

Holdings in Cases Adjudicated by San Francisco's Administrative Sunshine Tribunals (SOTF and Supervisor of Records)

Issue or type of record	Must be Provided?	Rulings
Records on personal accounts/devices about the conduct of public business <i>even if the public employee does not intentionally use their personal account for business</i>	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19098 Anonymous v. Police Department</i> - Held that the Police Department violated the law by not searching for all records about the conduct of public business. SFPD only asked employees to search for records if they <i>used</i> their personal accounts for business, which does not comply with <i>City of San Jose v Superior Court (2017)</i>. Employees who do not intentionally use their personal accounts may still possess emails about public business. There were in fact records that fit this criteria in this case. Admin Code 67.21
Emails of City employees stored on other non-City email servers	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19128 Anonymous v. Rodriguez, et al.</i> - Ordered SFPD to produce the emails and held that they violated the law by not providing a written justification. Admin Code 67.26, 67.27. In this case, an SFPD sergeant wrote emails about City business on a non-City "cfl.gov" account pursuant to an MoU between SFPD and the FBI. SFPD unlawfully told the requester to FOIA the FBI instead of identifying the existence of these City public records and justifying withholding if needed.
All department head calendar entries (including any information not required by the Proposition G minimums)	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19047 Anonymous v. Breed, et al.</i> - Held that Mayor London Breed, a staff member, and the Office of the Mayor all violated the law by not providing detailed entries of Breed's Outlook calendar. Breed initially provided only Prop G calendars, and not a second business calendar that Breed also kept. Admin Code 67.21, 67.26, 67.27 • <i>SOTF 19112 Anonymous v. Scott, et al.</i> - Held that the Police Department, Chief William Scott, and a staff member all violated the law by citing Proposition G's minimum calendar requirements as a justification for withholding additional information in Chief of Police William Scott's calendar that went beyond Proposition G's requirements. Scott initially provided only Prop G calendar summaries, and not the detailed Outlook calendar. Admin Code 67.26, 67.27
Locations of and issues discussed at department heads' meetings	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19108 Anonymous v. Herrera</i> - Held that City Attorney Dennis Herrera violated the law by not recording the location and statement of issues discussed (when not otherwise publicly recorded) for his meetings in his calendar. Admin Code 67.29-5. Note that it is the elected official/department head who is held personally responsible under SFAC 67.29-5.
Calendar entries for planned meetings taking place in the future	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19103 Anonymous v. Breed, et al.</i> - Held that Mayor London Breed, Hank Heckel, and the Office of the Mayor violated the law by withholding in entirety Mayor Breed's future calendars instead of redacting the security procedures. Admin Code 67.26 • <i>SOTF 19112 Anonymous v. Scott, et al.</i> - Held that the Police Department, Chief William Scott, and a staff member violated the law by withholding in entirety Scott's future calendar information instead of providing it with minimal redactions for security exemptions. After the SOTF's Order was issued, Chief William Scott refused to comply, and was found by SOTF to have willfully violated the Sunshine Ordinance, and was referred to the Ethics Commission for official misconduct. Admin Code 67.26
Email images, attachments, hyperlink urls, and email addresses	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19091 Anonymous v. Breed, et al.</i> - Held that the Office of the Mayor violated the law by not responding in a timely manner (the records not provided timely were email attachments to certain emails that were requested) Admin Code 67.21 • <i>SOTF 19097 Anonymous v. Nuru, et al.</i> - Held that Public Works violated the law by withholding images, hyperlink urls, and email addresses in emails, which the City argued was an artifact of the format the City choose to produce the emails. Admin Code 67.26
Electronic metadata in general	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19105</i> In re: metadata - After a series of public hearings spurred by SOTF 19044 and 19047 to investigate the legal status of metadata, the Task Force's Information Technology Committee found that electronic metadata must be treated like any other public record and only the minimally exempt portions may be withheld, with legal citations for each and every redaction.
<ul style="list-style-type: none"> • Email header metadata 	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19044 Anonymous v. Herrera, et al.</i> - Held that the Office of the City Attorney violated the law by not providing certain email header information and also failing to justify why it was withheld. Later, the Office provided partially redacted email header which was still found to be insufficient. Admin Code 67.26, 67.27 • <i>SOTF 19097 Anonymous v. Nuru, et al.</i> - Ordered the Dept of Public Works to produce all email headers. • <i>SOTF 19098 Anonymous v. Police Department</i> - Held that the Police Department violated the law by not providing email header information. Admin Code 67.26 • <i>SOTF 19119 Anonymous v. Dept of Technology</i> - Held that the Dept of Technology violated the law by providing email headers in an untimely fashion. Admin Code 67.21.
<ul style="list-style-type: none"> • Text message metadata 	City must Provide	<ul style="list-style-type: none"> • <i>SOTF 19098 Anonymous v. Police Department</i> - Held that the Police Department violated the law by not providing the "To" and "From" text message metadata (SFPD had already however provided other text message metadata like timestamps and identifiers). Admin Code 67.26

<ul style="list-style-type: none"> • Calendar "ICS" (iCalendar) files 	<p>City must Provide</p>	<ul style="list-style-type: none"> • <i>SOTF 19047 Anonymous v. Breed, et al.</i> - Held that Mayor London Breed, a staff member, and the Office of the Mayor all violated the law by not providing ICS files of Breed's Outlook calendar and failing to justify why it was withheld. Admin Code 67.21, 67.26, 67.27 • <i>SOTF 19119 Anonymous v. Dept of Technology</i> - Held that the Dept of Technology violated the law by providing calendars ICS files in an untimely fashion. Admin Code 67.21.
<p>A key for every redaction to a legal justification at the time the City responds to a records request</p>	<p>City must Provide</p>	<ul style="list-style-type: none"> • <i>SOTF 19098 Anonymous v. Police Department</i> - Held that the Police Department violated the law by not providing a key by footnotes or clear references to justifications for their redactions. Admin Code 67.26 • <i>SOTF 19120 Anonymous v. Office of City Attorney</i> - Held that the Office of the City Attorney violated the law by not provide a key by footnotes or clear references to justifications for their redactions. The arguments that this wasn't necessary in a voluminous response or that justifying only the specific redactions a requester challenges after the fact is sufficient was rejected. Admin Code 67.26 • <i>SOTF 19121 Anonymous v. Police Commission</i> - Held that the Police Commission violated the law by not provide a key by footnotes or clear references to justifications for their redactions. The argument that justifying only the specific redactions a requester challenges after the fact is sufficient was rejected. Admin Code 67.26
<p>Complete and correct written legal justification for all withholding at the time the City responds to a records request</p>	<p>City must Provide</p>	<ul style="list-style-type: none"> • <i>SOTF 19103 Anonymous v. Breed, et al.</i> - Held that Mayor London Breed, Hank Heckel, and the Office of the Mayor violated the law by changing the legal justification for withholding during the SOTF complaint procedure. Admin Code 67.27. • <i>SOTF 19120 Anonymous v. Office of City Attorney</i> - Held that the Office of the City Attorney violated the law by adding new written justifications after an SOTF complaint was filed. The justifications provided at the time of responding to the records request were incomplete and did not cover all withheld information. Admin Code 67.27
<p>Identity of public records requesters</p>	<p>City must Provide</p>	<ul style="list-style-type: none"> • In his role as Supervisor of Records, City Attorney Dennis Herrera determined that "the identity of individuals who made public records requests is not private and should be produced" (petition response under SFAC 67.21(d) to Anonymous against the Police Department, 2020-08-16).
<p>Exact copies of original electronic records in electronic form</p>	<p>City must Provide</p>	<ul style="list-style-type: none"> • <i>SOTF 19098 Anonymous v. Police Department</i> - Held that the Police Department violated the law by not providing copies of electronic records (instead, SFPD printed and scanned back in the electronic records, which does not constitute a "copy" of the electronic record because it destroys some of the electronic information). Admin Code 67.21 • <i>SOTF 19121 Anonymous v. Police Commission</i> - Held that the Police Commission violated the law by providing the copies of <i>forwards</i> of original email records, instead of providing a copy of the original email itself (the forward changes some of the information). Admin Code 67.21

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