

Petitioner Muslim Advocates (“Muslim Advocates”) submits the following Separate Statement of Facts,¹ together with references to supporting evidence in support of its Verified Petition for Writ of Mandate (“Petition”). The documentary evidence in support of the Petition is contained in Exhibits A-Z to the Petition, the concurrently filed Declaration of Brendan N. Charney and exhibits thereto. For ease of reference, Muslim Advocates provides Appendix A containing an index of evidence submitted concurrently with this Separate Statement.

**SEPARATE STATEMENT OF FACTS AND SUPPORTING EVIDENCE
IN SUPPORT OF PETITION FOR WRIT OF MANDATE.**

I. INTRODUCTION²

Statement Of Fact	Supporting Evidence
1. The Request at issue here is Item No. 2 in a letter dated December 12, 2013.	Petitioner’s Verified Petition for Writ of Mandate (“Pet.”) Ex. D; Respondents’ First Amended Answer (“FAA”) at ¶ 10.
2. At first, the LAPD denied having any responsive records.	Pet. Ex. F at 2; FAA at ¶ 12.
3. In response to questioning from Muslim Advocates, the LAPD admitted that responsive records exist and disclosed a handful of records from after 2010.	Pet. Ex. H at 2; Pet. Ex. I at 3; Pet. Ex. L at 2; Pet. Ex. O at 3; Pet. Exs. P, S, T, U, X; FAA at ¶¶ 14, 17, 25, 28, 33, 36, 39, 41, 47.
4. The LAPD refused to search for records created in or around 2007 – the time period when Community Mapping was “launched” – stating records from before 2010 are stored on backup tapes that it lacks the equipment to search.	Pet. Ex. O at 3; FAA at ¶ 28.
5. In response to queries from Muslim	Pet. Ex. W at 2; FAA at ¶ 46.

¹ In light of the voluminous amount of evidence at issue in this case (consisting of 13 deposition transcripts collectively containing 122 exhibits, along with more than 29 items of correspondence containing additional attachments), Muslim Advocates provides this Separate Statement of Facts to enable the Court to more efficiently locate and evaluate the evidence. This Separate Statement contains only facts referenced in Muslim Advocates’ Memorandum of Points and Authorities In Support of the Verified Petition For Writ of Mandate. Muslim Advocates does not represent that these facts are undisputed.

² For the Court’s convenience, the headings in this Separate Statement correspond to those in the concurrently-filed Memorandum of Points and Authorities in Support of Verified Petition for Writ of Mandate.

Statement Of Fact	Supporting Evidence
Advocates, the LAPD acknowledged that it has the equipment needed to search records stored on the backup tapes; the LAPD still refused to do so, stating it would take 960 hours of its staff's time.	
6. When Muslim Advocates inquired about methods for reducing the claimed burden, the LAPD stopped responding to its inquiries.	Pet. Ex. Y at 7; FAA at ¶ 48.
7. The LAPD produced 12 pages of the 4,500 records accessed from post-2010 e-mail, stating that they had been "inadvertently withheld."	Declaration of Brendan N. Charney ("Decl.") ¶ 19, Ex. RR.
8. The LAPD also has produced some records documenting its search efforts, none of which detail the search terms it used or the repositories it checked in conducting its initial search.	Decl. ¶¶ 20-21, Exs. SS, TT.
9. The LAPD produced attachments missing from post-2010 e-mails—including an LAPD strategy paper that was created "long after" Community Mapping was supposedly "shelved."	Decl. ¶¶ 24-25, Exs. WW, XX.
10. Even after depositions had completed, the LAPD disclosed additional records, including a statement about its meeting with approximately 30 Muslim leaders and links to an audio recording of former Chief William Bratton discussing the "end" of Community Mapping.	Decl. ¶ 26, Ex. YY.

II. FACTUAL BACKGROUND

A. The LAPD'S "Community Mapping" Program

Statement Of Fact	Supporting Evidence
11. On October 30, 2007, Deputy Chief Downing testified before the U.S. Senate's Committee on Homeland Security and Governmental Affairs about the LAPD's efforts to counter violent extremism.	Decl. Ex. KK at 19:8-20:20, 96:5-97:15; Decl. Ex. ZZ; Pet. Ex. A; FAA at ¶ 7.
12. In connection with his testimony, Deputy Chief Downing prepared a written statement ("Senate Statement") which described, among other things, the LAPD's "Community Mapping" program – an initiative	Decl. Ex. KK at 19:8-20:20, 96:5-98:20, 114:3-119:15; Decl. Ex. ZZ; Pet. Ex. A; FAA at ¶ 7.

Statement Of Fact	Supporting Evidence
<p>launched by the LAPD to “lay out the geographic locations of the many different Muslim population groups around Los Angeles” and to “take a deeper look at their history, demographics, language, culture, ethnic breakdown, socio-economic status, and social interactions.”</p>	

B. Muslim Advocates’ CPRA Request And The LAPD’s Response

Statement Of Fact	Supporting Evidence
<p>13. On December 12, 2013, Muslim Advocates sent a request to the LAPD under the CPRA, seeking, among other things, copies of “[a]ll records reflecting or relating to the ‘community mapping’ program, as described in the Senate Statement” (“Request”).</p>	<p>Pet. Ex. D; FAA at ¶ 10.</p>
<p>14. The LAPD responded on January 17, 2014, stating “[t]here are no documents responsive to your request.”</p>	<p>Pet. Ex. F at 2; FAA at ¶ 12.</p>
<p>15. By correspondence dated March 27, 2014, Muslim Advocates identified specific portions of the Senate Statement that led it to believe that the LAPD has records in its possession related to the Community Mapping program.</p>	<p>Pet. Ex. H; FAA at ¶ 14.</p>
<p>16. In the March 27, 2014 letter, Muslim Advocates also asked the LAPD to specify if responsive records had been destroyed, and sought records relating to the agency’s efforts to comply with the Request.</p>	<p>Pet. Ex. H; FAA at ¶ 14.</p>

C. Muslim Advocates Seeks A Writ Of Mandate.

Statement Of Fact	Supporting Evidence
<p>17. On July 25, 2016, Muslim Advocates filed a Verified Petition for Writ of Mandate, alleging violations of the CPRA and seeking an order directing the LAPD to discharge its duty under the CPRA.</p>	<p>Pet.</p>
<p>18. The LAPD filed its Amended Answer on September 2, 2016.</p>	<p>First Amended Answer</p>
<p>19. In response to written discovery propounded by Muslim Advocates, the LAPD moved to block discovery.</p>	<p>Decl. Exs PP, QQ.</p>
<p>20. On November 8, 2016, this Court denied that motion and ordered the LAPD to submit to the depositions of its persons most</p>	<p>Decl. Exs PP, QQ.</p>

Statement Of Fact	Supporting Evidence
qualified ("PMQ").	
21. The Court instructed the LAPD that its PMQ designee(s) should be "the person or persons who know the most about the search that was conducted and where the documents should be."	Decl. Ex. QQ at 16.
22. Greg Toyama, the Sr. Management Analyst in Charge of the LAPD's CPRA Unit testified as the PMQ on the LAPD's search for records.	Decl. Ex. EE at 47:4-49:4; Decl. Ex. FF at 260:11-21; Decl. Ex. NN.
23. Anthony Huynh, the Officer in Charge of the LAPD's Network Support Section, testified as the PMQ on divisional file server backups.	Decl. Ex. GG at 6:13-7:21, 53:14-54:2; Decl. Ex. OO
24. Rachel McClain, a Sr. Systems Analyst II, testified as the PMQ on the LAPD's e-mail backups.	Decl. Ex. AA at 59:21-68:19, 94:19-95:22; Decl. Ex. BB at 170:3-173:7; Decl. Ex. CC at 326:9-327:3, 330:18-335:13; Decl. Ex. DD at 503:9-504:10; Decl. Ex. MM.
25. When Muslim Advocates learned that the LAPD intended to proffer the declarations of former Deputy Chief Michael Downing, Officer Raymona Moussa, Dr. Luann Pannell, and Sergeant Michael Seguin in addition to the testimony of its PMQs, it insisted on deposing these declarants.	Decl. Exs. VV, ZZZ and CCCC.

III. THE COURT SHOULD GRANT THIS PETITION AND COMPEL THE LAPD TO CONDUCT A REASONABLE SEARCH FOR RESPONSIVE RECORDS.

- A. Muslim Advocates Has A Statutorily And Constitutionally Guaranteed Right To Inspect Non-Exempt, Responsive Records In The LAPD's Possession.**
- B. The LAPD Has A Duty Under The CPRA To Search For And Disclose Responsive Records In Its Possession.**
- C. The LAPD's Perfunctory Search Was Not Calculated To Uncover All Responsive Records.**

Statement Of Fact	Supporting Evidence
26. When the LAPD receives a CPRA request, an analyst in the Discovery Section is	Decl. Ex. EE at 81:8-82:23, 89:25-95:10, 97:22-98:13; Decl. Exs. TTT, UUU.

Statement Of Fact	Supporting Evidence
<p>1 assigned to determine which of the 18 bureaus 2 and offices, 81 divisions, or dozens of other 3 sections or units are likely to have responsive 4 records.</p>	
<p>5 27. Once that determination is made, the 6 analyst prepares and sends to the relevant 7 bureaus/offices/divisions/sections 8 Intradepartmental Correspondence (referred to 9 as a "15.2"), informing the recipient that a 10 request has been made, describing the records 11 requested, and instructing the recipient to 12 search for and produce any responsive material, 13 or to provide a justification for withholding 14 responsive records.</p>	<p>Decl. Ex. EE at 61:24-62:11, 81:8-82:23, 89:25-94:1, 109:24-111:3; Decl. Ex. AAA, AAAA.</p>
<p>15 28. Staff within each division is then 16 responsible for conducting the actual searches.</p>	<p>Decl. Ex. EE at 95:13-20, 97:22-98:13, 109:24- 111:3.</p>
<p>17 29. There are no written policies or 18 protocols to help analysts determine to which 19 sections or entities to send the 15.2; and 20 divisional staff do not receive any standards to 21 guide their search.</p>	<p>Decl. Ex. EE at 89:25-90:4, 92:12-25, 115:16- 20.</p>
<p>22 30. Although the LAPD trains staff on 23 CPRA exemptions, it does not offer 24 standardized training on how to search for and 25 identify disclosable records.</p>	<p>Decl. Ex. EE at 30:20-32:25, 113:18-114:10, 187:11-188:13; Decl. Ex. HH at 23:8-25:18, 29:6-30:8; Decl. Ex. JJ at 33:19-42:3, 78:12- 81:23; Decl. Ex. II at 28:18-33:11, 65:12-22.</p>
<p>26 31. The LAPD does not verify whether a 27 search was conducted properly (i.e., it does not 28 ensure that people with knowledge were 29 contacted, that all the places likely to hold 30 records were searched, or that all responsive 31 records have been produced).</p>	<p>Decl. Ex. EE at 91:6-15, 95:21-96:6, 99:9-14, 101:22-102:3, 117:11-121:16, 153:21-159:11, 183:14-184:9; Decl. Ex. FF at 321:18-25, 324:15-25; Decl. Ex. HH at 74:21-24; Decl. Ex. JJ at 42:10-43:22.</p>

**1. The LAPD Inaccurately Described the Scope of Muslim
Advocates' Request to Its Records Custodians**

Statement Of Fact	Supporting Evidence
<p>32. The Request seeks "[a]ll records 33 reflecting or relating to" Community Mapping.</p>	<p>Pet. Ex. D; FAA at ¶ 10.</p>
<p>34 33. The 15.2s prepared by Ms. Monk 35 described Muslim Advocates' Request as 36 "asking for records pertaining to the policies or 37 practices based upon individuals or 38 communities that are Muslim, or of Arab, 39 South Asian or Middle Eastern descent."</p>	<p>Decl. Ex. EE at 61:24-62:11; Decl. Ex. AAAA.</p>
<p>40 34. Searches conducted by the custodians 41 receiving Ms. Monk's 15.2 were calculated to 42 find records containing the term "Community</p>	<p>Decl. Ex. KK at 193:9-195:16, 219:5-223:11; Ex. XX</p>

Statement Of Fact	Supporting Evidence
Mapping.”	

2. The LAPD Failed To Search Logical Places For Responsive Records.

Statement Of Fact	Supporting Evidence
35. Ms. Monk was responsible for sending the 15.2 to the bureaus, divisions, and sections reasonably likely to possess responsive records.	Decl. Ex. EE at 53:14-55:11; Decl. Exs. AAA, BBB, CCC.
36. Other than requesting an e-mail search by the Information Technology Division, Ms. Monk sent the 15.2 to only three of the LAPD’s hundred-plus bureaus, offices and divisions: (1) CTSOB; (2) the Planning and Research Division; and (3) the Police Training and Education Division (“PTE”).	Decl. Ex. EE at 53:14-55:11, 145:23-147:21; Decl. Exs. AAA, BBB, CCC.
37. Mr. Toyama – the LAPD’s PMQ on the search – could not explain why the 15.2 for Muslim Advocates’ request was not more broadly distributed to other bureaus, divisions or sections likely to have responsive records.	Decl. Ex. FF at 267:17-274:5, 327:22-330:19; Decl. Exs. CCC, EEE.
38. The Planning and Research Division specifically informed Ms. Monk that responsive records were likely to be found in two other locations – the Community Relations Section and the Office of the Chief of Police.	Decl. Ex. FF at 267:17-274:5; Decl. Exs. EEE; Decl. Ex. II at 168:8-170:4; Decl. Ex. JJJ.
39. Ms. Monk never directed 15.2s to these two divisions and, as a result, they were not searched for responsive records.	Decl. Ex. EE at 50:13-51:14; Decl. Ex. FF at 267:17-274:5; Decl. Exs. AAA, EEE.

3. The Searches Conducted By CTSOB, The Planning And Research Division, And The PTE Division Were Wholly Inadequate.

Statement Of Fact	Supporting Evidence
40. LAPD policy requires that each division maintain inventories of its records.	Decl., Ex. FF at 265:11-267:13; Decl. Ex. DDD at LAPD RFP-2 00055.
41. Neither CTSOB nor PTE Division checked inventories or indices for records.	Decl. Ex. HH at 47:17-54:16; Decl. Ex. JJ at 85:6-86:23, 161:5-162:17.
42. Sgt. Seguin conducted the search of CTSOB’s records.	Decl. Ex. HH at 23:14-25:18.
43. Sgt. Seguin failed to look in any of CTSOB’s hard copy files, electronic devices, indices, or inventories.	Decl. Ex. HH at 35:24-36:9, 47:17-54:16.
44. Sgt. Seguin did not try to find out if other LAPD personnel might have knowledge	Decl. Ex. HH at 38:11-45:2, 56:19-59:9, 70:6-14.

Statement Of Fact	Supporting Evidence
<p>1 or records about the program, or research the 2 kind of records normally created when a 3 program such as Community Mapping is 4 proposed, or search for correspondence 5 regarding the program.</p>	
<p>5 45. The only thing Sgt. Seguin did to search 6 records was to talk to Deputy Chief Downing 7 for less than five minutes and to type the 8 phrases "Senate Statement" and "Community 9 Mapping" into the CTSOB's file server.</p>	<p>Decl. Ex. HH at 36:18-38:10, 45:3-47:16, 59:12-21, 64:5-69:10.</p>
<p>8 46. Sgt. Sequin also testified that he 9 reviewed e-mails provided by the Information 10 Technology Division, but he does not know 11 when he conducted that review, or if the 12 messages he reviewed related to Community 13 Mapping, as opposed to one of the other items 14 in the Request not at issue here.</p>	<p>Decl. Ex. HH at 32:24-35:15, 75:3-7, 91:12- 97:25.</p>
<p>12 47. Sgt. Seguin did not look at pertinent 13 subject-matter folders on the CTSOB's file 14 server (such as those for "outreach" or 15 "countering violent extremism"), and had no 16 clue whether his "search" of the file server 17 looked within the contents of documents.</p>	<p>Decl. Ex. HH at 70:6-73:24, 98:23-101:8.</p>
<p>15 48. Sgt. Seguin's limited search efforts 16 stemmed from his reliance on Deputy Chief 17 Downing's representation that no records 18 existed.</p>	<p>Decl. Ex. HH at 35:24-38:10; Decl. Ex. KK at 75:8-78:9.</p>
<p>17 49. Deputy Chief Downing thought 18 "documents" were limited to "operational 19 document[s] that has structure and 20 organization") as distinct from "written 21 communications".</p>	<p>Decl. Ex. KK at 193:9-195:16.</p>
<p>20 50. Deputy Chief Downing did not consider 21 emails, written correspondence, or other forms 22 of records when he told Sgt. Seguin that no 23 responsive records existed.</p>	<p>Decl. Ex. KK at 127:16-128:6, 154:15-155:25, 189:2-22, 191:3-192:11, 193:9-209:25, 217:5- 226:4; Decl. Ex. KKK; Decl. Ex. XX at 10; Decl. Ex. LLL.</p>
<p>23 51. Sgt. Seguin never asked Downing if he 24 had looked for records; nor did he ask Downing 25 if response records ever existed, or if other 26 personnel or locations might have responsive 27 records.</p>	<p>Decl. Ex. HH at 35:24-38:10, 64:5-69:10, 74:6- 14, 99:22-100:20.</p>
<p>25 52. When the LAPD works with an outside 26 entity—such as the "academic institution" 27 mentioned in the Senate Statement, for 28 example—a Memorandum of Agreement or Understanding ("MOA") should be issued and maintained by Planning and Research Division.</p>	<p>Decl. Ex. FFF at LAPD RFP-2 00064.</p>

	Statement Of Fact	Supporting Evidence
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2	53. Planning and Research Division did not	Decl. Ex. II at 21:1-22:24, 181:4-183:3.
3	search for any MOAs with the “academic	
4	institution” in the Senate Statement until well	
5	after this litigation was initiated.	
6	54. Mr. Toyama testified there was no	Decl. Ex. FF at 284:8-19.
7	justification for this failure.	
8	55. Planning and Research Division also	Decl. Ex. II at 90:20-94:16, 119:1-12.
9	failed to search its hard-copy library for	
10	directives relating to CTSOB from 2007-2008.	
11	56. Nor did Planning and Research Division	Decl. Ex. II at 139:25-141:13, 159:2-166:10,
12	search working documents or drafts on its file	174:24-178:5.
13	server, its e-mails, or its correspondence.	
14	57. Planning and Research Division alleged	Decl. Ex. II at 43:8-49:10, 56:13-65:11, 84:12-
15	that it did not search these repositories because	86:15, 98:16-123:18, 174:24-178:5; Decl. Exs.
16	a search of its electronic directives database	HHH, JJJ.
17	and project list didn’t return any results for	
18	Community Mapping. The division only	
19	searched the titles (not the contents) of these	
20	files, did not consult the Senate Statement, and	
21	did not record the search terms that were used.	
22	58. In addition, these electronic resources	Decl. Ex. II at 79:18-83:16.
23	may not contain or refer to all of the paper	
24	records in the Planning and Research	
25	Division’s custody.	
26	59. None of the personnel in Planning and	Decl. Ex. II at 105:6-106:21; Decl. Ex. HHH.
27	Research Division read the Senate Statement or	
28	conferred with Deputy Chief Downing.	
29	60. Dr. Pannell, the director of the PTE	Decl., Ex. J at 115:25-125:15, 148:11-149:18,
30	Division, testified that she attended meetings to	154:9-16.
31	discuss how to respond to the public’s concerns	
32	about Community Mapping, but she never	
33	searched her notes from those meetings.	
34	61. The written records supposedly	Decl. Ex. FF at 311:10-317:12; Decl. Ex. GGG.
35	documenting the LAPD’s search efforts are	
36	incomplete and unreliable.	
37	62. The LAPD did not record what was	Decl. Ex. EE at 53:14-55:11; Decl. Ex. FF at
38	done to search, even though doing so	313:18-24, 327:22-330:19; Decl. Ex. II at
39	supposedly is “common practice.”	55:13- 56:12, 140:15-143:1; Decl. Ex III; Decl.
40		Ex. BBB-CCC.
41	63. Personnel who search for records are	Decl. Ex. FF at 313:18-24, 342:22-343:2,
42	supposed to fill out a hard-copy or electronic	343:24-344:2.
43	“chrono” report of their activity.	
44	64. Without a chronological log, the LAPD	Decl. Ex. FF at 322:1-10.
45	has no way of knowing what divisional	
46	personnel did to search — and in particular, if	
47	anyone searched in reasonable places.	
48	65. The LAPD produced only one such	Decl. Ex. III; Decl. Ex. FF at 317:13-320:6.

Statement Of Fact	Supporting Evidence
chronological log, for Planning and Research Division.	
66. The only potential reference to a search for records in the chronological log for Planning and Research Division is the bare note “research topic – Muslim PRD related”.	Decl. Ex. FF at 317:13-325: 24; Decl. Ex III.
67. This note refers to researching the scope of the Request, not searching for records.	Decl. Ex. II at 141:14-143:1; Decl. Ex III.
68. There is no indication that CTSOB or PTE division created a chronological log of their actions to search for records.	Decl. Ex. FF at 319:15-321:15; Decl. Ex. HH at 105:4-106:15.
69. Nor did Caydene Monk, the analyst charged with coordinating the search, fill out the mandated electronic or hard-copy chrono showing any specific steps to search for records.	Decl. Ex. FF at 311:20-312:14, 326:5-330:19; Decl. Ex. CCC, GGG.

D. The LAPD Cannot Justify Its Flat Refusal To Search Relevant Electronic Records Simply By Labeling Such A Search “Unduly Burdensome.”

Statement Of Fact	Supporting Evidence
70. Muslim Advocates narrowed its Request as to electronic records; yet, the LAPD still refuses to search, asserting that any search of these backup tapes would impose an undue burden on its staff.	Decl. Exs. XXX, YYY.

1. The LAPD Cannot Establish That Searching CTSOB’s Electronic Divisional Files From 2007-2008 Is Unduly Burdensome.

Statement Of Fact	Supporting Evidence
71. To date, the LAPD has never searched any of its divisional file server backups for records responsive to Muslim Advocates’ request.	Decl. Ex. GG at 174:10-175:2.
72. The LAPD did not disclose the existence of its divisional file server backups until it provided discovery as ordered by the Court.	Decl. Exs. PPP, QQQ; Decl. Ex. BB at 212:16-215:5.
73. The LAPD’s undue burden claim as to divisional file server backups is not based on any attempts to actually access the requested records through backup tapes.	Decl. Ex. GG at 167:12-171:15, 172:12-174:9.

	Statement Of Fact	Supporting Evidence
1 2 3	74. The only way to know if the divisional file server backup tapes contain responsive records is to access them.	Decl. Ex. GG at 176:21-177:9.
4 5	75. CTSOB personnel continued to create records referring to Community Mapping after the program was supposedly shelved in 2007.	Decl. Ex. XX; Decl. Ex. KK at 222:19-222:24.
6 7	76. Deputy Chief Downing claimed that neither he nor his staff had saved any electronic drafts or “tracked changes” of his Senate Statement.	Decl. Ex. KK at 180:13-187:10; Decl. Ex. ZZ.
8 9	77. Deputy Chief Downing could not explain the apparent presence of tracked changes on the version of the Senate Statement available on the LAPD’s website.	Decl. Ex. KK at 187:11-189:1; Decl. Ex. ZZ.
10 11	78. The LAPD has the equipment and software it needs to access data on divisional file server backups from 2004-2008.	Decl. Ex. GG at 70:14-72:13, 113:18-116:2; Decl. Ex. CC at 370:9-380:13, 450:4-453:7, 453:15-454:17; Decl. Ex. DD at 513:20-517:4, 573:25-574:24, 576:7-25, 611:12-614:6.
12 13	79. The LAPD has the tapes containing backed-up data for divisional file servers from 2004-2008—including, among others, the “P Drive” for CTSOB’s documents.	Decl. Ex. GG at 84:7-18, 105:4-106:3, 115:22-116:1; Decl. Ex. DD at 513:20-517:4.
14 15 16	80. At the time that Muslim Advocates made its Request, backup tapes from 2007-2008 were within the LAPD’s 9-year retention period.	Decl. Ex. CC at 422:13-23; Decl. Ex. NNN at 3.
17 18	81. The LAPD has trained, skilled personnel who can access divisional file server backups.	Decl. Ex. GG at 123:18-126:1, 178:20-179:13.
19	82. Accessing divisional file server backups is “straightforward.”	Decl. Ex. GG at 75:4-14, 148:6-13, 150:5-7.
20 21	83. The entire process for accessing a taped monthly backup of one unit’s P Drive will take “a business day max.”	Decl. Ex. GG at 150:10-153:10.
22 23	84. The time to access a divisional file server backup includes at least 4 hours of machine time, during which IT personnel can do other things.	Decl. Ex. GG at 140:15-141:13, 145:17-25, 150:10-21.
24 25 26 27	85. While the LAPD’s counsel has asserted that it would be an undue burden to search these divisional backup tapes, the LAPD’s PMQ on this topic could not say whether it would be an undue burden to search CTSOB’s divisional backup tapes for 2007-2008.	Decl. Ex. GG at 121:10-122:22, 167:12-171:15, 172:12-174:9; Decl. Ex. UU.
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2. The LAPD Cannot Show That Searching Deputy Chief Downing's Emails From 2007-2008 Is Unduly Burdensome.

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Statement Of Fact	Supporting Evidence
86. The LAPD has the equipment, software, and know-how to access a few backups of Deputy Chief Downing's e-mail from the key period of 2007 and 2008.	Decl. Ex. CC at 370:9-380:15, 398:5-399:4, 450:4-453:7, 453:15-454:17; Decl. Ex. DD at 513:20-517:4, 573:25-574:24, 576:7-25, 611:12-614:6.
87. Focusing on one user's e-mail backups covering two years of e-mail will take dramatically less time than the LAPD's previous 960-hour claim.	Decl. Ex. DD at 601:4-602:8.
88. Rachel McClain, the LAPD's PMQ on the LAPD's undue burden claim with respect to e-mail backups, does not know how the LAPD arrived at its earlier claim that it would take 960 hours to search the e-mail of 7 custodians over more than 10 years.	Decl. Ex. DD at 589:10-22, 592:21-600:14; Decl. Ex. QQ.
89. To identify and access data on a backup tape containing one user's e-mail for one month would take three days in a best case scenario, and up to two weeks in a worst case scenario—some of which would be automated "machine time".	Decl. Ex. BB at 286:15-290:1; Decl. Ex. DD at 592:7-20, 595:14-596:2, 617:5-15.
90. Four backups were accessed in 2011: each took between 15 minutes and an hour and a half of human time to retrieve.	Decl. Ex. DD at 537:24-538:13, 541:19-543:13, 565:19-570:25, 617:5-15; Decl. Ex. OOO; Decl. Ex. PPP at LAPD RFP-2 000112-123.
91. Pre-2010 e-mail may have been accessed on other occasions as well; Rachel McClain, testifying as the LAPD's PMQ, was not sure.	Decl. Ex. DD at 536:18-537:23, 542:11-545:7; Decl. Exs. PPP, BBBB.
92. The LAPD claims that certain technical "roadblocks" may prevent access to the backups.	Decl. Ex. BB at 286:15-290:1; Decl. Ex. CC at 398:5-399:4; Decl. Ex. DD at 588:21-25, 605:21-617:15.
93. The only way the LAPD will know whether "roadblocks" will preclude access to the email records is to attempt to access them.	Decl. Ex. DD at 588:21-25
94. The LAPD has backup tapes from the time period of 2007-2008 and can locate enough tapes to access a user's e-mail as it existed during several points during a given year.	Decl. Ex. BB at 238:6-239:8, 240:9-243:6; Decl. Ex. CC at 399:2-400:14, 414:24-415:7, 430:13-438:25, 439:1-441:6, 483:25-485:1; Decl. Ex. DD at 517:11-522:23, 523:18-526:8, 527:18-24, 528:5-536:17, 584:20-587:9, 627:3-628:2.
95. Once the tapes are accessed, e-mail can be filtered by date and searched based on sender, recipient, and subject line.	Decl. Ex. BB at 275:15-276:16, 284:8-285:8.
96. It should also be possible to search	Decl. Ex. BB at 276:4-278:20, 280:2-281:2,

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Statement Of Fact	Supporting Evidence
within the body of e-mail, either within the e-mail client, or by using Adobe Acrobat to view and search the e-mail.	285:9-286:14; Decl. Ex. CC at 481:23-483:13; Decl. Exs. MMM, SSS.
97. Deputy Chief Downing testified he may have sent e-mails about Community Mapping for which he never searched.	Decl. Ex. KK at 195:17-209:25.

DATED: August 11, 2017

DAVIS WRIGHT TREMAINE LLP
THOMAS R. BURKE
KAREN A HENRY
BRENDAN N. CHARNEY

By: 
Karen A. Henry

Attorneys for Petitioner
MUSLIM ADVOCATES

APPENDIX A:

INDEX OF EXHIBITS ATTACHED TO DECLARATION OF BRENDAN N. CHARNEY

Ex.	¶	Description
AA.	2	Excerpts from Volume One of the Deposition of Rachel McClain in her capacity as the LAPD's PMQ, taken on January 12, 2017
BB.	3	Excerpts from Volume Two of the Deposition of Rachel McClain in her capacity as the LAPD's PMQ, taken on January 26, 2017
CC.	4	Excerpts from Volume Three of the Deposition of Rachel McClain in her capacity as the LAPD's PMQ, taken on March 15, 2017
DD.	5	Excerpts from Volume Four of the Deposition of Rachel McClain in her capacity as the LAPD's PMQ, taken on March 23, 2017
EE.	6	Excerpts from Volume One of the Deposition of Greg Toyama in his capacity as the LAPD's PMQ, taken on February 15, 2017
FF.	7	Excerpts from Volume Two of the Deposition of Greg Toyama in his capacity as the LAPD's PMQ, taken on March 16, 2017
GG.	8	Excerpts from the Deposition of Anthony Huynh in his capacity as the LAPD's PMQ, taken on March 22, 2017
HH.	9	Excerpts from the Deposition of Sgt. Michael Seguin, taken on April 17, 2017
II.	10	Excerpts from the Deposition of Sgt. Raymona Moussa, taken on May 10, 2017
JJ.	11	Excerpts from the Deposition of Dr. Luann Pannell, taken on May 17, 2017
KK.	12	Excerpts from Volume One of the Deposition of former Deputy Chief Michael Downing, taken on May 31, 2017
LL.	13	Excerpts from Volume Two of the Deposition of former Deputy Chief Michael Downing, taken on June 8, 2017
MM.	14	PMQ Deposition Notices for the PMQ Deposition of Rachel McClain
NN.	15	PMQ Deposition Notices for the PMQ Deposition of Greg Toyama
OO.	16	PMQ Deposition Notices for the PMQ Deposition of Anthony Huynh
PP.	17	November 8, 2016 Order Denying Respondents' Motion to Stay Proceedings
QQ.	18	Transcript of the November 8, 2016 hearing concerning Respondents' Motion to Stay Proceedings
RR.	19	October 14, 2016 letter from Deputy City Attorney Linda Nguyen

1	SS.	20	October 21, 2016 letter from Ms. Nguyen
2	TT.	21	February 14, 2017 letter from Ms. Nguyen
3	UU.	22	March 7, 2017 e-mail from Deputy City Attorney Kjehl Johansen
4	VV.	23	April 3, 2017 e-mail to Mr. Johansen
5	WW.	24	April 4, 2017 letter from Ms. Nguyen
6	XX.	25	Draft LAPD document titled "Counter Radicalization Strategies, Reaching Out: Policing with Muslim Communities in an Age of Terrorism."
7	YY.	26	June 30, 2017 letter from Mr. Johansen
8	ZZ.	27	Statement of Michael P. Downing Before the U.S. Senate Committee on Homeland Security and Governmental Affairs Presented on October 30, 2007
9	AAA.	28	"List of Department Groups Receiving 15.2 for Muslim Advocates"
10	BBB.	29	Document titled "Legal Affairs Division Discovery Section CPRA Request"
11	CCC.	30	Document titled "CPRA Request from Mr. Glenn Katon with the Muslim Advocates"
12	DDD.	31	Excerpts from the LAPD's 2016 2 nd Quarter Department Manual
13	EEE.	32	Document titled Intradepartmental Correspondence, dated January 3, 2014
14	FFF.	33	Excerpts from the LAPD Manual and the LAPD's Policies and Procedures Division Reference Guide concerning Memoranda of Understanding and Agreement
15	GGG.	34	Printouts from the LAPD Discovery Section's tracking system
16	HHH.	35	15.2 transmitting Muslim Advocates' CPRA Request
17	III.	36	Planning and Research Division Chronological Activity Log
18	JJJ.	37	Set of documents titled Official Correspondence Review
19	KKK.	38	E-mail thread between former Deputy Chief Downing and Professor Samuel G. Freedman
20	LLL.	39	LAPD document titled "Muslim Community Engagement Initiative White Paper,"
21	MMM.	40	City of Los Angeles Contract Purchase Order for Transend
22	NNN.	41	City of Los Angeles Departmental Records Disposition Schedule dated August 17, 2015
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1	OOO.	42	Collection of documents showing the LAPD's access of e-mail stored on backup tapes in or around June 2011
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3	PPP.	43	Set of logs of restorals of backup tapes
4	QQQ.	44	Transcript of text messages between Leshon Frierson and Rachel McClain
5	RRR.	45	Chapter 3 of December, 1982 report of the Congressional Commission on Wartime Relocation and Internment of Civilians, titled "Personal Justice Denied"
6			
7	SSS.	46	Portion of Adobe Acrobat user guide that covers searching PDFs
8	TTT.	47	LAPD organizational chart
9	UUU.	48	Volume Two of the LAPD's Manual
10	VVV.	49	December 22, 2016 Washington Post article titled "Trump On The Future Of Proposed Muslim Ban, Registry: 'You Know My Plans'"
11			
12	WWW.	50	Presentation from the Office of the Attorney General titled "Public Records Act Training"
13			
14	XXX.	51	February 17, 2017 letter to Mr. Johansen
15	YYY.	52	February 28, 2017 letter from Ms. Nguyen
16	ZZZ.	53	Joint Stipulation Requesting Continuance of Hearing and Setting New Briefing Schedule
17	AAAA	54	Collection of LAPD Intradepartmental Correspondence
18	BBBB.	55	Collection of documents showing the LAPD's response to an internal LAPD request for e-mail in or around September 2011
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20	CCCC.	56	May 5, 2017 email exchange between Brendan Charney and Kjehl Johansen
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1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a
3 party to the within action. My business address is Davis Wright Tremaine LLP, Suite 2400, 865
4 South Figueroa Street, Los Angeles, California 90017-2566.

5 On August 11, 2017, I served the foregoing document(s) described as: **PETITIONER MUSLIM
6 ADVOCATES' SEPARATE STATEMENT OF FACTS IN SUPPORT OF VERIFIED
7 PETITION FOR WRIT OF MANDATE; APPENDIX A LISTING EXHIBITS
8 REFERENCED THEREIN** by placing a **true copy** of said document(s) enclosed in a sealed
9 envelope(s) for each addressee named below, with the name and address of the person served
10 shown on the envelope as follows:

11
12 Michael N. Feuer, City Attorney
13 Carlos De La Guerra, Managing Assistant City Attorney
14 Kjehl T. Johansen, Deputy City Attorney
15 200 North Main Street
16 City Hall East, Room 800
17 Los Angeles, Ca 90012

18 X - (VIA PERSONAL DELIVERY) to be served on all other parties to this action by requesting
19 that a messenger from *GLOBAL NETWORK LEGAL SERVICES* deliver true copies of the above-
20 named documents, enclosed in sealed envelopes addressed indicated above.

21 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
22 true and correct. Executed on August 11, 2017, at Los Angeles, California.

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