a valid request to a public  
10 governmental agency or entity. Access to such “information concerning the conduct of the people’s  
11 business is a fundamental and necessary right.” (Gov. Code § 6250; see also Cal. Const. art. 1, § 3,  
12 subd. (b)(1).)

13 20. Public records under the statute are defined as those including “any writing  
14 containing information relating to the conduct of the public’s business, prepared, owned, used, or  
15 retained by any state or local agency regardless of physical form or characteristics. (Gov. Code §  
16 6252, subd. (e).)

17 21. The CPRA assigns a duty to public agencies to make records available upon  
18 receiving a “request that reasonably describes an identifiable record or records[.]” (Gov. Code §  
19 6253, subd. (b).). Furthermore, public agencies must also “state the estimated date and time when  
20 the records will be made available.” (Gov. Code § 6253, subd. (c).)

21 22. Anyone is permitted to bring proceedings “for injunctive or declarative relief or writ  
22 of mandate . . . to enforce his or her right to inspect or receive a copy of any public record or class  
23 of public records under this chapter.” (Gov. Code § 6258.)

24 23. The Court “order the officer or person charged with withholding the records to  
25 disclose the public record or show cause why the officer or person should not do so. The court shall  
26 decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915  
27 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as  
28 the court may allow.” (Gov. Code § 6259).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

24. Agencies are not required to withhold documents, absent another provision of law, in accordance with the CPRA’s express exemptions granting them **permission** to do so. Furthermore, agencies “may provide **greater public access** to video or audio recording than the minimum standard” provided under the CPRA. (Gov. Code § 6254(f)(4)(D).) (emphasis added).

25. The CPRA states that “[w]henver it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.” (Gov’t Code § 6259.)

26. Respondents have violated the CPRA by (1) failing to provide a date and time in which all records will be produced, (2) failing to make records promptly available, (3) failing to properly state the specific reasons or extraordinary circumstances entitling the withholding, and (4) withholding documents on the grounds that they are investigative documents exempt from disclosure despite the fact that they are not.

FIRST CAUSE OF ACTION

**Petition for Writ of Mandate Under Code Civ. Proc. § 1085 and § 6250, et. seq.**

(Against All Respondents)

27. Petitioner realleges and incorporates herein by reference each of the allegations of paragraphs 1 through 26 above as though fully set forth herein.

28. Respondents have refused and continue to refuse to comply with providing members of the public with access to public records as outlined by the statutory requirements under the CPRA.

29. Respondents must comply with these statutory mandates as they hold clear, present, and ministerial duties to act in compliance when no exemption exists under the CPRA or at law.

30. Petitioner have a clear, present, and beneficial right to the performance of those duties.





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Leslie FURCRON, declare:

I am the petitioner in the above-titled action. I have read the foregoing Verified Petition for Writ of Mandamus and know the contents thereof to be true of my own knowledge, except as to those matters that are alleged on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 17th day of June 2020, at San Diego County, California.

By:   
LESLIE FURCRON  
Petitioner and Plaintiff

# **EXHIBIT A**

**Alexandria Pritchett**

---

**From:** Dante Pride  
**Sent:** Friday, June 05, 2020 1:06 PM  
**To:** Alana McMains; Alexandria Pritchett  
**Cc:** Stef White; Christy Heiskala; Jessica Pride; Maggie Strohle  
**Subject:** FW: Online Form Submittal: Public Records Act Request

fyi

Dante T. Pride, Esq.  
**THE PRIDE LAW FIRM**  
2831 Camino Del Rio South  
Suite 104  
San Diego, CA 92108  
Tel: (619) 516-8166  
Fax: (619) 785-3414  
dpride@pridelawfirm.com  
www.pridelawfirm.com

This email may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you are not the intended recipient (or authorized to receive for the recipient), please contact the sender by reply email and delete all copies of this message.

---

**From:** noreply@civicplus.com <noreply@civicplus.com>  
**Sent:** Friday, June 05, 2020 12:57 PM  
**To:** Dante Pride <dpride@pridelawfirm.com>  
**Subject:** Online Form Submittal: Public Records Act Request

Public Records Act Request

First Name	Dante
Last Name	Pride
Address	2831 camino del rio s, suite 104
City	san diego
State	ca
Zip	92108

Phone Number 6195369300

---

Email Address [dpride@pridelawfirm.com](mailto:dpride@pridelawfirm.com)

---

**Records** Pursuant to SB 1421, and Cal. Penal Code section 832.7, we would like the NAME of the officer and/or officers who were firing projectile "bean bag" rounds from the mezzanine and/or the upper levels of the La Mesa Police Department beginning on May 30, 2020 at around 5pm in the evening, and continuing until May 31, 2020 until 3:00 a.m.

Under the CPRA, there is an exemption for disclosures of peace officer's personnel records. This is an exception limited to certain information expressly enumerated in Penal code section 832.8(subject to the "Pitchess motion" procedure). The "name" of an officer is not expressly listed and case law supports a police officer's name being public information that can be disclosed. A police officer's name is similar to a badge number, easily attainable information, and would be regular information obtained in routine policy files, reports, etc. See, Comm'n on Peace Officer Standards & Training v. Superior Court, 42 Cal. 4th 278, 165 P.3d 462 (2007); • Long Beach Police Officers Assn. v. City of Long Beach, 59 Cal. 4th 59, 325 P.3d 460 (2014);

Please provide the names of these officers immediately.

If you refuse to provide the names of the officers mentioned above, I will move for an injunction from the San Diego Superior Court, and seek attorneys' fees pursuant to Cal. Gov't Code section 6259.

---

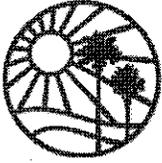
**Services Requested** I wish to receive copies of requested records and I hereby agree to reimburse the City the direct cost of duplication in accordance with Gov. Code Section 6253(b).

---

**Acknowledgement of submitting a new public record** Dante Pride

---

# **EXHIBIT B**



June 15, 2020

VIA U.S. Mail

Dante Pride  
2831 Camino Del Rio S  
Suite 104  
San Diego, CA  
dpride@pridelawfirm.com

Re: Public Records Act Request Received on June 5, 2020

Mr. Pride:

The City of La Mesa is in receipt of your request for the following public records pursuant to the California Public Records Act (Gov. Code §§ 6250-6277) (the "CPRA"):

Pursuant to SB 1421, and Cal. Penal Code section 832.7, we would like the NAME of the officer and/or officers who were firing projectile "bean bag" rounds from the mezzanine and/or the upper levels of the La Mesa Police Department beginning on May 30, 2020 at around 5 pm in the evening, and continuing until May 31, 2020.

In accordance with the CPRA, we have determined the information requested is exempt from disclosure at this time pursuant to Penal Code section 832.7, Government Code section 6254(f) and Government Code section 6255. There is a current and ongoing investigation of the May 30, 2020 incident that your request relates to. The Department's investigation and intelligence records are not subject to public disclosure pursuant to Government Code 6254(f). Additionally, Penal Code section 832.7 provides an agency may withhold a record of an incident when there is an active criminal or administrative investigation. Further, Government Code section 6255 exempts the information requested as releasing the names of officers firing projectile "bean bag" rounds from the La Mesa Police Department beginning on May 30, 2020 and continuing until May 31, 2020 would endanger those officer's safety. As such, in this incident, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record

Should you have any questions, please contact me at (619) 667-7508 or via e-mail at [cmcmillen@cityoflamesa.us](mailto:cmcmillen@cityoflamesa.us).

Sincerely,

Christine McMillen, ENP  
Police Services Manager

1                   **Certificate of Interested entities or persons pursuant to California Rules of Court,**  
2                   **Rules 8.208 & 8.488**

3  
4  
5  
6           Petitioner, LESLIE FURCRON, and appointed counsel, DANTE T. PRIDE, are not aware  
7 of any other entity or person that has a financial or other interest in the outcome of the proceedings  
8 that Appellant reasonably believes the justices should consider in determining whether to  
9 disqualify themselves under the California Code of Judicial Ethics.

10  
11 Dated: June 18, 2020

/s/ Dante T. Pride  
\_\_\_\_\_

12  
13                   Dante T. Pride

14                   Attorney for Leslie Furcron  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Certificate of Appellate Counsel  
Pursuant to California Rules of Court, rules 8.208 & 8.488**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Dante T. Pride, appointed counsel for Leslie Furcron, hereby certify, pursuant to rules 8.208 and 8.488 of the California Rules of Court, that I prepared the foregoing petition for review on behalf of my client, and that the word count for this petition is 2,726, which does not include the cover or tables. This petition therefore complies with the rules, which limits a petition for review to 14,000 words. I certify that I prepared this document in Microsoft Word Version 2016, and that this is the word count Microsoft word generated for this document.

Dated: June 18, 2020

/s/ Dante T. Pride

Dante T. Pride

Attorney for Leslie Furcron