



**LONDON N. BREED**  
MAYOR

CITY AND COUNTY OF SAN FRANCISCO  
**POLICE DEPARTMENT**  
HEADQUARTERS  
1245 3<sup>RD</sup> Street  
San Francisco, California 94158



**WILLIAM SCOTT**  
CHIEF OF POLICE

December 18, 2020

Anonymous,

RE: Public Records Request, dated October 12, 2020, Reference # P016344-101620

Dear Anonymous:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated October 12, 2020. On October 16, 2020, and October 23, 2020 the SFPD invoked the extension of time to respond to your request pursuant to Government Code Section 6253(c) because of the need to consult with another division of the agency.

You requested, *"October 12, 2020 To Whom It May Concern: Pursuant to the CPRA and the Sunshine Ordinance, I hereby request the following records as an Immediate Disclosure Request: - All records related to the shooting and death of Cesar Vargas by SFPD (including but not limited to incident reports, statements, photos, exhibits, attachments, bodycam footage, CAD reports, 911 calls, and audio recordings of officers and dispatch during the incident, "investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports;" (PC 832.7(b)(2)), and also any emails or text messages sent or received by the officers involved in the incident or by Chief Scott regarding the incident) The records listed above are disclosable due to one or more portions of state or local law, including but not limited to: - Gov Code 6254(f)(2)(A) and 6254(f)(4) - exceptions to the law enforcement investigation exemptions requiring disclosure - SF Admin Code 67.24(d) - Penal Code 832.7(b)(1)(A) "(A) A record relating to the report, investigation, or findings of any of the following: (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer. (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury." Furthermore: "Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. " No complaint or misconduct need be alleged - these records are disclosable due to the shooting and death of person involved. You must provide exact copies and rolling responses. Electronic records must not be printed and scanned as that does not constitute a "copy" (see ruling against SFPD in SOTF 19098). You must justify every withholding of any information in writing. You must provide footnotes or other clear references to justify each and every redaction (see ruling against SFPD in SOTF 19098). If you do not provide correct copies of electronic records or do not justify by footnote or other clear reference each and every redaction, we will ask SOTF to again file official misconduct*

*charges against Chief Scott before the Ethics Commission, as we did in SOTF 19112, pursuant to SFAC 67.34. Thank you in advance for your anticipated cooperation in this matter. NOTE: Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. The email address sending this request is a publicly- viewable mailbox. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the 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"*

On October 23, 2020, SFPD produced the Town hall notes, CSI photos, BWC footage, surveillance video, and dispatch audio (portal link OIS 20-003). SFPD also declined to "release records to an open investigation under California Government Code Section 6254(f), which exempts from disclosure records of complaints to, investigations conducted by, intelligence information or security procedures of, and investigatory or security files compiled by local police agencies. As such, we are unable to provide you with the information you seek, as disclosure of information may endanger successful completion of the investigation."

Additionally, SFPD continues to withhold additional responsive records under Penal Code Sec. 832.7(b)(7)(A)(ii). It states, "after 60 days from the use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who used the force." As such, the release of any additional materials and disclosure of evidence beyond the materials we have produced to date, may endanger successful completion of that investigation. The criminal investigation and administrative investigation are on-going. Disclosing the information at this point could impact individual witness statements, recollections, and perceptions that could hinder the investigation. SFPD will continue its review of records and will provide you with an update by Friday, January 15, 2021.

Please let me know if you have any questions pertaining to this letter, or any suggestions you might have that could expedite our response to your request.

If you have any questions, please contact Ofc. Jose Mora at 415-575-6700.

Sincerely,

Lieutenant Kathryn Waaland  
Officer in Charge  
Risk Management - Legal Division