

From: Anonymous Person**09/04/2020** **Subject: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immediate D...****Email**

Office of the Mayor and London Breed:

On Sept. 2, 2020, in SOTF 19112 Anonymous v. Scott, et al., SOTF found that SFPD violated, inter alia, SFAC 67.26 for not providing future/prospective calendars for Chief Scott at all (instead of with minimal redactions) and SFAC 67.27 for citing Prop G for withholding non-Prop G calendars. SFPD Lt. Cox also stated during the hearing that SFPD has now changed its own position re: disclosure policies for calendars and will properly disclose future calendars, and they had determined that the advice of their Deputy City Attorneys to withhold future calendars was in fact wrong.

Your agency and/or department head has previously and/or currently refuses to provide, at all, future calendars, and has one or more cases pending before the SOTF for that violation. We will request these one more time, and if they are not provided, will allege intentional violation and official misconduct by your department head in light of the SOTF's decision in Anonymous v. Scott.

Therefore, this is an immediate disclosure request for all calendars/schedule records (with all meeting details in Outlook or anywhere else, including all attachments, images, attendees, attendance status, invitees, dates and times, recurrence, and other metadata) for your department head for Oct 1 through Oct 14, 2020 as the schedule exists at the time of this request (dates inclusive). Pursuant to SFAC 67.21(I), wherein you must provide any electronic format I request if it is either available or easily generated: please provide all electronic records in PDF format generated by Outlook *without* printing and scanning.

Please provide only those copies of records available without any fees. If you determine certain records would require fees, please instead provide the required notice of which of those records are available and non-exempt for inspection in-person if we so choose.

I look forward to your immediate disclosure.

NOTE: THE EMAIL ADDRESS SENDING THIS REQUEST IS A PUBLICLY-VIEWABLE MAILBOX. Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the [MuckRock.com](https://www.muckrock.com) FOIA service used to issue this request (though the requester is an anonymous user, not a representative of MuckRock). Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be disclosable public records.

Sincerely,

Anonymous

From: Office of the Mayor**09/05/2020** **Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...****Email**

Anonymous,

The matter to which you refer was an SFPD response regarding Chief Scott's calendars, as I understand it. That was the result of SFPD's analysis of particular calendar entries in consultation with their own counsel.

Different calendar entries for different department heads may pose different issues and security concerns. That matter does not change the analysis with respect to the security considerations relating to future meetings, scheduling and locations concerning the Mayor.

Our position regarding future calendars of the Mayor has not changed. The unique security considerations associated with the Mayor's future whereabouts and attendant SFPD security warrant withholding such entries pursuant to the Times Mirror case, attached, and Gov. Code 6254(f).

Regards,


Hank Heckel
Compliance Officer
Office of the Mayor
City and County of San Francisco



Times-Mirror

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From: Anonymous Person

09/05/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...

[Email](#)

Mr. Heckel, during the initial hearing for SOTF 19103, you conceded that the topics of the meeting or something without any reference to date or times or places "can be disclosed." While I don't agree that that is sufficient, you have thus conceded that you did in SOTF 19103 and are also in this request violating SFAC 67.26 for withholding in entirety a record when *at least some* part of the record is not exempt *in your own view*.

We will thus be filing an intentional violation and official misconduct complaint against you, the Mayor, and the Office of the Mayor.

SOTF 19103 Transcript (see https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=98&clip_id=34616):

25:04 LAHOOD: And correct me if I'm wrong, but you did not release any of the calendar.

25:09 Was there a discussion about redacting what you perceived to be sensitive aspects of it and releasing the rest of the information?

25:15 Or why was the whole thing withheld?

25:19 HECKEL, RESPONDENT: I mean, it just. Well.

25:21 All of them were future meetings at the time of their request.

25:24 I mean, he's just requesting the calendar entries.

25:28 I mean, it's all the sort of, you know, who, what, where, when of the meeting, which is, you know, our Argument is that all of that impacts the security procedures that are sort of inextricably linked with those meetings.

25:46 I mean, I, I'm not sure what Anonymous would accept.

25:53 You know, I don't know what else is left to disclose after that.

25:56 I mean, if he wanted, you know, topics that were going to be discussed or something without any reference to date or times or places.

26:07 I mean, maybe that's something that can be disclosed.

26:10 But it seems he wanted the calendar.

26:11 So in terms of when he says calendar, you know, I'm really we're really viewing it as, you know, the time and place.

--Anonymous

From: Office of the Mayor

09/05/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...

Email

Anonymous,

I went back and reviewed that section of the transcript and the larger discussion of File No. 19103 and want to clarify this issue. Again, I understood your request this evening to seek the "calendars" for October 1 through October 14, 2020, as in the standard definition of calendar, ie "a schedule of events" (See <https://www.thefreedictionary.com/calendar>) including the dates, times, places, attendees and other details of future meetings. My initial response was only to indicate that we have not abandoned our original position that the Mayor's future calendar is protected from disclosure under the security procedures exemption of 6254(f) and the rationale of the Times Mirror case.

However, to the extent you are requesting "topics of the meeting" or "schedule records" more generally, apart from any information of date, time and place, that may be a different matter. In the context of "calendars" I was assuming you were asking us to necessarily reveal such details which comprise what is traditionally understood to be a calendar. We can consider whether any such other information can be provided and will further respond within the normal records request timeframe (considering the emergency suspension of IDRs). We would thus ask that you refrain from heated language about alleged intentional violations and refrain from presently pursuing that in File No. 19103 or another file.

Our overall position regarding the security-sensitive nature of details of future meetings remains, given that the security procedures of 6254(f) required for the Mayor's upcoming meetings are implicated in such requests. I also understand that the holding of Times Mirror was based statutorily in the balancing test of PRA 6255 which weighed the decision-making processes of the Governor, but also weighed the security interests. That latter factual rationale fits just as easily under the rubric of 6254(f) as it does under 6255 and applies to the Mayor here: "the Governor's daily and weekly schedules set forth in exhaustive detail the particulars of the Governor's meetings and travel: time and location of arrivals and departures; traveling companions; hotel accommodations; and ground transportation. The revelation of such information, the Governor's security director reasonably asserts, 'would seriously impair [his] ... ability to assure the Governor's security, and would constitute a potential threat to the Governor's safety, because the information ... will enable the reader to know in advance and with relative precision when and where the Governor may be found, those persons who will be with him, and when he will be alone.'" Times Mirror v. Superior Court (State of California) (1991) at 53 Cal. 3d 1346.

I would also note that the balancing test of PRA 6255 may currently be invoked under the Fifth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency, March 23, 2020. Specifically, Section 7(d) of that emergency order suspends the restrictions of Admin Code Sections 67.24(g) and 67.24(i) on the City's ability to rely on the balancing test of 6255(a). PRA 6255 thus currently provides an additional basis for generally withholding the details of

future meetings because the public interest in maintaining the security of the Mayor from harm or disruption and the integrity of attendant security procedures outweighs the public interest in nondisclosure, particularly given the backdrop of already strained City first responder resources in addressing the pandemic.

All of that said, to the extent you are requesting information regarding upcoming meetings outside of the "calendar" details we will review whether any such information may be disclosed and get back to you.

Regards,

Hank Heckel
Compliance Officer
Office of the Mayor
City and County of San Francisco



Fifth Supplement to Emergency Proclamation

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From: Anonymous Person

09/05/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...

[Email](#)

Mr. Heckel,

Thank you for reconsidering.

Please check the words of the current request carefully: "an immediate disclosure request for all calendars/schedule records (with all meeting details in Outlook or anywhere else, including all attachments, images, attendees, attendance status, invitees, dates and times, recurrence, and other metadata) for your department head for Oct 1 through Oct 14, 2020 as the schedule exists at the time of this request (dates inclusive)."

As I think your office and other offices have unsuccessfully attempted to argue at SOTF (I believe since 19047) - the summaries are not sufficient. You do need to provide "all meeting details in Outlook". In this case I don't care about ICS files, but Outlook certainly shows on the "face" of each record at least the subject, start, end, location, body message, attendees, and attachments, some of which may constitute "topics that were going to be discussed or something without any reference to date or times or places" (Heckel, SOTF 19103) which we will expect you to disclose (at the least).

Please provide rolling responses (SFAC 67.25(d)). If you provide a few of these records, then we can determine whether you are minimally withholding the records and bely the new complaint.

As an aside the original request at issue in SOTF 19103 (which I assume will be coming back up to the SOTF shortly) also stated "We are specifically requesting ALL calendar/scheduling items, individually, for the Mayor, whether the Mayor herself possesses them or her staff, whether they are labeled "Prop G" or not, and whether they are on a computer or in physical form (such as a diary, a physical calendar on a wall, etc.). You are welcome to print each item (not the summary view) directly to .PDF form in Outlook and redact them." Same thing applied there. We also know that the Mayor's Office is well aware of the requirement to print out the detailed meeting view from Outlook since SOTF 19047 last October (if you remember the hearing, the summary view

will "cut off" information - which is an unlawful and unjustified withholding of the information that is not displayed).

If the Mayor believes she has created the ultimate loophole to shutoff sunshine via unilaterally purporting to enable Gov Code 6255(a) withholding, I will remind the City that, even if the Mayor's proclamation is deemed valid (and we do not concede that it is), it is the SOTF and/or the courts, not the Mayor, that will determine whether or not in a particular record the public interest in non-disclosure *clearly outweighs* the public interest in disclosure.

Given that your withholding in 19103 long predates COVID-19, this loophole would not make legal your then-use of Times-Mirror (which depends on 6255). As the SOTF discussed in SOTF 19112, it is what occurred at the time I filed the complaint that matters. For example, SFPD was in violation because *at the time of filing my complaint* the SFPD did in fact violate the IDR timeliness requirement and others, even though IDR timelines are purportedly suspended at this moment. Otherwise, city agencies have a perverse incentive to delay compliance until the day a complaint is heard, and simply claim that the violation has been cured at that point, and avoid all violation findings.

Finally, Times-Mirror has both a security of the Governor component and a deliberative process component - both relying on 6255. Copying from my complaint:

> Preventing the public from knowing the Mayor's future meeting topics and attendees serves no Gov Code 6254(f) purpose -- there is no security procedure information in that part of the record. It does not even serve the vaguer "safety of the Mayor" argument that Respondents raise with reference to the Times Mirror case (that we do not concede is valid in San Francisco, regardless).

> Instead, preventing the public from knowing this information serves a purely political purpose: to ensure the Mayor can meet with whomever about whatever without public scrutiny before the fact. Outside of San Francisco, public agencies may try to argue that this is a valid purpose - to further a public official's deliberative process. However, the deliberative process privilege is banned in San Francisco (even under the Mayor's COVID-19 proclamations suspending parts of the Sunshine Ordinance, which we do not concede are valid, the deliberative process privilege ban has been retained).

Sincerely,
Anonymous

From: Anonymous Person

09/16/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...

Email

I have delayed my intentional violation complaint for this request until today and I will not do so further. Rolling response is requested which means you must provide records no later than the end of the business day that you collect and review that record.

I will expect at least some records of calendar entries that are in the future by end of today, properly redacted.

Given that the Mayor's Office has provided individual meeting entires previously, it clearly knows how to do so:

https://cdn.muckrock.com/foia_files/2020/01/31/Memo_Style_45.pdf

While I do not concede it is sufficient, one can easily redact the values of the Start and End and Location rows (but not their row names, so we know what was redacted), justify each of those redactions, and preserve everything else in the meeting entry to alleviate your supposed security concerns.

NOTE: THE EMAIL ADDRESS SENDING THIS REQUEST IS A PUBLICLY-VIEWABLE MAILBOX. Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the [MuckRock.com](https://www.muckrock.com) FOIA service used to issue this request (though the requester is an anonymous user, not a representative of MuckRock). Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be disclosable public records.

Sincerely,

Anonymous

From: Office of the Mayor

09/16/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia... [Email](#)

Anonymous,

We will begin producing the requested scheduling documents. Your threats of filing "intentional violation" complaints are unwarranted and unhelpful. We can discuss the other aspects of your request.

From: Anonymous Person

09/16/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia... [Email](#)

Mr. Heckel:

Prior experience with your office and SOTF orders is that you have continued not to comply with the provision of ICS calendars from SOTF 19047, notwithstanding the Order personally against you and Mayor Breed and your office in that case, and your non-compliance continues through this day even after the separate metadata hearings you stated that you were waiting for, which resulted in an even broader decision against your office's position.

In the case of calendars, in general:

1. You/your office were instructed in 19047 about individual Outlook entries.
2. You/your office clearly know how to produce individual entries as you have done so in the past
3. The instant request asks for "all calendars/schedule records (with all meeting details in Outlook or anywhere else, including all attachments, images, attendees, attendance status, invitees, dates and times, recurrence, and other metadata)".
4. You/your office had an obligation under SFAC 67.26 in both SOTF 19103 and this request to examine every responsive record for *any information* that was non-exempt: "No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by Section 67.27 of this Article. This work shall be done personally by the attorney or other staff member conducting the exemption review. " You were personally responsible for this work.

Withholding all documents and then only analyzing the records to determine if any part was disclosable when someone files a complaint and you are forced to defend your position at SOTF is unacceptable.

There is no description other than willful or intentional for your office's behavior with regards to calendar disclosure or lack thereof.

--Anonymous

From: Anonymous Person

09/24/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia... [Email](#)

I need your determination now, Mr. Heckel, esp. given your comments to SOTF on Sept. 22. Is the Mayor providing minimally redacted records of her Oct. 1-14 individual Outlook entries (without date/time/location) or are you withholding them entirely instead? We specifically picked the Oct. 1-14 dates so you can't escape by just waiting the request out.

Given the unanimous position of the Compliance committee last night, I highly doubt SOTF will give you and Mayor Breed any more leeway here, and rightfully so. No amount of wordplay around "calendar" is going to avoid the argument here.

--Anonymous

From: Office of the Mayor

09/25/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia... [Email](#)

Anonymous,

Our original position that the Mayor's future calendar entries cannot be disclosed due to security considerations remains.

As set forth previously, disclosure of information concerning the particulars of the Mayor's upcoming non-public meetings, including date, time and location poses a security risk by jeopardizing the safety of the Mayor and confounding the ability of the San Francisco Police Department to provide effective security procedures for those meetings as it is charged to do. Future calendars provide information on when the Mayor will be arriving at and departing from specific locations, persons she is with or times she may be unattended. The SFPD plans and implements security procedures for the Mayor's scheduled activities and disclosing such details in advance compromises their ability to do so and reveals information that may be misused by those seeking to disrupt meetings and potentially pose harm to the Mayor and other city officials, employees and other parties with whom she is meeting. Thus, this information is exempt from disclosure pursuant to Cal. Gov. Code §§ 6245(f); 6254(k); Cal. Evid. Code §1040 and the rationale of *Times Mirror v. Superior Court (State of California)* (1991) at 53 Cal. 3d 1325 1346.

You have sought calendars in a very narrow window of time and thus even providing calendar information with date and location information redacted still reveals information implicating the same concerns. One could narrow the range of possible times for a particular meeting on a given subject with certain individuals and estimate the date and location in an effort to disrupt such meetings if so inclined. Further, the subjects and attendees of future meetings could reveal activity patterns of the Mayor, thereby creating a security risk. As set forth in *Times Mirror* with regard to the Governor, "it is plausible to believe that an individual intent on doing harm could

use such information to discern activity patterns ... and identify areas of particular vulnerability." Times Mirror, 53 Cal. 3d at 1346.

The Mayor's Prop G calendar reveals past information, including information as recent as three days prior, and thus, as required by the Sunshine Ordinance, provides a thorough record of all the actual particulars of meetings that actually occurred. Therefore, nothing is being concealed with regard to Mayoral meetings that actually occur. Future calendars include information about prospective proposed meetings that may in some instances not occur at all and are only tentatively calendared as staff recommendations. These internal recommendations and plans do not necessarily reflect the actual City business ultimately carried out by the Mayor as shown in the Prop G calendar and therefore any interest in their disclosure is substantially outweighed by the security risks posed by their disclosure as outlined above. Cal. Gov. Code §§ 6245(f); 6254(k); Cal. Evid. Code §1040.

If you wish to seek other forms of scheduling information other than future calendars, please let us know.

Regards,

Hank Heckel
Compliance Officer
Office of the Mayor
City and County of San Francisco

From: Anonymous Person

09/25/2020 

Subject: RE: California Public Records Act Request: Future Calendars and Meetings, Round 2 - Immedia...

Email

As you wish: Willful violation and official misconduct complaints against you and the Mayor will be filed later today.

Let's get rid of your supposed "narrow range" excuse:

This is an immediate disclosure request for all calendars/schedule records (with all meeting details in Outlook or anywhere else, including all attachments, images, attendees, attendance status, invitees, dates and times, recurrence, and other metadata) for your department head for Dec. 1, 2020 through Mar. 15, 2021 as the schedule exists at the time of this request (dates inclusive). Pursuant to SFAC 67.21(l), wherein you must provide any electronic format I request if it is either available or easily generated: please provide all electronic records in PDF format generated by Outlook *without* printing and scanning.

Please provide only those copies of records available without any fees. If you determine certain records would require fees, please instead provide the required notice of which of those records are available and non-exempt for inspection in-person if we so choose.

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Sincerely,

Anonymous