

No Indication that Release of Personal & Private Information Was Willful

Office of the Inspector General



Investigation Results

BART inadvertently disclosed personal and private information in three separate California Public Records Act (CPRA) requests. Provisions of Government Code [§ 7920](#) state such information is generally exempt from public disclosure. Under one of the requests, the District released thousands of records with content unrelated to the request for information; some of this included the personal and private information exempt from disclosure. The requests were set up so that any member of the public could view the documentation. The District retracted the information and acknowledged that it was released in error. However, the information remains accessible to employees who support [NextRequest](#), the public records request platform that the District uses. Employees who support NextRequest are those individuals charged with assisting the District in obtaining documentation responsive to a public records request. The sheer volume of requests received by the District and the thousands of records often associated with a single request leave the District vulnerable to human error. Therefore, the District is updating its practices to limit the release of documentation to only the requester to minimize exposure should information exempt from disclosure be inadvertently released again.

We randomly reviewed 31 Public Records Act requests in BART's NextRequest system from January 1, 2022, to February 16, 2023, and did not see any indication that BART regularly releases information exempt from disclosure. We also assessed the circumstances that took place when the personal and private information was erroneously released to identify what caused the error. The staff we interviewed expressed difficulty working with NextRequest because it separates emails from their attachments, which they said made it difficult to determine the source of the attachments and which documents require scrutiny. However, a thorough review of all documentation prior to release is the best measure to avoid inappropriate disclosure of private and personal information. They also noted that documents are uploaded to NextRequest in a manner that removes the ability to identify the source, such as from Human Resources, which would immediately indicate that those documents potentially include sensitive information. These are documents directly provided by employees who support NextRequest, not those attached to emails. NextRequest Support said they have tools that could assist staff in associating emails and their attachments once uploaded to the system. Additionally, NextRequest allows for support staff to create and name subfolders to upload their documents to.



We received an allegation that the District released personal and private information via three separate Public Records Act requests. We focused our investigation on determining whether a release of private and personal information was a pervasive problem or whether the release of information was willful. Neither proved to be true, although we confirmed that private and personal information was released in the situation presented in the allegation.

Recommendations

- 1 Remove the documents containing personal and private information from NextRequest so that they are no longer accessible to BART employees.
- 2 Ensure all documents are thoroughly reviewed prior to release and have information exempt from disclosure redacted or withheld in compliance with laws allowing public agencies to do so.
- 3 Require employees who support NextRequest to upload files into folders that are labeled by their department or division to assist reviewers in determining whether information should be redacted or withheld from release.
- 4 Work with NextRequest to determine how to use the tools that can assist BART staff to quickly and easily associate emails with their attachments.

Management agreed with our recommendations. See next page for details.





BART MANAGEMENT'S RESPONSE TO OIG RECOMMENDATIONS

Report Title: No Indication that Release of Personal & Private Information Was Willful

1	Recommendation:	Remove the documents containing personal and private information from NextRequest so that they are no longer accessible to BART employees.
	Responsible Department:	District Secretary's Office (DSO)
	Implementation Date:	Implemented March 2023
	Corrective Action Plan:	<p>Previously, the public (in addition to the requester) could view request-related 'released' (reviewed and redacted by General Counsel) documents and BART staff could view unredacted documents.</p> <p>There are two visibility settings for each request: 1 for the request itself and 1 for released documents. In March 2023, the DSO changed the visibility setting for all documents released going forward to "Requester + staff," which only permits the requester and staff users to view released documents. Although this setting provides a privacy safeguard with regard to the general public, it does not address all staff users' access to unredacted documents. To mitigate this, in March 2023, the DSO requested that NextRequest enable a visibility feature that prevents staff members who are not assigned to a request from viewing or accessing the request as a general staff user, which also restricts access to all documents. The result of both visibility changes is (1) the general public can view the request; (2) staff members can only access and view the request if they have been assigned to it; (3) the general public cannot view released documents for the request; (4) the requester can only view released (redacted) documents; and (5) only assigned staff members can view released and unredacted documents for the request.</p>
2	Recommendation:	Ensure all documents are thoroughly reviewed prior to release and have information exempt from disclosure redacted or withheld in compliance with laws allowing public agencies to do so.
	Responsible Department:	DSO, General Counsel
	Implementation Date:	Implemented August 2022
	Corrective Action Plan:	Staff has received a refresher training on the proper procedure for reviewing records and redacting exempt information before approving for release.
3	Recommendation:	Require employees who support NextRequest to upload files into folders that are labeled by their department or division to assist reviewers in determining whether information should be redacted or withheld from release.



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	Responsible Department:	DSO
	Implementation Date:	May 2023
	Corrective Action Plan:	DSO staff is researching ways for assigned BART staff to create subfolders specific to their departments to upload documents so that the documents can be better tracked. This practice will assist attorneys in their review of the documents by readily identifying the source of the documents.
4	Recommendation:	Work with NextRequest to determine how to use the tools that can assist BART staff to quickly and easily associate emails with their attachments.
	Responsible Department:	DSO, Office of Chief Information Officer (OCIO)
	Implementation Date:	May 2023
	Corrective Action Plan:	Currently, when emails associated with a public records request are uploaded to NextRequest, attachments are automatically detached from emails when they are extracted, which make it difficult for reviewing attorneys to link documents to emails and determine information that should be redacted. The DSO and OCIO will meet with NextRequest to ascertain if the software is capable of keeping emails and their attachments coupled during the extraction process.