

Interactions with The San Diego Union-Tribune

“Failing to produce’: San Diego is paying hundreds of thousands of dollars to settle public-records lawsuits — with more coming”

Dec. 26, 2022

Question:

I am reporting on the various CPRA lawsuits filed against the city in recent years, including those brought by Arturo Castanaras. Can you tell me how much the city has paid by case on court costs, attorney fees and any other expenses defending these CPRA cases since Jan. 1, 2021? I also would welcome some explanation about why the city has continued to violate the law and incur these damages.

Response:

You asked for information on CPRA cases since January 1, 2021. In that period, the City of San Diego paid \$242,680.92 to resolve 11 CPRA matters. Three went to trial; all three cases were filed by Cory Briggs in the name of San Diegans for Open Government. The three judgments total \$152,905.62. The remaining eight matters were settled without trial. The eight settlements total \$89,775.30.

You asked about Mr. Castanaras; he was the plaintiff in a 12th case where a payout may result. He sought records of a 911 call that was never made, and for which there are no City records. However, the Department’s response to Mr. Castanaras mistakenly said records were being withheld. His attorney is seeking \$25,000 in fees for uncovering that error. This Office incurred no hard costs in defending those 12 matters as we have attorneys on staff who defend the City and its employees.

The period you chose covers about 24 months. For the preceding 24 months (from January 1, 2019, through December 31, 2020) the City received 11,943 CPRA requests.

You asked for our opinion on “why this keeps happening.” We cannot say that our city has fared worse than any other large city in terms of CPRA litigation. Perhaps you’ve run the numbers as you’ve researched this issue. However, the process can always be improved. The City Attorney’s Office has offered global solutions since at least December 2019, when the City Attorney first advocated for a centralized office under the Mayor that would coordinate City response to CPRA requests to provide information to the public with greater speed, consistency, and accuracy.

The City Attorney publicly proposed creation of a centralized office to handle all City CPRA requests in a December 13, 2019, memo to Interim City Auditor Kyle Elser in response to a hotline report relating to City’s handling of CPRA requests. She has since advocated for that proposal in public meetings on the Fiscal Year 2021, 2022, and 2023 budgets.

Under the City’s current system, each of the 11,000-plus City employees is responsible for retaining their own records. Moreover, departments and offices respond to CPRA requests on their own. (Our Office becomes involved in requests made of other Departments/Offices only when our legal advice is sought, or a claim or lawsuit is filed over the City’s response.) Each department has its own CPRA liaison and

responds on its own, even when the requested public records are held by multiple departments. Any inconsistency is potentially grounds for litigation by a requestor.

The City Attorney will continue to advocate for creation of a centralized office in the Fiscal Year 2024 budget.

Question:

I forgot to ask about the CPRA bill your boss asked Sen. Hueso to introduce in 2018-19. Is there anything you want to say on that?

Response:

We have no comment at this time.
