

Fifth Civil Number F089987

**In the Court of Appeal
of the State of California**
FIFTH APPELLATE DISTRICT

CITY OF FRESNO,

Defendant and Petitioner,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
COUNTY OF FRESNO,

Respondent,

AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN
CALIFORNIA,

Plaintiff and Real Party in Interest.

From the Superior Court of the State of California
For the County of Fresno, B.F. Sisk Courthouse
Case No. 24CECG01635
The Hon. W. Kent Hamlin, Dept. 53, Tel.: (559) 457-6348

**PETITIONERS' INFORMAL REPLY TO REAL
PARTY IN INTEREST'S INFORMAL
RESPONSE TO PETITION FOR WRIT OF
MANDATE OR OTHER APPROPRIATE RELIEF**

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INTRODUCTION & SUMMARY OF THE ARGUMENT

Petitioner City of Fresno (“Defendant” or “City”) seeks relief from Respondent Court’s order granting Plaintiff and Real Party in Interest American Civil Liberties Union of Southern California’s (“Plaintiff” or “ACLU”) peremptory writ of mandate and directing disclosure of records requested by Plaintiff via the California Public Records Act (“CPRA”).

In sum, extraordinary writ relief remains appropriate, in accordance with Government Code § 7923.500, because the

Document received by the CA 5th District Court of Appeal.

instant matter involves an order directing disclosure by a public official. Further, the City will suffer irreparable harm if the writ petition is not granted because the City will be forced to produce/disclose an voluminously overbroad scope of records Defendant potentially need not produce/disclose in the first place. Moreover, the law is not settled regarding the definition of great bodily injury (“GBI”) and the nature of the CPRA makes resolution of the conflict of law a matter of public interest.

In their informal response, ACLU fails to make a plain text reading of Penal Code § 832.7 to support their definition of GBI to effectively include *any* physical injury, including mere physical pain, even citing case law that does not support ACLU’s method of interpretation. Notably, such case law instead favors an ordinary interpretation of GBI consistent with the police case law narrowly construing GBI to be a life-threatening or permanently disabling injury of the kind that could justify the use of deadly force, as detailed herein below. Additionally, ACLU continues to rely on a sentencing statute wholly unrelated to the CPRA so as to define GBI in the context of CPRA disclosures, rather than more appropriate statutes and case law that define GBI based specifically on the subject of the disclosures sought here: police uses of force.

Accordingly, the City properly redacted and withheld canine use of force and bite reports pursuant to the proper definitions of GBI because no exception to the applicable investigatory records exemption of the CPRA applied.

LEGAL ARGUMENT

I. Extraordinary Writ Relief Remains Appropriate.

A. Writ Relief is Statutorily Authorized.

As an initial matter, ACLU's claim that the City cannot demonstrate that this matter warrants the extraordinary remedy of writ review utterly ignores the fact that writ review is the *only* way for the City to obtain relief in this matter. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1336.) As cited by the City in its Writ Petition, Government Code § 7923.500 states, "An order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but *shall* be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ." (Gov. Code § 7923.500, subd. (a).) Thus, because this matter involves an order directing disclosure by a public official (here, City of Fresno), the City's Writ Petition was not only proper pursuant to California law, but it is the only vehicle for the City to obtain any relief from the burden of an erroneous decision by the esteemed trial court.

B. City of Fresno Will Suffer Irreparable Harm if its Writ Petition is Not Granted.

Moreover, contrary to ACLU's assertions, there is irreparable harm if the subject writ is not granted. ACLU claims that there can be no harm because it is purportedly entitled to

the production/disclosure of the at-issue records in response to its CPRA request. However, the crux of the City's Writ Petition in this matter is that ACLU is not entitled to the requested records because such are exempt from production/disclosure under Government Code § 7923.600, and that the exception to that exemption which ACLU cites does not apply here.¹ The City will suffer irreparable harm if it is forced to produce/disclose records that are not subject to production/disclosure, especially where an overbroad scope of CPRA disclosability results in more of the City's finite resources to be used to identify and produce/disclose responsive records that there was no requirement to be produced in the first place. (See Gov. Code § 7922.000.) To put it simply, ACLU's overbroad and erroneous construction of GBI would effectively make virtually *all* police investigatory reports

¹ ACLU attempts to suggest that the Superior Court did not reach the issue of whether the requested records are investigatory reports exempt from production/disclosure under Government Code § 7923.600. However, the Superior Court specifically noted that, "After extensive briefing and argument, it is clear that the parties' disagreement centers on whether the requested records are investigatory reports exempt from disclosure by Government Code Section 7923.600 and, if so, whether some or all of those records are nevertheless required to be produced pursuant to Penal Code Section 832.7, subdivision (b)[.]" [6 App., Exh. 18, p. 1618.] As the Court immediately proceeded to discuss whether the records were required to be produced pursuant to Penal Code § 832.7(b), the Court clearly determined that the requested records were investigatory reports exempt from disclosure by Government Code § 7923.600 because, if the requested records were *not* investigatory records exempt from disclosure, then there would be no need to determine if the Penal Code § 832.7(b) exception to such exemption applied, as the records would be disclosable outright. [See *id.* at pp. 1618-1624.]

involving any use of force disclosable – contrary to the legislative history/intent to preserve the CPRA exemption barring disclosure of police investigatory records for all but the most “serious” uses of force – forcing agencies meant to be protecting public safety to divert scarce resources away from such law enforcement functions to deal with the tidal wave of CPRA requests that ACLU’s broad construction would unleash.

C. There is a Conflict of Law on an Issue of Public Interest That Must Be Remedied.

The conflict amongst trial courts cited by the City *is* a conflict of law, and further supported by ACLU’s own citations to other trial court decisions as to the definition of GBI in the context of Penal Code § 832.7. [See Informal Response at p. 6.] ACLU erroneously contends that these decisions reflect that different departments in the same superior court can reach different outcomes in different *factual* circumstances. However, what actually occurred is that different departments in the same superior court reached different outcomes *because they were applying different interpretations of law*.

Specifically, in this matter, the Superior Court found that GBI meant a version of “significant or substantial injury” which does not require the victim to suffer from permanent, prolonged, or protracted disfigurement, impairment, or loss of bodily function, or life-threatening injuries, and which can include some physical pain or damage, such as puncture wounds, lacerations, bruises, or abrasions. [6 App., Exh. 18, pp. 1619-1620, 1623-1624

(adopting the GBI definition found in Penal Code § 12022.7(f) and related case law).]

Yet, in *Howey v. City of Fresno, et al.* (Nov. 1, 2023) Case No. 23 CECG01468, the Court explicitly chose *not* to adopt the California Penal Code § 12022.7(f) definition standard and, even if it had, it found that puncture wounds would *not* fall under that definition of “significant or substantial injury”: in direct contradiction to the Superior Court’s finding in this case. (*Id.* at p. 7.) Contrary to ACLU’s suggestion, the Superior Court’s ruling does not “simply appl[y] settled law governing disclosure obligations under the [C]PRA” because the law is clearly *not* settled where different courts are coming to different conclusions regarding how to apply “GBI” pursuant to the CPRA.²

Even if there was not a split in authority (which there is), the Superior Court’s ruling here does raise an issue of widespread public interest that would warrant writ review. The very nature of the CPRA is a matter of public interest. (*BRV, Inc. v. Superior Court of Siskiyou Cty.* (2006) 143 Cal.App.4th 742, 746 [“Californians have a constitutional right to access the records of their public agencies. They have a strong interest in knowing how government officials conduct public business, particularly when allegations of malfeasance by public officers are raised.”]; *cf Los Angeles Unified School Dist. v. Superior Court of Los Angeles*

² In fact, it appears this Court agrees on this point, where it has exercised its right to request informal briefing on Petitioner’s Writ rather than summarily denying the same. [08/12/2025 Order.]

Cty. (2014) 228 Cal.App.4th 222, 239 [discussing CPRA exemption “which allows a government agency to withhold records if it can demonstrate that on the facts of a particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”] [internal quotations omitted].) Therefore, it is necessary and appropriate for this Court to bring clarity to this matter and instruct both the public and their public agencies on what records should be accessible and disclosed under Penal Code § 832.7(b) and its definition of GBI for CPRA purposes.

II. Like the Superior Court, ACLU Fails to Conduct a Plain Text Reading of Penal Code § 832.7.

ACLU’s Informal Response utterly ignores that, in a plain text reading wherein courts look to the statute itself, if the statutory language is clear and unambiguous, there is no need for judicial construction. [See Pet. Writ of Mandate at p. 31 (citing *Environmental Health Advocates, Inc. v. Scream, Inc.* (2022) 83 Cal.App.5th 721, 729).] Yet, ACLU then invites judicial construction and invites courts to conclude that the governing standard in Penal Code § 832.7 for “great bodily injury” can be found in the case law and legislative history to support ACLU’s improper definition of the same, rather than giving the term its *ordinary* meaning (as a plain text analysis requires). This is because the ordinary, plain text definition of GBI is undisputedly a physical injury that causes a substantial risk of death, extended loss or impairment of a body part or function, or permanent disfigurement. [*Id.* at p. 33 (quoting Merriam-

Webster Legal Dict. Online, “great bodily injury”
<<http://www.merriam-webster.com/legal/great%20bodily%20injury>> [as of June 5, 2025]).] Thus, if as ACLU claims, they were conducting a plain text reading, they would be embracing this narrower scope of GBI thereunder, and this is where the inquiry should and does stop. [*Id.* at p. 33 (discussing the steps of a proper plain text reading).]

In fact, in looking improperly to case law and legislative history – where GBI already has an unambiguous, ordinary meaning under a plain text reading – ACLU ties itself in knots: creating a contradictory argument about their very own proffered definition of GBI. Specifically, ACLU first suggests that “[b]y adopting the GBI standard, the Legislature struck a deliberate balance—mandating disclosure of records concerning force that caused significant or substantial injury, while excluding incidents involving minor or trivial harm,” but then states that “GBIs include lacerations, bruises, abrasions, deep punctures, muscle and bone damage, disfigurement, and permanent nerve damage.” [Informal Response at pp. 5-6.] Setting aside that both ACLU and the trial court did not stop their GBI definition there, but also included the case law’s Penal Code § 12022.7(f) definition of GBI that extends GBI for sentencing enhancement all the way down to physical pain, ACLU’s second definition does not strike a “delicate” balance because it elevates bruises, scrapes, and pain into the kind of significant or substantial injury that contradicts GBI’s plain and ordinary meaning under both a plain text

reading, and as the term is construed in the context of police use of force case law.

A. ACLU’s Own Case Law Supports the Narrow Definition of GBI Based on its Ordinary Meaning.

ACLU correctly points out that, where a term is clear and unambiguous, there is “no need to resort to legislative analysis: GBI means GBI.” (Informal Response at p. 6.) However, ACLU erroneously defines GBI outside of its plain and ordinary meaning. To support this erroneous definition, ACLU relies on *In re Cabrera* (2023) 14 Cal.5th 476 (“*Cabrera*”), to distinguish “serious bodily injury” from “great bodily injury”; but that case *also* supports the City’s narrow definition of GBI based on its ordinary and unambiguous meaning.

In *Cabrera*, the California Supreme Court addressed a scenario where a “jury returned a guilty verdict on the count of battery with serious bodily injury [as defined by Penal Code § 243(f)(4)], but it struggled to decide whether Cabrera had inflicted great bodily injury [as defined by Penal Code § 12022.7].” (*Cabrera*, 14 Cal.5th at p. 480.) The Attorney General argued that the “jury’s finding of serious bodily injury necessarily establishes great bodily injury,” asserting “that the two require the same severity of injury, with great bodily injury covering a wider range of injury.” (*Id.* at p. 483.)

In analyzing the relationship between “serious bodily injury” and “great bodily injury” to address the Attorney General’s argument, the California Supreme Court stated:

Great bodily injury and serious bodily injury are similar terms; we have more than once called them “essentially equivalent.” But we have also acknowledged that there are some differences in the statutory definitions. Notwithstanding their substantial overlap, the terms in fact have separate and distinct statutory definitions. That much is apparent from the Penal Code’s language: The statutory definition of great bodily injury does not include a list of qualifying injuries like the statutory definition of serious bodily injury does. For that reason, we have held that when great bodily injury is an element of an offense, a jury instruction that the crime requires serious bodily injury is erroneous.

(*Id.* at p. 484 [cleaned up].) The California Supreme Court further noted that it had “declined invitations to decide whether a particular type of injury amounts to great bodily injury as a matter of law” because “[w]hat meets the statutory standard is a factual question for the jury.” (*Id.* [internal citations omitted].)

In looking at the history of the enactment of the great bodily injury definition in Penal Code § 12022.7(f), the California Supreme Court found that there was not support for the Attorney General’s assertion that a finding of serious bodily injury necessarily establishes great bodily injury, as “a jury could reasonably apply the statutory definitions of great bodily injury and serious bodily injury and find that injury was serious but not great bodily injury.” (*Id.* at pp. 486-487.)

It thus logically follows that the definition of “serious bodily injury” must *broader* than the definition of GBI, under *Cabrera*; *not* the other way around. (See *id.* at p. 489 [discussing that most juries may find most serious bodily injuries to be great bodily injuries], p. 491 [“Our statement in [*People v. Sloan* (2007) 42 Cal.4th 110] rested on the assumption that all great bodily injuries are serious bodily injuries. Here we are considering the converse question of whether all serious bodily injuries are great bodily injuries. If anything, we would seem to cast doubt on our dicta in *Sloan* if we were to agree with the Attorney General that serious bodily injury necessarily establishes great bodily injury.”].)

Thus, even assuming that ACLU and the Superior Court’s definition of GBI based on Penal Code § 12022.7 is accurate (which it is not), the Superior Court was incorrect in finding that “[t]he substitution of the words ‘great bodily injury’ in place of ‘serious bodily injury,’ *with a specific reference to the code section defining that term*, can only be interpreted as an intent to expand the exemption and increase the public’s right of access.” [6 App., Exh. 18, pp. 1622-23.] Rather, under *Cabrera*, such substitution can only be interpreted as an intent to *narrow* the exemption: because all great bodily injuries are serious bodily injuries, but not all serious bodily injuries are great bodily injuries.³

³ The Superior Court decisions that ACLU relies upon to support its overbroad GBI definition also run afoul of *Cabrera*. (*Richmond Police Officers’ Assn. v. City of*

Significantly then, if *Cabrera* were to control the outcome here, as ACLU contends (it does not), GBI must be construed to *narrower* than serious bodily injury (“SBI”), which has a far more specific plain text definition under California statutory law: namely, SBI is defined as “a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.” (See Cal. Gov. Code § 12525.2(d) (dictating when police uses of force shall be reported to the California Attorney General).)

B. ACLU Relies on a *Sentencing Enhancement Statute to Define GBI, Yet Erroneously Critiques City of Fresno For Applying Police Use of Force Law to CPRA Disclosure of Police Use of Force Reports.*

There is cognitive dissonance between ACLU relying on a Penal Code § 12022.7, a sentencing enhancement statute that has nothing to do with police use of force or reporting thereof or the CPRA, to define GBI under the CPRA, while ACLU also critiques the City for using Penal Code § 835a, a statute

Richmond (Super. Ct. Contra Costa County, 2020, No. MSN19-0169 at 25 [discussing that the Legislature consciously chose “great bodily injury” in lieu of “serious bodily injury” but improperly interpreting GBI to cover a significantly broader range of injuries than “serious bodily injury”]; *The Sacramento Bee v. Sacramento County Sheriff’s Dept.* (Super. Ct. Sacramento County, 2019, No. 34-2019-80003062 at 7 [also assuming that GBI covers a significantly broader range of injuries than “serious bodily injury”]).

governing police officers' uses of force, to demonstrate how a broad definition of GBI leads to absurd results in the realm of use of force where *both* Penal Code § 835a and Penal Code § 832.7 deal with police officers' uses of force – one regarding uses of force in the field and the other regarding disclosure of records relating to that use of force. [See Pet. Writ of Mandate at pp. 34 (noting that Penal Code § 12022.7 has nothing to do with the CPRA or any disclosure of public records, so it was improper to use it to define GBI in the context of the CPRA statutory scheme).]

ACLU attempts to create a false equivalency by stating that, “[g]reat or serious bodily injuries are defined by injuries that *result* from use of force, while ‘deadly force’ is determined by the *amount* and *type* of force *applied*.” [Informal Response at p. 7 (emphasis added).] Yet, this is patently untrue under the law.

Deadly force is legally defined as force that “creates a substantial risk of causing death or serious bodily injury.” (*Thompson v. Cty. of Los Angeles* (2006) 142 Cal.App.4th 154, 165; *see* Cal. Penal Code § 835a.) Thus, just like GBI is defined by injuries that *result* from uses of force, “deadly force” is defined by the injuries that are *foreseeably likely to result* from such – death or serious bodily injury. [See Pet. Writ of Mandate at p. 43.] As discussed at length in the City’s Writ Petition, deadly force and GBI are equivalent issues whose definitions have bearing upon one another: which is why defining GBI broadly, and applying it to police use of force and CPRA disclosure thereof, creates the absurd result that officers would be authorized to

shoot/kill for nothing more than a reasonable belief that they were about to face a painful bruise. [Pet. Writ of Mandate at pp. 42-44.]

III. City of Fresno Properly Redacted/Withheld its Canine Use of Force and Bite Reports Pursuant to the Proper Definition of GBI.

ACLU erroneously states that the City “categorically redacted all canine use of force and accidental bite reports, claiming that police canines are incapable of causing GBI under its improperly narrowed definition. That position fails because GBI means exactly what the statute says—not ‘seriously bodily injury’—and police canines can, and often do, cause GBI.” (Informal Response at p. 5.) That claim is also contrary to the unrefuted evidence in this case.

Rather, in determining that all responsive records to the categories in ACLU’s CPRA request regarding K-9 Use of Force Reports and Accidental Bite Reports were exempt from disclosure, the City evaluated such records on a case-by-case, particularized basis. [5 App., Exh. 11, at p. 1297.] Specifically, each responsive incident was analyzed to determine if the K-9 use of force or accidental bite resulted in GBI (per its proper, ordinary, narrow meaning) or death. [*Id.*] During this individualized analysis, the City determined that no responsive records dealt with an incident where police force caused GBI or death; and, thus, the City specifically confirmed that all such potentially responsive records were exempt from disclosure – because the ACLU-claimed exception to the exemption did *not*

apply. [*Id.*] The City never claimed that K-9s cannot ever cause GBI: only that the kinds of punctures, lacerations, and bruises *typically* associated with K-9 uses of force were *not* GBI, as properly defined. [*See id.* at p. 1290.] If the City had found a report relating to a K-9 use of force or accidental bite that resulted in GBI or death, it would have been properly produced/disclosed under Penal Code § 832.7. However, such was not the case here, so the City properly withheld such records because no exception to the applicable investigatory records exemption applied for the ACLU-requested records.

IV. Even If Analysis Other Than Plain Text Was Applied, The Legislative History Still Supports The City’s Narrower Construction of GBI for CPRA Purposes.

As detailed more extensively in the City’s Writ Petition [Pet. Writ of Mandate at pp. 41-56], *if* one were to determine that GBI under the CPRA *cannot* be defined using a plain text reading of a sentencing enhancement statute, ACLU’s broad definition would still fail to conform to controlling law because such would thus trigger canons of statutory construction that support the City’s narrow construction of GBI as the correct legal interpretation. [*Id.* at p. 41 (citing *People v. O’Bannon* (2024) 105 Cal.App.5th 974, 980; *In re Williamson* (1954) 43 Cal.2d 651, 654.)]

As explained more fully in our petition, the legislative history of the exception that the Penal Code § 832.7 carves into the exemptions of the Government Code’s CPRA [Gov. Code § 7920.000, et seq.] shows that, through amendments to S.B. 1421,

the Legislature intended to *narrow*, not broaden, the scope of disclosable police use of force investigative records from prior versions of the bill: so as to limit the disclosable police investigatory records to only the most “serious” police uses of force. [1 App., Exh. 7, p. 247.] Indeed, broader bill versions that would have made TASER deployments (which typically cause puncture, abrasions, some contusions, and pain) and baton-type strikes (which typically cause contusions, fractures, and pain) were revised down to only force that caused death or “GBI”: with the goal of narrowing the scope of disclosures. [1 App., Exh. 7, pp. 255, 263.] While ACLU points to a change of the disclosure scope of SBI to GBI, ACLU ignores the case law that: (a) SBI was broader than GBI; (b) for police uses of force, SBI and GBI are interchangeable and fungible; and (c) SBI does not include the kind of injuries that ACLU now claims would be disclosable if caused by police force. [See Pet. Writ of Mandate at pp. 41-56.]

Along related lines, given the case law that holds that SBI and GBI mean the same thing in the police use of force context, the doctrine of statutory construction – that mandates that interpretations leading to absurd results must be rejected – also prevents adoption of ACLU’s broad construction of GBI.

[*O’Bannon, supra*, 105 Cal.App.5th at p. 980; *People v. Arnett* (2006) 129 Cal.App.4th 1609, 1613; *People v. Knoller* (2007) 41 Cal.4th 139, 143 n. 2.)] This is because, if SBI essentially equals GBI relative to police uses of force, and GBI/SBI now stretches out to the ACLU definition of pain and bruises, since officers in California may lawfully use deadly force when confronted with

the immediate threat of death or SBI, ACLU's broad definition would lead to the absurd result that officers could kill when confronted with nothing more than an immediately deadly threat of a painful bruise. [Pet. Writ of Mandate at p. 44 (citing *People v. Washington* (2012) 210 Cal.App.4th 1042, 1047-48; *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1105-06).]

Additionally, as noted in the City's Writ Petition, the law that governs *reporting for police uses of force* (not unrelated sentencing enhancements) defines SBI in a manner more consistently with what the Penal Code exception to CPRA's police investigation records exemption must have meant GBI to mean. (See Cal. Gov. Code § 12525.2(d).)

In sum, even if ACLU were correct that a plain text reading should be discarded, the alternative legal analysis then required – following the canons of statutory construction – would defeat ACLU's position and leave the City-embraced narrow GBI construction as controlling law here; as should be the case.

V. ACLU's Broad Construction Ignores The Crushing Policy Implications.

It is common knowledge that, since S.B. 1421 and A.B. 732 were enacted in 2019, municipalities throughout California have been flooded with CPRA requests seeking voluminous records. [any news cite] Like courts and state governments, municipal governments have only so many resources available to fulfill their duties. The more records that become disclosable under the CPRA, the more resources that law enforcement agencies must

necessarily devote to the processing and document-production in response to CPRA requests. Inevitably, in the zero-sum world that is government service, this necessarily forces law enforcement agencies to divert resources away from core functions like protecting the public and policing crime to examining CPRA requests, delving through even more records to determine what is responsive and what is disclosable, and then producing such to the requester.

It is already a burdensome process that drains police resources from law enforcement. ACLU's broad definition would just make that problem logarithmically worse.

VI. City of Fresno Does Not Dispute That, if a CPRA Requester Prevails in CPRA Litigation, the Superior Court Shall Award the Requester Court Costs and Reasonable Attorneys' Fees.

Pursuant to Government Code § 7923.115(a), "If the requester prevails in [CPRA] litigation . . . , the court shall award court costs and reasonable attorney's fees to the requester." (*See Garcia v. Bellflower Unified School Dist. Governing Bd.* (2013) 220 Cal.App.4th 1058, 1065.) A requester "prevails" in a CPRA action where they "succeed[] on any significant issue in the [CPRA] litigation and achieve[] some of the benefit sought in the lawsuit." (*Id.* at p. 1065 [also holding that the terms "prevailing party" and "successful party" are synonymous under California law].) Along these lines, "[a] plaintiff is considered the prevailing party if his lawsuit motivated defendants to provide the primary

relief sought or activated them to modify their behavior.” (*Belth v. Garamendi* (1991) 232 Cal.App.3d 896, 901-902.)

Accordingly, the City does not dispute that, *if* ACLU was the prevailing party in this matter, it would be entitled to court costs and reasonable attorney fees as the CPRA requester.⁴

However, as discussed at length above and in the City’s Writ Petition, the City appropriately responded to ACLU’s CPRA request pursuant to the narrow, ordinary definition of GBI and, thus, it should not have been ordered to produce/disclose any additional records and ACLU should not have prevailed in the subject lawsuit and remains unentitled to both court costs and reasonable attorney fees.

CONCLUSION

For all of the above reasons and those stated in the City’s Writ Petition, all roads lead to the proper narrow definition of GBI based on its ordinary meaning and this Court should issue a writ directing Respondent Court to vacate its judgment granting peremptory writ of mandate and to enter a new order denying

⁴ Because the record is unclear on this point, the City can only speculate that the trial court may have conflated the deference due to municipal evaluations of what is responsive and what is disclosable under the CPRA with some kind of good faith or reasonable mistake test that can negate a prevailing requester’s entitlement to fees. While the City would welcome such a standard if embraced by the courts, the City is currently unaware of any law to support it.

such peremptory writ and ACLU's request for attorney fees and costs.

Respectfully Submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

Tony M. Sain

Abigail J.R. McLaughlin

Attorneys for Defendant and Petitioner

CITY OF FRESNO

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CERTIFICATE OF COMPLIANCE WITH RULE 8.204

I, the undersigned, Abigail J.R. McLaughlin, declare that:

1. I am a partner of the firm of Lewis, Brisbois, Bisgaard & Smith LLP, counsel of record for defendant and petitioner City of Fresno.
2. This certificate of compliance is submitted in accordance with rule 8.204 of the California Rules of Court.
3. This informal reply to the informal response to the petition for writ of mandate was produced with a computer. It is proportionately spaced in 13-point Century Schoolbook typeface. The petition contains 4,672 words, including footnotes.

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

Executed at Los Angeles, California, on September 9, 2025.

/s/ Abigail J.R. McLaughlin
Abigail J.R. McLaughlin

PROOF OF SERVICE

City of Fresno v. Superior Court of the State of California, County of Fresno

Fifth Civil Number F089987

Superior Court Number: 24CECG01635

I, Corinne Taylor, state:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 West 5th Street, Suite 4000, Los Angeles, California 90071.

On September 9, 2025, I served the following document described as **PETITIONER’S INFORMAL REPLY TO REAL PARTY IN INTEREST’S INFORMAL RESPONSE TO PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF** on all interested parties in this action through TrueFiling, addressed to all parties appearing on the electronic service list for the above-titled case. The service transmission was reported as complete and a copy of the TrueFiling Receipt/Confirmation will be filed, deposited or maintained with the original document in this office.

On September 9, 2025, I served the following document described as **PETITIONER’S INFORMAL REPLY TO REAL PARTY IN INTEREST’S INFORMAL RESPONSE TO PETITION FOR WRIT OF MANDATE OR OTHER APPROPRIATE RELIEF** by placing a true copy enclosed in a sealed envelope addressed as stated on the attached service list. I am readily familiar with the firm’s practice for collection and

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processing correspondence for regular and overnight mailing. Under that practice, this document will be deposited with the Overnight Mail provider and/or U.S. Postal Service on this date with postage thereon fully prepaid at Los Angeles, California to addresses listed below in the ordinary course of business.

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

Executed on September 9, 2025, at Los Angeles, California.

/s/ Corinne Taylor

Corinne Taylor

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SERVICE LIST

City of Fresno v. Superior Court of the State of California, County of Fresno.

Fifth Civil Number F089987

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California Supreme Court
Attn: Clerk of Court
350 McAlister Street, Room 1295
San Francisco, CA 94102
(Via *Electronic*)

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