

1 Thomas A. Saenz (SBN 159430)  
Victor Viramontes (SBN 214158)  
2 MEXICAN AMERICAN LEGAL DEFENSE  
AND EDUCATIONAL FUND  
3 634 S. Spring Street, 11<sup>th</sup> Floor  
Los Angeles, CA 90014  
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6 *Attorneys for Petitioner/Plaintiff*

**CONFORMED COPY  
OF ORIGINAL FILED**  
Los Angeles Superior Court

APR 23 2012

John A. Starke, Executive Officer/Clerk  
By *Dorothy Swain*, Deputy  
DOROTHY SWAIN

7  
8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF LOS ANGELES**

11 **CENTRAL DISTRICT** BS136865

12 PHILLIP RODRIGUEZ,

13 Petitioner/Plaintiff,

14 v.

15 SHERIFF LEROY D. BACA; COUNTY  
16 OF LOS ANGELES; and DOES 1-10,

17 Respondents/Defendants.

Case No.

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

California Constitution Article I §3; Govt.  
Code §6258; Cal. Code of Civil Proc. §1085



1 seeking leave to do so, to insert the true name in lieu of the fictitious name. The Petitioner is  
2 informed and believes, and on the basis of such information and belief alleges, that each Doe  
3 respondent is in some manner responsible for the acts and omissions alleged.

4 **JURISDICTION AND VENUE**

5 5. This Court has jurisdiction to hear this petition under Govt. Code § 6258,  
6 Code of Civil Proc. § 1085, and Article VI, section 10 of the California Constitution.

7 6. Venue is proper in this Court. All the parties are located and conduct  
8 business in Los Angeles, California; the records sought are situated in Los Angeles, California;  
9 and the conduct complained of took place in Los Angeles, California.

10 **GENERAL ALLEGATIONS**

11 **A. The Death of Journalist Ruben Salazar.**

12 7. Ruben Salazar was a Mexican American journalist killed by a Los Angeles  
13 County Sheriff's deputy during the National Chicano Moratorium March against the Vietnam  
14 War in August 1970 in Los Angeles, California.

15 8. The role of the County of Los Angeles and its Sheriff's Department in the  
16 death of Ruben Salazar has been the subject of public controversy in Los Angeles. The  
17 controversy stems in part from the secrecy surrounding the event.

18 **B. The Information Request Underlying this Petition.**

19 9. Petitioner has spent over two years trying to get information from the  
20 County on journalist Ruben Salazar's death on August 29, 1970. On March 30, 2010, Petitioner  
21 served a request for information upon the Sheriff's Department under the CPRA. A true and  
22 correct copy of Petitioner's request is attached as Exhibit 1.

23 10. The request included three broad categories of information: 1) records  
24 referring or relating to journalist Ruben Salazar and/or his death on or about August 29, 1970; 2)  
25 records reflecting or referring to any autopsy, analysis, or other investigation of the body of  
26 journalist Ruben Salazar or of the circumstances of his death on or about August 29, 1970; and 3)  
27 records reflecting or referring to any investigation, surveillance, or inquiry regarding journalist  
28 Ruben Salazar before or after his death on or about August 29, 1970.

1           11.     The records sought in the request are critical to the Petitioner's production  
2 of "The Ruben Salazar Project," a PBS documentary currently in production. The documentary is  
3 the first independent and thorough investigation of the life and death of Ruben Salazar, a  
4 prominent civil rights era journalist. To complete the film and offer a compelling look at this  
5 historical period, it is crucial for Petitioner to obtain information related to the death of journalist  
6 Ruben Salazar.

7           12.     The documentary has received funding from CPB, PBS, Latino Public  
8 Broadcasting, the California Council for the Humanities, and the California Community  
9 Foundation.

10          13.     On April 9, 2010, the Sheriff's Department responded for the first time to  
11 Petitioner's request. The Sheriff's Department neither produced nor identified any documents in  
12 response to Petitioner's request.

13          14.     In its response, attached as Exhibit 2, the Sheriff's Department, through  
14 Captain David Smith, requested an extension of time, and committed to send a further response  
15 on or before April 24, 2010.

16          15.     However, on April 28, 2010, the Sheriff's Department, through Smith,  
17 notified Petitioner that it had not yet completed its review of the materials requested. The  
18 Sheriff's Department instead stated that "the volume of the material and need to include a legal  
19 perspective had made it an extraordinarily slow process" and that time beyond the statutory  
20 period was required. That response is attached as Exhibit 3. The Sheriff's Department indicated  
21 that it anticipated a response by the middle of June.

22          16.     On June 9, 2010, the Sheriff's Department, through Smith, indicated that  
23 four files comprised of thousands of pages still existed containing responsive material. The  
24 Department further asserted that the records requested were exempt from disclosure. That  
25 response is attached as Exhibit 4. Sheriff Baca expressed his desire to facilitate Petitioner's  
26 request to the "fullest extent possible." The Sheriff further indicated that the responsive material  
27 was being reviewed to identify everything that could reasonably be prepared for examination or  
28 release. The Sheriff's Department estimated that this process would take 6 to 8 weeks.

1                   17.     On December 1, 2010, Petitioner through counsel again wrote to the  
2 Sheriff's Department requesting a response, in light of the passage of nearly six months.  
3 Petitioner's counsel's letter is attached as Exhibit 5.

4                   18.     On December 8, 2010, the Sheriff's Department responded and stated that  
5 the entire volume of records regarding the death of Ruben Salazar had been consolidated,  
6 organized, and turned over to the Office of Independent Review for examination. The Sheriff's  
7 Department did not anticipate a result of the examination until after the New Year. The  
8 December 8, 2010 response is attached as Exhibit 6.

9                   19.     After further oral communication between Petitioner or his representatives  
10 and Sheriff's Department officials, on March 1, 2011, the Los Angeles County Sheriff's  
11 Department allowed Petitioner to review the contents of eight boxes of materials pertaining to the  
12 death and the circumstances surrounding the death of journalist Ruben Salazar. Petitioner is  
13 informed and believes and on the basis of such information and belief alleges, that other persons  
14 were at other times similarly allowed an in-person inspection of the records.

15                   20.     Petitioner reviewed the materials with Gil Carrillo, a retired Los Angeles  
16 County Sheriff Department Detective and an advisor for the documentary project, and Jennifer  
17 Kobzik, a producer for the project.

18                   21.     Petitioner was supervised for less than 30 minutes by a representative of  
19 the Los Angeles County Sherriff's Department. Otherwise, Petitioner was allowed to view the  
20 materials without supervision.

21                   22.     Petitioner was allowed to take notes but was instructed not to take  
22 photographs. Petitioner was not permitted to make photocopies of any records.

23                   23.     The materials Petitioner reviewed were unredacted.

24                   24.     On April 6, 2011, Petitioner requested that the Sheriff's Department  
25 remove the imposed condition that no person may copy the records. That request is attached as  
26 Exhibit 7. The imposed condition that no person may copy records is inappropriate and untenable  
27 under the CPRA.  
28

1                   25.     On June 20, 2011, the Sheriff's Legal Advisory Unit responded with a  
2 letter, attached as Exhibit 8. The Sheriff's Legal Advisory Unit also provided two computer disks  
3 which included copies of: 1) Homicide Bureau records, photos, Office of Independent Review  
4 Report; and 2) audio files of radio traffic frequencies. However, the respondents redacted from  
5 the requested material: 1) coroner's inquest material, 2) civilian witnesses' names, 3) witness  
6 criminal history information, and 4) photographs, including identifiable civilian images.

7                   26.     On August 19, 2011, Petitioner requested copies of the unredacted  
8 materials that respondents permitted to be inspected in person. That request is attached as Exhibit  
9 9. There is no basis under the CPRA for refusing to allow copying or to provide copies of  
10 materials that have been opened for public inspection.

11                   27.     On February 15, 2012 -- almost two years following Petitioner's initial  
12 request for information -- the Sheriff's Legal Advisory Unit responded to Petitioner's August 19,  
13 2011, request. That response is attached as Exhibit 10.

14                   28.     The Sheriff's Department claimed that the previously-disclosed material  
15 was now exempt from the CPRA as a law enforcement investigatory file.

16                   29.     Based on the foregoing, and upon further reasonable information and  
17 belief, the Sheriff's Department withheld responsive documents in response to Petitioner's  
18 request by providing the documents with redactions. The Sheriff's Department waived any right  
19 to withhold documents created, kept, or possessed by the Sheriff's Department under the CPRA  
20 when it made these documents publicly available.

21                   30.     Prior to filing this petition, Petitioner, through his counsel, sent numerous  
22 letters (Exhibits 1, 5, 7, and 9) requesting information, and materials without redactions that were  
23 waived from exemption when made publicly available.

24                   31.     Given the time-sensitive need for Petitioner to obtain the requested  
25 information for the completion of the documentary film, and given the public concern  
26 surrounding the secrecy of the death of journalist Ruben Salazar, Petitioner now respectfully  
27 seeks the assistance of this Court in obtaining the information.  
28

**FIRST CAUSE OF ACTION**

**CALIFORNIA CONSTITUTION ARTICLE I, SECTION 3(b)**

**Failure to Provide Writings Concerning the Conduct of the Public’s Business**

32. Petitioner incorporates the allegations of the preceding paragraphs as though fully set forth here.

33. All the records sought by Petitioner in the above-described March 30, 2010 request are public records as writings related to the conduct of the public’s business.

34. Upon information and belief, respondents prepared, retained, and employed public records that are responsive to Petitioner’s request.

35. Respondents’ failure to provide a proper response to Petitioner’s request for information and to make public records available for copying and continued inspection violates Article I, Section 3(b) of the California Constitution, providing that the people have the right of access to records concerning the conduct of the people’s business. Respondents’ response is deficient as to each and every category of information contained in Petitioner’s request.

36. Upon reasonable information and belief, especially given the high-profile nature of Ruben Salazar’s death that is the focus of Petitioner’s request for information, respondent Baca specifically authorized, commanded, or caused the deficient response.

37. Despite diligent attempts to obtain the information without resorting to litigation, respondents have continually failed to provide responsive information, forcing Petitioner to retain counsel and file this petition, incurring costs of suit and attorney’s fees.

38. Declaratory relief is appropriate to remedy respondents’ failure to abide by their constitutional obligations.

**SECOND CAUSE OF ACTION**

**GOV. CODE § 6250 *et seq.*; § 6259 (California Public Records Act)**

**Improper Withholding of Public Records**

39. Petitioner incorporates the allegations of the preceding paragraphs as though fully set forth here.

1           40.     The records sought by Petitioner in the above-described March 30, 2010  
2 request are public records.

3           41.     Upon information and belief, respondents prepared, retained, and employed  
4 public records that are responsive to Petitioner's request.

5           42.     Respondents did not respond within the 10-day statutory period to  
6 Petitioner's request for information.

7           43.     When respondents did respond, they allowed Petitioner to inspect the  
8 public records in person. When Petitioner asked for copies of the records made available for  
9 inspection, respondents provided the public records with redactions. Respondents' withholding  
10 of public information is deficient as to each and every category of information contained in  
11 Petitioner's request.

12           44.     Respondents failed to provide adequate grounds for withholding the  
13 documents. Respondents' response is deficient as to each and every category of information  
14 contained in Petitioner's request.

15           45.     Upon reasonable information and belief, especially given the high-profile  
16 nature of Ruben Salazar's death that is the focus of Petitioner's request for information,  
17 respondent Baca specifically authorized, commanded, or caused the deficient response.

18           46.     Petitioner is a member of the public and beneficially interested in the  
19 outcome of these proceedings. Petitioner has a clear, present and substantial right to the relief  
20 sought.

21           47.     Petitioner has no plain, speedy and adequate remedy at law other than that  
22 sought.

23           48.     Respondents have a clear, present, ministerial duty to comply with the  
24 California Constitution and with Gov. Code § 6250, *et seq.* by providing unredacted copies of  
25 records previously disclosed to in-person review.

26           49.     Despite Petitioner's diligent attempts to obtain the information,  
27 respondents have continually failed to provide responsive information. This failure required  
28 Petitioner to retain counsel and file this petition, incurring the costs of suit and attorney's fees.



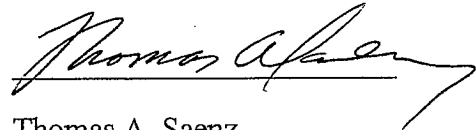
1 PRAYER FOR RELIEF

2 WHEREFORE, Petitioner respectfully prays for judgment and/or writ of mandate against  
3 respondents, and each of them, as follows:

- 4 1. That the court issue a peremptory writ of mandate directing respondents to make  
5 all requested documents available for copying within 10 days of this Court's order  
6 directing that they do so; or
- 7 2. In the alternative, that the court issue an order to show cause why the court should  
8 not issue such writ and thereafter issue a peremptory writ compelling respondents  
9 to perform their public duty as set forth above;
- 10 3. For a declaration under that respondents have violated Petitioner's rights under the  
11 California Constitution Article I, sec. 3, and under Gov. Code § 6250, *et seq.*, by  
12 failing to produce the requested documents.
- 13 4. For costs of suit incurred in this action;
- 14 5. For attorney's fees incurred in this action;
- 15 6. For such other relief as this Court deems just and proper.

16 Dated: April 23, 2012

17 Respectfully submitted,



18 Thomas A. Saenz  
19 Victor Viramontes  
20 MEXICAN AMERICAN LEGAL DEFENSE  
21 AND EDUCATIONAL FUND  
22 634 S. Spring Street, 11<sup>th</sup> Floor  
23 Los Angeles, CA 90014  
24 Telephone: (213) 629-2512  
25 Facsimile: (213) 629-0266  
26 Email: tsaenz@maldef.org  
27 vviramontes@maldef.org

28 *Attorneys for Petitioner/Plaintiff*

**PHILLIP RODRIGUEZ**

VERIFICATION

I, Phillip Rodriguez, hereby declare that I have read the foregoing petition for writ of mandate and complaint, and know its contents. I am a filmmaker, journalist, and visiting fellow at the USC Annenberg School for Communication & Journalism and the Petitioner in this action. The facts within this petition are within my knowledge, are true, except as to those matters alleged upon belief, and as to those matters, I also believe them to be true.

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 the 23 day of APRIL, 2012.

  
Phillip Rodriguez

# **Exhibit "1"**



# MALDEF

Mexican American Legal Defense and Educational Fund

March 30, 2010

**National Headquarters**

**Los Angeles**

**Regional Office**

634 S. Spring Street  
Los Angeles, CA 90014  
Tel: 213.629.2512  
Fax: 213.629.0266

VIA FACSIMILE and U.S. MAIL

The Honorable Leroy D. Baca  
Los Angeles County Sheriff  
4700 Ramona Blvd.  
Monterey Park, CA 90012

**Chicago**

**Regional Office**

11 East Adams Street  
Suite 700  
Chicago, IL 60603  
Tel: 312.427.0701  
Fax: 312.427.0691

RE: Public Records Request on Ruben Salazar

Dear Sheriff Baca:

I write, on behalf of Phillip Rodriguez and myself, to request copies of certain records, which may be in the possession of your agency, under the California Public Records Act, Government Code § 6250 et seq.

Please forward copies of any of the following records to me:

**San Antonio**

**Regional Office**

110 Broadway  
Suite 300  
San Antonio, TX 78205  
Tel: 210.224.5476  
Fax: 210.224.5382

- 1) any and all records referring or relating to journalist Ruben Salazar and/or his death on or about August 29, 1970;
- 2) any and all records reflecting or referring to any autopsy, analysis, or other investigation of the body of journalist Ruben Salazar or of the circumstances of his death on or about August 29, 1970;
- 3) any and all records reflecting or referring to any investigation, surveillance, or inquiry regarding journalist Ruben Salazar before or after his death on or about August 29, 1970;
- 4) any and all records referring or relating to any of the records described in numbers 1 through 3 above.

**Washington, D.C.**

**Regional Office**

1016 16th Street, NW  
Suite 100  
Washington, DC 20036  
Tel: 202.293.2828  
Fax: 202.293.2849

In responding to this request, please indicate whether you have identified any records that would be responsive to this request but that you contend are exempt from disclosure under the California Public Records Act, and please indicate the volume of such records and the specific grounds for exemption that you contend is applicable. Please also indicate whether any of the responsive records can or will be provided in redacted form, and indicate the legal ground for such redaction.

*Advancing Latino Civil Rights for over 40 Years*

[www.maldef.org](http://www.maldef.org)

The Honorable Leroy D. Baca  
Los Angeles County Sheriff  
March 30, 2010  
Page 2

I understand that, even though Salazar's death was nearly 40 years ago, there may be a large volume of material that is responsive to this request. Please inform me of the estimated charge for duplication of these records before commencing duplication.

As you know, the California Public Records Act requires your response within ten days of this request. If you have any questions, please do not hesitate to contact me at the phone number above. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas A. Saenz".

Thomas A. Saenz  
President and General Counsel

TAS:op

# Exhibit "2"



Leroy D. Baca, Sheriff

*County of Los Angeles*  
**Sheriff's Department Headquarters**

4700 Ramona Boulevard  
Monterey Park, California 91754-2169



070-15564-0284-490

April 9, 2010

Mr. Thomas A. Saenz  
Mexican American Legal Defense and Educational Fund  
634 Spring Street  
Los Angeles California 90014

Dear Mr. Saenz:

We have received your letter dated March 30, 2010, requesting records regarding the above referenced case.

Although the Sheriff's Department is obliged to respond within 10 days from receipt of the request, this time limit is subject to an extension for up to 14 days under the following circumstances as defined in Governmental Code 6253 © (1)-(3):

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are determined in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial subject interest therein.

The documents you seek are subject to the provisions of the Government Code 6253 © (1). Consequently an additional fourteen days will be required to respond to your request. We will dispatch a response on or before April 24, 2010.

Sincerely,

LEROY D. BACA, SHERIFF

David Smith, Captain  
Homicide Bureau

*A Tradition of Service Since 1850*

# **Exhibit “3”**





Leroy D. Baca, Sheriff

*County of Los Angeles*  
**Sheriff's Department Headquarters**

*4700 Ramona Boulevard  
Monterey Park, California 91754-2169*



(323) 890-5512

070-15564-0284-490

April 28, 2010

Mr. Thomas A. Saenz  
Mexican American Legal Defense and Educational Fund  
634 Spring Street  
Los Angeles, California 90014

Dear Mr. Saenz:

This letter is to inform you that we have not yet completed the review of the materials you requested and therefore could not comply with the April 24, 2010, deadline of the extension cited pursuant to Government Code Section 6253 © (1) – (3). The volume of material and need to include a legal perspective have made it an extraordinarily slow process. We apologize for the delay and anticipate a response by the middle of June.

Sincerely,

LEROY D. BACA, SHERIFF

David Smith, Captain  
Homicide Bureau

# **Exhibit “4”**



*Erroy D. Baca, Sheriff*

*County of Los Angeles*  
**Sheriff's Department Headquarters**

*4700 Ramona Boulevard  
Monterey Park, California 91754-2169*



(323) 890-5500

070-15564-0284-490

June 9, 2010

Mr. Thomas A. Saenz  
Mexican American Legal Defense and Education Fund  
634 South Spring Street  
Los Angeles, California 90014

Dear Mr. Saenz:

In response to your request for records and materials dated March 1, 2010 regarding the civil unrest in East Los Angeles of August 29 through 31, 1970 and the deaths of Ruben Salazar and Angel Gilbert Diaz, the records you seek are exempt from disclosure pursuant to California Government Code Section 6254(f) and Evidence Code Section 1040. (See also Williams v. Superior Court (1993) 5 Cal. 4<sup>th</sup> 337, Rivero v. Superior Court 54 Cal. App. 4<sup>th</sup> 1048, and Haynie v. Superior Court (County of Los Angeles) (2001) Cal. Lexis 6478.) However, Sheriff Baca has expressed his desire to facilitate your request to the fullest extent possible.

We must advise you that we are unable to accommodate some items included in your request. No physical evidence remains as it is not practical to retain evidence beyond statutory limits once all legal obligations have been resolved. Regrettably, the video footage taken by the Sheriff's Department was never transferred from its original format and was discarded after it was realized the tapes had deteriorated beyond salvage.

The remainder of your request encompasses four separate files comprised of thousands of pages which include the identities of numerous private individuals prohibited from release pursuant to Civil Code Sections 1798 et seq, official law enforcement data-base information prohibited from release pursuant to Penal Code Section 11142, and documents prepared by other entities including the Office of the District Attorney and Department of Coroner which we are not authorized to release.

*A Tradition of Service Since 1850*

Thomas A. Saenz

-2-

070-15564-0284-490

The material is currently being reviewed to identify everything that can reasonably be prepared for examination and/or release. This is expected to take 6 to 8 weeks. You will be notified when the process is complete.

Sincerely,

LEROY D. BACA, SHERIFF

A handwritten signature in black ink, appearing to read "D. J. Smith". The signature is written in a cursive style with a large initial "D" and "S".

David Smith, Captain  
Homicide Bureau

# Exhibit "5"



# MALDEF

Mexican American Legal Defense and Educational Fund

**National Headquarters**  
Los Angeles  
**Regional Office**  
634 S. Spring Street  
Los Angeles, CA 90014  
Tel: 213.629.2512  
Fax: 213.629.0266

December 1, 2010

VIA FACSIMILE and U.S. MAIL

David Smith, Captain  
Homicide Bureau  
County of Los Angeles  
Sheriff's Department Headquarters  
4700 Ramona Blvd.  
Monterey Park, CA 91754

**Chicago**  
**Regional Office**  
11 East Adams Street  
Suite 700  
Chicago, IL 60603  
Tel: 312.427.0701  
Fax: 312.427.0691

RE: Public Records Request on Ruben Salazar  
070-15564-0284-490

Dear Captain Smith:

I write regarding this long-pending request under the California Public Records Act. On June 9, 2010, you responded to the March 30 request in a letter in which you indicated that, despite your contention that the requested records are exempt from disclosure, the Sheriff desired to facilitate some response. In the June 9 letter, you indicated that the Department would undertake a review of four voluminous files to determine what could be prepared for examination and/or release. You estimated that the review would take from six to eight weeks.

Nearly six months have gone by and we have not received any notification of the completion of the review or of any examination and/or release. I would appreciate a response at your earliest convenience so that we may determine whether action should be taken in following up to enforce this nine-month old Public Records Act request.

Sincerely,

Thomas A. Saenz  
President and General Counsel

TAS:op

**Washington, D.C.**  
**Regional Office**  
1016 16th Street, NW  
Suite 100  
Washington, DC 20036  
Tel: 202.293.2828  
Fax: 202.293.2849

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[www.maldef.org](http://www.maldef.org)

# Exhibit "6"



Leroy D. Baca, Sheriff

County of Los Angeles  
**Sheriff's Department Headquarters**

4700 Ramona Boulevard  
Monterey Park, California 91754-2169  
(323) 890-5500



070-15564-0284-011

December 8, 2010

Thomas A. Saenz  
MALDEF  
634 South Spring Street, 11<sup>th</sup> Floor  
Los Angeles, California 90014

Dear Mr. Saenz:

We have received your letter of December 1, 2010, asking for an update on the March 30, 2010, request for the release of records regarding the death of Ruben Salazar. Please forgive the delay. The entire volume has been consolidated, organized, and turned over to the Office of Independent Review. The result of their examination process will be presented to the Sheriff to determine what may be provided. Regrettably, we do not anticipate this will occur until after the New Year.

Sincerely,

LEROY D. BACA, SHERIFF

Nick Tippings  
Homicide Bureau

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# **Exhibit “7”**



# MALDEF

Mexican American Legal Defense and Educational Fund

April 6, 2011

**National Headquarters**

**Los Angeles**

**Regional Office**

634 S. Spring Street  
Los Angeles, CA 90014  
Tel: 213.629.2512  
Fax: 213.629.0266

VIA FACSIMILE and U.S. MAIL

The Honorable Leroy D. Baca  
Los Angeles County Sheriff  
4700 Ramona Blvd.  
Monterey Park, CA 90012

**Chicago**

**Regional Office**

11 East Adams Street  
Suite 700  
Chicago, IL 60603  
Tel: 312.427.0701  
Fax: 312.427.0691

RE: Public Records Request on Ruben Salazar  
070-15564-0284-490

Dear Sheriff Baca:

I write regarding the request under the California Public Records Act referenced above. While the Sheriff's Department has now permitted access for inspection of the records requested, it has imposed a condition that no person may copy the records. This condition is inappropriate and untenable under the California Public Records Act.

**San Antonio**

**Regional Office**

110 Broadway  
Suite 300  
San Antonio, TX 78205  
Tel: 210.224.5476  
Fax: 210.224.5382

I write to demand that you rescind the condition and provide an appropriate mechanism to allow Phillip Rodriguez and me, the requesting parties under this long-pending request, to copy or obtain copies of all records that you have opened to public inspection. I look forward to your favorable response.

Sincerely,

Thomas A. Saenz  
President and General Counsel

**Washington, D.C.**

**Regional Office**

1016 16th Street, NW  
Suite 100  
Washington, DC 20036  
Tel: 202.293.2828  
Fax: 202.293.2849

TAS:op

cc: ✓ Hon. Gloria Molina  
✓ Michael Gennaco  
✓ James Lopez  
✓ David Smith



# **MALDEF**

Mexican American Legal Defense and Educational Fund

---

634 S. Spring Street, Los Angeles, CA 90014

Office: 213-629-2512

**Please deliver to:**            **The Honorable Leroy D. Baca**  
**Los Angeles County Sheriff Department**

**Fax:**                                **323-267-6600**

**From:**                              **Thomas A. Saenz**  
**President and General Counsel**

**Fax:**                                **213-629-8016**

**Date:**                               **April 6, 2011**

**Number of Pages:**            **2 (including cover)**

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# **Exhibit “8”**



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

SHERIFF'S LEGAL ADVISORY UNIT  
4700 RAMONA BOULEVARD, SUITE 407  
MONTEREY PARK, CALIFORNIA 91754-2169

TELEPHONE  
(323) 526-5045  
FACSIMILE  
(323) 267-6687  
TDD  
(213) 633-0901

ANDREA SHERIDAN ORDIN  
County Counsel

June 20, 2011

**CONFIDENTIAL**

THIS MATERIAL IS SUBJECT TO THE  
ATTORNEY-CLIENT AND/OR THE ATTORNEY  
WORK PRODUCT PRIVILEGES

Mr. Thomas A. Saenz, Esq.  
Mexican American Legal Defense and  
Education Fund  
634 S. Spring Street  
Los Angeles, California 90014

**Re: Public Records Request on Ruben Salazar**

Dear Mr. Saenz:

This letter is in response to your letter of April 6, 2011 requesting inspection of the Sheriff Department's investigative file of the Ruben Salazar matter. A copy of the file is hereby provided to you in the enclosed two CD's which includes the following information:

Disc One - Homicide Bureau records, photos, Office of Independent Review Report ;

Disc Two - audio files of radio traffic frequencies.

The following information is redacted from the requested materials as required by law:

1. Coroner's inquest material per Government Code §6254(k).
2. Civilian witnesses names per Civil Code § 1798
3. Witness' criminal history information per Penal Code § 11142

Mr. Thomas A. Saenz  
June 20, 2011  
Page 2

Redacted photographs include identifiable civilian images, Coroner's photos and graphic scene images. Any request regarding Coroner's materials may be directed to the Los Angeles County Department of Coroner, 1104 North Mission Road, Los Angeles, California 90033.

Thank you

Very truly yours,

ANDREA SHERIDAN ORDIN  
County Counsel

By

  
PAUL I. YOSHINAGA  
Principal Deputy County Counsel

PIY:jc

c: Sheriff Leroy Baca  
Supervisor Gloria Molina  
Michael Gennaco, Office of Independent Review

# Exhibit "9"



# MALDEF

Mexican American Legal Defense and Educational Fund

August 19, 2011

**National Headquarters**  
Los Angeles  
**Regional Office**  
634 S. Spring Street  
Los Angeles, CA 90014  
Tel: 213.629.2512  
Fax: 213.629.0266

Paul I. Yoshinaga  
County of Los Angeles  
Office of the County Counsel  
Sheriff's Legal Advisory Unit  
4700 Ramona Boulevard, Suite 407  
Monterey Park, CA 91754-2169

Re: Public Records Request re Ruben Salazar

**Chicago**  
**Regional Office**  
11 East Adams Street  
Suite 700  
Chicago, IL 60603  
Tel: 312.427.0701  
Fax: 312.427.0691

Dear Mr. Yoshinaga:

A review of the copy of the file on the Ruben Salazar matter that you sent over on June 20, 2011 in response to our Public Records Request reveals significant redactions that go far beyond any redactions in the same materials that you have permitted to be inspected in person. There is no basis under the California Public Records Act for refusing to allow copying or to provide copies of materials that have been opened for public inspection.

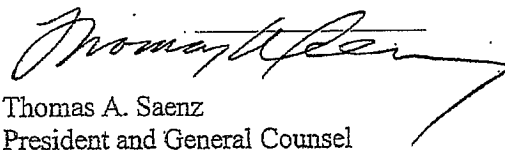
**San Antonio**  
**Regional Office**  
110 Broadway  
Suite 300  
San Antonio, TX 78205  
Tel: 210.224.5476  
Fax: 210.224.5382

Please respond at you earliest convenience with the legal grounds for a distinction between materials made available for inspection and materials provided in copies, or please respond with a date when we can expect to receive a copy of the file in unredacted condition or in the condition previously made available for public inspection.

I look forward to receiving your response.

**Washington, D.C.**  
**Regional Office**  
1016 16th Street, NW  
Suite 100  
Washington, DC 20036  
Tel: 202.293.2828  
Fax: 202.293.2849

Sincerely,

  
Thomas A. Saenz  
President and General Counsel

TAS:op

**Sacramento**  
**Policy Office**  
1512 14<sup>th</sup> Street  
Sacramento, CA 95814  
Tel: 916.444.3081  
Fax: 916.444.7207

Cc: Sheriff Leroy Baca  
Supervisor Gloria Molina  
Michael Gennaco, Office of Independent Review

*Advancing Latino Civil Rights for over 40 Years*

[www.maldef.org](http://www.maldef.org)



# **Exhibit “10”**



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

SHERIFF'S LEGAL ADVISORY UNIT  
4700 RAMONA BOULEVARD, SUITE 407  
MONTEREY PARK, CALIFORNIA 91754-2169

JOHN F. KRATTLI  
Acting County Counsel

February 15, 2012

TELEPHONE  
(323) 526-5045  
FACSIMILE  
(323) 267-6687  
TDD  
(213) 633-0901

**CONFIDENTIAL**

THIS MATERIAL IS SUBJECT TO THE  
ATTORNEY-CLIENT AND/OR THE ATTORNEY  
WORK PRODUCT PRIVILEGES

Mr. Thomas A. Saenz, Esq.  
Mexican American Legal Defense and  
Education Fund  
634 S. Spring Street  
Los Angeles, California 90014

**Re: Public Records Request for Ruben Salazar Investigation**

Dear Mr. Saenz:

This letter is in response to your letter of August 19, 2011. I called you yesterday and left you a message, but have not heard back from you. This response letter was drafted several months ago, but was not sent. My call was to personally apologize to you for the delay and to thank you for your patience.

With regard to the Salazar investigation file, the Sheriff viewed has never authorized release of the entire file. Any materials would have been a portion of the file authorized for viewing by the Sheriff. In the case of Williams v. Superior Court of San Bernardino County (1993) 5 Cal. 4<sup>th</sup> 337, the California Supreme Court holds that the exemption for law enforcement investigatory files from the Public Records Act ("PRA") does not expire upon the completion of the investigation. Should a governmental agency choose to disclose a file for public inspection, 6254 subsection (f) does not require full disclosure of investigative files. Therefore, the Sheriff has the discretion to disclose those portions of the file that are exempt from disclosure by the PRA and not otherwise protected by law.

As stated in our previous letter to you dated June 20, 2011, the following information is redacted from the requested materials as required by law:

1. Coroner's inquest material per Government Code §6254(k)

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2. Civilian witnesses names per Civil Code §1798
3. Witness' criminal history information per Penal Code §11142
4. Peace officer personnel files per Penal Code §832.7
5. Redacted photographs include identifiable civilian images, Coroner's photos and graphic scene images.

Under 6254.5 subsection (c), any alleged the waiver of exemptions shall not apply to disclosures "within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes." Only certain items from an investigative file are required to be released under the PRA. These items are listed as follows:

1. Names and addresses of persons involved in or witnesses, other than confidential informants to the incident;
2. The full name, address and occupation of every individual arrested
3. The individual's physical description;
4. The time, date and location of arrest and booking;
5. The charges upon which the individual is being held;
6. The description of any property involved;
7. Diagrams of the incident;
8. The date, time and location of the incident;
9. The statements of all witnesses, other than confidential informants, to the victims of the incident;
10. The factual circumstances surrounding the crime or incident.

In addition to the ~~information~~ provided above, the ~~materials given to you~~ include all of the materials in disc one and disc two as described in the June 20 letter. As stated in the Williams case, the remaining information in an

Mr. Thomas A. Saenz  
February 15, 2012  
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investigative file not disclosed is protected by the PRA and any interpretation that making materials available for inspection is somehow a waiver of exemptions would effectively nullify the investigative file exemption and the purpose of the PRA.

Very truly yours,

JOHN F. KRATTLI  
Acting County Counsel

By



PAUL I. YOSHINAGA  
Principal Deputy County Counsel

PIY:ms

c: Leroy D. Baca, Sheriff  
Gloria Molina, Board of Supervisor  
Michael Gennaco, Office of Independent Review