



**CITY OF KIRKLAND**  
**Department of Finance & Administration**  
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**MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Michael Olson, Director of Finance and Administration  
Kathi Anderson, City Clerk/Public Records Officer  
Amy Robles, Public Disclosure Analyst

**Date:** July 7, 2016

**Subject:** PUBLIC DISCLOSURE SEMI-ANNUAL PERFORMANCE REPORT

**RECOMMENDATION:**

City Council receives the semi-annual status report on the City's public records disclosure program pursuant to KMC 3.15.120.

**BACKGROUND:**

In accordance with KMC 3.15.120, this report presents the performance of the City's Public Disclosure Program during the first half of 2016. Pursuant to KMC 3.15.120, the semi-annual public record disclosure report shall include: (1) number of open records requests at the beginning of reporting period; (2) number of records requests received during the reporting period; (3) number of records requests closed in the period; and (4) number of open requests at the end of the reporting period. This information is represented in Figure A.

**Figure A**

<b>Mandatory Reporting Information</b>	
Number of Requests Open at Start of Reporting Period	46
Number of Requests Received During Reporting Period	2,262
Number of Requests Closed During Reporting Period	2,249
Number of Requests Open at End of Reporting Period	59

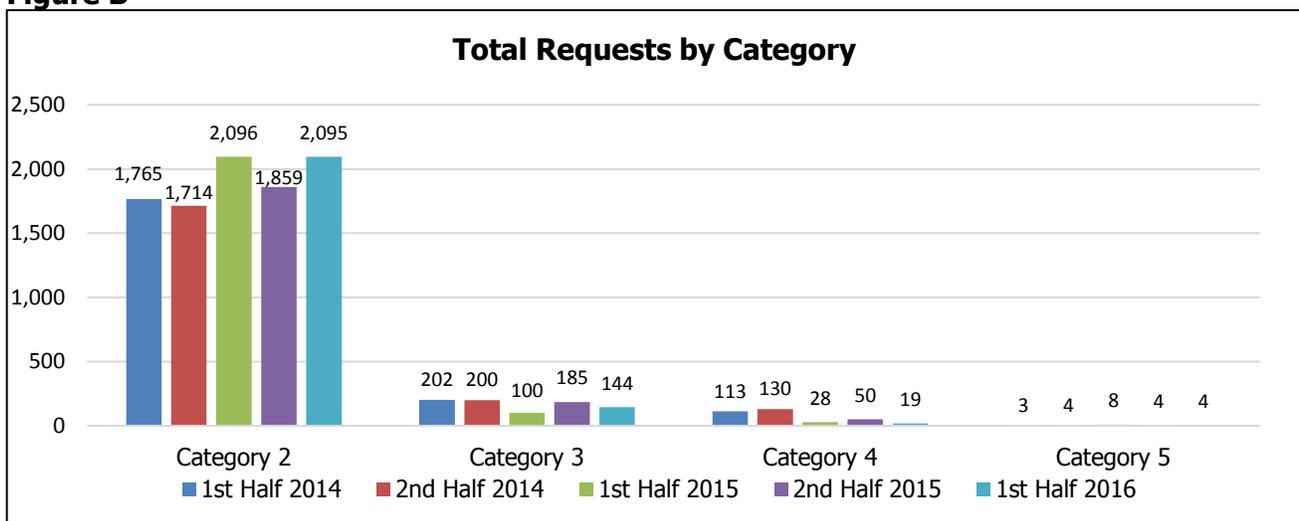
The City implemented its records portal in 2014. In the time following implementation of the records portal software, the City's public record process has continued to be refined with customization of the software to assist with addressing customers' and staffs' needs. Staff have become well versed in the use of the software and implementation is well established. During the current reporting period, a portion of the Public Disclosure Analyst's time has been allocated to development and implementation of staff training. At the June 21, 2016 City Council meeting, the Public Disclosure Analyst position was converted from a one-time temporary funded position into a regular FTE effective July 1, 2016 as part of the 2016 mid-year budget adjustments to address the ongoing workload related to the increasing number and complexity of public disclosure requests.

**DATA-BASED ANALYSIS OF PERFORMANCE:**

This report presents information reflecting the City’s performance based on total requests received and evaluates performance in terms of processing time by category. Performance is presented as a comparison between the following five reporting periods: the first half of 2014, the second half of 2014, the first half of 2015, the second half of 2015, and the first half of 2016.

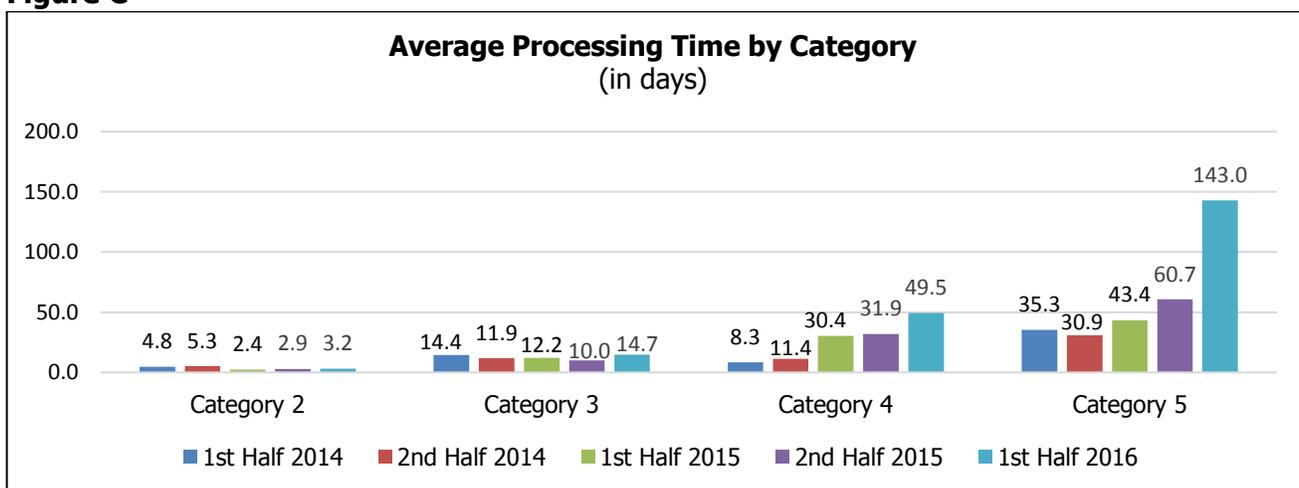
During the current reporting period, the City experienced an increase in the total number of requests received in comparison to the previous reporting period. In 2015, the City received a total of 4,330 requests. Having already received 2,262 requests during the first half of 2016, it is anticipated that the City will experience an overall increase in the total number of requests received. The comparison of requests by category between the five reporting periods is presented in Figure B.

**Figure B<sup>1</sup>**



The following table is an evaluation of the City’s program by comparing the processing times for each category. Figure C presents data for the average processing time (in days) by category.

**Figure C<sup>1</sup>**



<sup>1</sup> There were no Category 1 requests received during any of the reporting periods.

The average processing time has increased overall in all categories in comparison to the last reporting period. The continued increase in processing times for Category 4 and Category 5 requests is due to the complexity of these requests including the amount of data encompassed by the requests and the level of data review required prior to production. Data reflecting the increased length of timelines is partly due to multiple unrelated complex requests from one requestor.

Pursuant to the City's PRA Rule 080, the following goals for standard response time periods are established as follows (note that for categories 3, 4, and 5, the time is dependent on the nature and scope of the request):

- (a) Category 1 records requests - immediately or the next business day
- (b) Category 2 records requests - within five business days
- (c) Category 3 records requests - usually between 5 and 30 business days.
- (d) Category 4 records requests - may require several weeks to several months.
- (e) Category 5 records requests - may require several weeks to several months.

### **LITIGATION:**

During the current reporting period, the City was served with a PRA lawsuit. The lawsuit alleges violations of the Public Records Act in the production of emails in response to the public records request referenced as P004591-011715. The request was received by the City via the City's records request portal on January 17, 2015. The request was for:

All emails sent by or to (To, Cc<Bcc) Patrick Tefft from January 1, 2014 until the present. An Outlook format (PST) is preferred. If your software program creates searchable PDF copies, and that is easier for you, they are acceptable. Depending upon copy charges, I may wish to inspect such records at your place.

The City responded with installment productions of the requested emails. The final installment of was provided on June 15, 2015 at which time the request was administratively closed.

The plaintiff is Joe Beavers, who is appearing *pro se*. Mr. Beavers claims that the City violated the PRA by "withholding" the sender's email address on 416 emails and by "withholding" the recipient's address on 19 emails.

The City is in the process of evaluating the claims. At this time, the City does not believe that this information was withheld and that this is likely a misunderstanding on the plaintiff's behalf either in how the plaintiff imported the emails into his own outlook account or in that some of the records produced did not contain this information in their original format such as draft emails. In total, Mr. Beavers' request involves approximately 1,833 records. The City redacted only a single record, involving a building access code and provided an exemption log for the redaction; this exemption was not asserted as a claim in the suit.

### **AMENDMENT TO PUBLIC RECORDS ACT RULES:**

PRA Rule 010 (5) requires that all amendments to the PRA Rules be reported to Council. In accordance with PRA Rule 010 (5), on June 21, 2016, the Public Disclosure Steering Team reviewed proposed PRA Rule amendments. Following the Public Disclosure Steering Team's review and consensus, the City Manager amended the PRA Rules as follows:

- PRA Rule 040 (1) is amended to add a designee of the City Attorney to the Public Disclosure Steering Team.
- PRA Rule 140 (1) has been amended with an updated listing of exemptions provided by other statutes.
- The cost for certification of records has been added as PRA Rule 150 (3) and the former PRA Rule 150 (3) has been renamed as PRA Rule 150 (6).
- PRA Rule 160 (2) has been amended to allow five (rather than only two) business days for response to petitions for administrative review of denial of access.

These amendments to the PRA Rules were reviewed and approved by the Public Disclosure Steering Team and amended by the City Manager in accordance with PRA Rule 010 (5).

### **NEXT STEPS AND CONCLUSION:**

Based upon the volume of public records requests received during the current reporting period, it is expected that the City will continue to experience an increase in the volume of requests it receives. The complexity of the public records requests continues to increase and it is anticipated that processing time for more complex requests will also continue to increase. Even though volumes and response times are increasing, current staffing levels seem adequate with the conversion of the Public Disclosure Analyst to an on-going position. Staff will continue to monitor resource levels and responsiveness and will return to the Council if additional resources should be considered.

Development of staff training regarding the Public Records Act is underway. It is anticipated that training sessions will be held in the second half of 2016. The focus on staff training may impact overall processing times, however it is anticipated that the training will enhance the City's Public Records process and increase customer confidence in the City's ability to efficiently respond to public records requests in accordance with state law.