



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

February 23, 2021

Via email 105574-62708219@requests.muckrock.com

RE: Public Records Request, dated December 07, 2020, Reference # P020722-120720

Dear Anonymous:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated December 05, 2020, on December 07, 2020.

On December 7, SFPD acknowledged your request, and informed you that the 10-day maximum deadline to respond applies. Please refer to California Government Code Section 6253(c).

You requested, *“To San Francisco Police Department and its Department Head or Elected Official:*

***** DO NOT DESTROY ANY RESPONSIVE RECORDS. YOU MUST PRESERVE AND ORDER YOUR EMPLOYEES TO PRESERVE RECORDS DURING THE PENDENCY OF ALL APPEALS. WE WILL APPEAL ALL REDACTIONS OR WITHHOLDINGS. ** Immediate Disclosure Request.***

*Every department head/elected official must preserve and maintain all correspondence in a professional and businesslike manner (SFAC 67.29-7(a)) and also separately must comply with retention policies (SFAC 67.29-1). Note that if your retention policies do not retain text messages, I will argue before the SOTF and court that this is a failure to maintain ****all correspondence**** in a professional and businesslike manner.*

Relevant precedent: SOTF 19098 - Anonymous v SFPD. Unanimous finding of violation for unlawfully withholding text message metadata (including the to/from/etc. - note SFPD had provided the dates and times, and you must as well), and also for unlawfully printing and scanning electronic records which does not constitute a "copy" of an electronic record. See also prior rulings in my favor in SOTF 19044, 19047, 19091, 19098, 19103, and 19108 which ruled against the City for email, text messages, past and future calendar entries, meeting details, electronic metadata, and attachments.

The Mayor's Office appears to have destroyed their copies of certain text messages. I'd be happy to get them from her, if she preserved every record. Alas she did not, therefore we must now conduct a universal search of the City. You cannot refer me to another department unless you search and determine that you have no copies in your department. If this is causing more work for you, ask your Mayor to stop destroying her public records.

Note there are many anonymous requesters using MuckRock - I am just one of them. If you previously produced some subset of these records to a MuckRock email address, please reference that prior response so you do not duplicate work. If I am unable to get the prior MuckRock response because it is someone else's and they have marked it private, you will however need to provide me a copy here as well.

1. This is an immediate disclosure request for text, chat, or instant messages between the Department Head/Elected Official and either Sean Elsbernd, Andrea Bruss, London Breed, Harlan Kelly, Jr., Naomi Kelly, Hank Heckel, or Walter Wong, including all group messages, and all messages in threads, in any form and any app (including, but not limited to, SMS, MMS, text, iMessage, Teams, Discord, WeChat, QQ, Signal, Telegram, WhatsApp, Facebook, Facebook Messenger, Twitter, Instagram, Hangouts, Meet, Slack, Skype, Viber, Snapchat, Line, Kik, FaceTime, Wickr Me, Chatroulette, Threema, KakaoTalk, Duo, GroupMe, Wire, Voxer, Allo, Tango, Bumble, Grindr, Tinder, Olive, Taimi, but NOT including email), on any government accounts/devices or on personal accounts or devices regarding the conduct of public business, including all participant names, message text, images, attachments, dates, and times, including any in trash or deleted folders or similar (see Good Government Guide - if the records have not been permanently deleted as of the time you receive this request, you must retrieve them from the so-called trash folders and provide them). Provide rolling responses. Provide exact copies including all metadata. There is no limitation by subject or date. If the total pages to produce numbers over 500, inform me of the rough dates, employees involved, and subject matter, and I may be willing to narrow the initial production, AS LONG AS YOU PRESERVE ALL THE RECORDS.

2. This is a regular records request for text, chat, or instant messages between any non-department head/elected official (i.e. the other dept employees) and either Sean Elsbernd, Andrea Bruss, London Breed, Harlan Kelly, Jr., Naomi Kelly, Hank Heckel, or Walter Wong, including all group messages, and all messages in threads, in any form and any app (including, but not limited to, SMS, MMS, text, iMessage, Teams, Discord, WeChat, QQ, Signal, Telegram, WhatsApp, Facebook, Facebook Messenger, Twitter, Instagram, Hangouts, Meet, Slack, Skype, Viber, Snapchat, Line, Kik, FaceTime, Wickr Me, Chatroulette, Threema, KakaoTalk, Duo, GroupMe, Wire, Voxer, Allo, Tango, Bumble, Grindr, Tinder, Olive, Taimi, but NOT including email), on any government accounts/devices or on personal accounts or devices regarding the conduct of public business, including all participant names, message text, images, attachments, dates, and times, including any in trash or deleted folders or similar (see Good Government Guide - if the records have not been permanently deleted as of the time you receive this request, you must retrieve them from the so-called trash folders and provide them). Provide rolling responses. Provide exact copies including all metadata. There is no limitation by subject or date. If the total pages to produce numbers over 500, inform me of the rough dates, employees involved, and subject matter, and I may be willing to narrow the initial production, AS LONG AS YOU PRESERVE ALL THE RECORDS.

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.

Your non-exhaustive obligations:

- *All withholding of any information must be justified in writing by specific statutory authority (SFAC 67.27).*
- *Every redaction must be keyed by footnote or by other clear reference to the specific justification for that redaction, and only the minimal exempt portion of any record may be withheld (SFAC 67.26).*
- *You must respond to emailed requests (SFAC 67.21(b)).*
- *You must notify us of whether or not responsive records exist and/or were withheld for each above request (Gov Code 6253(c), 6255(b)).*
- *You must state the name and title of each person responsible for withholding any information (Gov Code 6253(d)).*
- *Do not impose any end-user restrictions upon me (Santa Clara Co. vs Superior Ct, 170 Cal.App 4th 1301); so if you use a third-party website to publish records, please make them completely public without any login or sign-in.”*

On December 15, 2020, 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.

On December 29, January 12, 2021, January 26, and February 9, SFPD informed you that we were still consulting with other divisions for responsive records.

SFPD is still in the process of consulting with another division for responsive records. We will continue to be in contact with you and provide you with an update by March 9.

Thank you for your courtesy in this regard.

Sincerely,

Lt. R. Andrew Cox #287
Risk Management - Legal Division