

From: Anonymous Person

12/05/2020 

Subject: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Request...

Email

To Office of the Mayor 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, Viber, 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.

Your agency must do all of the above things in your response, and you cannot wait until we file complaints.

***** We have no duty to, and we will not again, remind the City of its obligations. Instead, we will file complaints for every Sunshine Ordinance or CPRA violation. We will continue to file complaints until the City's procedures are modified to fully comply with the Sunshine Ordinance and CPRA, without caveat or exception. *****

I look forward to your lawful response.

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: Anonymous Person

12/10/2020 

Subject: RE: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Req...

[Email](#)

This is a further immediate disclosure request for all communications between the person managing the Dec 5 2020 request in this thread and all dept staff either requesting or receiving or discussing responsive records in that request, including all attachments, and to/from/cc/bcc and sent dates produced directly as an exact PDF copy (the remaining metadata is not relevant at this moment). My goal is to find out who has been asked for records and who is giving the records and on what time frame this is occurring.


Note that the mere fact that an attorney is providing a record to someone else does not make that information attorney-client privileged or attorney work-product. And for all your non-attorneys you don't even have those citations.

Here's what DPW gave me for this kind of meta-request:

<https://sanfrancisco.nextrequest.com/requests/20-4829>

--Anonymous

From: Office of the Mayor

12/15/2020 

Subject: RE: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Req...

[Email](#)


Anonymous,

We are continuing our response to the request below for up to 14 days due to the need to consult with another department. See Cal. Gov. Code § 6253(c) and San Francisco Admin. Code § 67.25(b).

Regards,

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

From: Office of the Mayor

12/15/2020 

Subject: RE: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Req...

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Anonymous,

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Text and Chat Messages - Immediate Disclosure Request - San Francisco Universal Search (MYR) • MuckRock

with another department. See Cal. Gov. Code § 6255(c) and San Francisco Admin. Code § 67.25(b).

Regards,

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

From: Muckrock Staff

12/31/2020 

Subject: RE: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Req...

Email

To Whom It May Concern:

I wanted to follow up on the following California Public Records Act request, copied below, and originally submitted on Dec. 5, 2020. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

From: Muckrock Staff

01/15/2021 

Subject: RE: California Public Records Act Request: Text and Chat Messages - Immediate Disclosure Req...

Email

To Whom It May Concern:

I wanted to follow up on the following California Public Records Act request, copied below, and originally submitted on Dec. 5, 2020. Please let me know when I can expect to receive a response.

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From: Anonymous Person

01/17/2021

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None

SOTF - this is a new complaint against Hank Heckel personally for 67.34 willful violation of the Sunshine Ordinance. Mr. Heckel simply refuses to respond to records requests. In doing so, he has committed official misconduct. On December 15 he issued a 14-day extension. It has been one month.