Supervisor of Records
City Hall, Room 234
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San Francisco CA 94102
supervisor.records@SFCITYATTY.ORG
sent via email to Supervisor of Records

Our ref.
#79356

Date
2019-09-06

RE: SF Sunshine Ordinance petition against DPW, ref req 79356

To the Supervisor of Records of the City and County of San Francisco:

NOTE: Every response you send or provide (including all responsive records) may be automatically and immediately visible to the general public on the MuckRock.com web service used to issue this request. (I am not a representative of MuckRock)

This is a new petition under SF Admin Code (SFAC) 67.21(d) for a written determination that records are public. As before, while there is some overlap with prior petitions, this request has certain new issues and agencies. You may reference our petitions of May 8 and August 26 against City Attorney's and Mayor's offices regarding email formats/metadata, but, where relevant, those requests are explicitly made below in the context of this specific petition.

I have numbered the determinations I request #1 through #TODO and they are set off from the text for your convenience. I ask that you carefully consider whether *any part* of the records so far withheld from us are public.

Please note that, within 10 days, if you determine that any records or parts thereof are public, you have a non-discretionary duty to immediately order their disclosure.[1] I do not wish to negotiate further with the Department of Public Works (DPW) - please issue all appropriate orders, and provide me a copy along with the determination.

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[1]"Upon the determination by the supervisor of records that the record is public, the supervisor of records *shall immediately order* the custodian of the public record to comply with the person's request." (SFAC 67.21(d), emphasis mine)

On August 23, 2019, I requested from the DPW under the Sunshine Ordinance and CPRA[2]:

A. IMMEDIATE DISCLOSURE: an electronic copy, in the original electronic format, with all headers, metadata, timestamps, attachments, appendices, exhibits, and inline images, except those explicitly exempted by the Ordinance, of the most recent 10 emails RECEIVED BY EVERY OFFICIAL government email account of
1. Director, Public Works;
2. Director, Policy and Communications;
3. City Architect;
4. City Engineer;
5. Deputy Director for Operations;
6. Deputy Director for Financial Management and Administration;
7. (Acting) Chief Information Officer;
8. Custodian of Records
9. All persons having an Executive Assistant, Personal Assistant, Admin. Assistant or Secretary or equivalent title which report directly to the Director, Public Works

B. IMMEDIATE DISCLOSURE: an electronic copy, in the original electronic format, with all headers, metadata, timestamps, attachments, appendices, exhibits, and inline images, except those explicitly exempted by the Ordinance, of the most recent 10 emails SENT FROM EVERY OFFICIAL government email account of
[[same list of titles as 1–9]]

C. regular disclosure: an electronic copy, in the original electronic format, with all headers, metadata, timestamps, attachments, appendices, exhibits, and inline images, except those explicitly exempted by the Ordinance, of the most recent 10 emails SENT FROM EVERY PERSONAL email account(s) of the following officials, TO/CC/BCC any City/County email address, solely to the extent that such emails are regarding the public's business and disclosable under relevant statute and case law, including but not limited to City of San Jose v Superior Court (2017). If NO such emails exist for each entry, remember you must state under Govt Code 6253(c) that there are no responsive records.
[[same list of titles as 1–9]]

D. regular disclosure: an electronic copy, in the original electronic format, with all headers, metadata, timestamps, attachments, appendices, exhibits, and inline images, except those explicitly exempted by the Ordinance, of the most recent 10 emails RECEIVED BY EVERY PERSONAL email account(s) of the following officials, FROM any City/County email address, solely to the extent that such emails are regarding the public's business and disclosable under relevant statute and case law, including but not limited to City of San Jose v Superior Court (2017). If NO such emails exist for each entry, remember you must state under Govt Code 6253(c) that there are no responsive records.
[[same list of titles as 1–9]]

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[2]I also stated:
   "Please do not include spam or draft emails.
   We want e-mails exported in the .eml or .msg format with all non-exempt headers, metadata, attachments, etc. for government accounts. For personal accounts, PDFs are fine or any other format the employee knows how to export. Please include all non-exempt headers/metadata. Do not exclude BCC addresses.
   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."

SOLE SUBSTANTIATIVE RESPONSE

On Sept 5, DPW released various PDFs of emails responsive to our request. DPW's reply and responsive records are available at `https://sanfrancisco.nextrequest.com/requests/19-3609` [3], including:

- `AlameidaInbox.pdf`
- `AlameidaSent.pdf`
- `DawsonInbox_Redacted.pdf`
- `DawsonSent.pdf`
- `GordonInbox.pdf`
- `GordonSent.pdf`
- `HerveyInbox.pdf`
- `HerveySent_Redacted.pdf`
- `LinInbox_Redacted.pdf`
- `LinSent.pdf`
- `NuruInbox_Redacted.pdf`
- `NuruSent_Redacted.pdf`
- `SteinbergInox.pdf`
- `SteinbergSent_Redacted.pdf`
- `StringerInbox_Redacted.pdf`
- `StringerSent_Redacted.pdf`
- `ThomasInbox_Redacted.pdf`
- `ThomasSent_Redacted.pdf`

Public records on personal accounts; City of San Jose v Superior Court (2017)

It does not appear that any records on personal accounts/devices (responsive to our request Part C and D) were disclosed. These records are plainly public under City of San Jose v Superior Court (2017). However, DPW did not affirmatively deny the existence of such records, as required under Gov Code 6253(c) and SFAC 67.21(c). I ask that you:

1. Determine that all records re: the public's business on personal accounts and devices are public records responsive to request Parts C and D are public records and that DPW must conduct the search and affirmatively deny the existence of any such records or provide those that do exist

Native formats; metadata, in general

The disclosed files are mostly text PDFs and some image PDFs. I ask that you:

2. Determine that the native files of all emails are public records; and
3. Determine that the metadata in all emails is a public part of a record.

Unlike possibly other departments, **because the DPW has released hundreds of e-mails in .msg format previously[4] and done so for years (at least 2017), and with headers/metadata, it is clear that the '.msg' format is "easily generated" (SFAC 67.21(l)) for DPW and there are no genuine security concerns (Gov Code 6253.9(f) and 6254.19)**.

Furthermore, it is your responsibility to determine if "any part" of the record is public - surely there is some metadata that is non-exempt and public. Some examples will be illustrated below.

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[3] Archived at `https://web.archive.org/web/20190906213401/https://sanfrancisco.nextrequest.com/requests/19-3609`
[4] See for example: `https://sanfrancisco.nextrequest.com/requests/19-3456`

City employee e-mail addresses improperly withheld

Taking "Lin Sent.pdf"[5] as the example, on pages 1, 2, 3, 4, 5, 6, and many others, the email addresses in the From/To/Cc are withheld. The actual native entries and/or metadata would indicate this email address information. No exemption justified the withholding of this part of the record, and DPW did not justify it in their list of justifications. City employee e-mail addresses are not information security records. Therefore, please:

> *4. Determine that all To/From/Cc city employee e-mail addresses information in all emails are public parts of records.*
> *5. Determine that all Bcc city employee* names *and e-mail addresses information in all emails are public parts of records.*

Hyperlinks improperly withheld

Taking "Steinberg Sent_Redacted.pdf"[6] as the example, on page 26, the hyperlinks labeled "List of procedures with deadlines" and "Procedures Manual Update Project page" were improperly withheld. See also "Nuru Inbox_Redacted"[7] on pages 4, 6, 7, 8, 9, 10, and 11. The actual native entries and/or metadata (in this case the underlying HTML source which is in the e-mail body) would indicate this timestamp information. No exemption justified the withholding of this part of the record, and DPW did not justify it in their list of justifications. City document URLs are not information security records. Therefore, please:

> *6. Determine that all hyperlink URLs in all emails are public parts of records.*
> *7. Determine that the HTML content in all emails are public parts of records.*

Images improperly withheld

Taking "Steinberg Sent_Redacted.pdf" again as the example, on pages 2 and 9, or in "Nuru Inbox_Redacted", on pages 3, 4, 6, 8, 9, and 11, the inline images labeled "?" were improperly withheld. The actual native entries and/or metadata would include the inline images. No exemption justified the withholding of this part of the record, and DPW did not justify it in their list of justifications. Images are not information security records. Therefore, please:

> *8. Determine that all images in all emails are public parts of records.*

Timestamp metadata improperly withheld

For example the disclosed record "Alameida Sent.pdf"[8] improperly withholds the date of transmission on page 1 and same with "Lin Sent.pdf" on pages 1, 2, 3, 4, 5, and 6 (among many others). Many of these are messages sent when the employee accepts/cancels/declines/issues calendar invitations. The actual native entries and/or metadata would indicate this timestamp information. No exemption justified the withholding of this part of the record, and DPW did not justify it in their list of justifications. Timestamps are not information security records. Therefore, please:

> *9. Determine that the timestamp/date information in all emails are public parts of records.*

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[5]https://sanfrancisco.nextrequest.com/documents/1768051
[6]https://sanfrancisco.nextrequest.com/documents/1767172
[7]https://sanfrancisco.nextrequest.com/documents/1768614
[8]https://sanfrancisco.nextrequest.com/documents/1768620

Misc. headers improperly withheld

Finally, DPW has previously disclosed dozens of additional headers in previous requests. I understand you may object to *some* of these headers based on security concerns, however, all others must be disclosed as a public part of a record.

I understand your office has done extensive research with your IT staff regarding the concerns on releasing metadata for our prior petitions[9]

I would like an on-the-record determination for each item in #11 below; however even if #11 takes longer than 10 days, please answer the rest of this petition in a timely manner. Therefore, please:

> *10. Determine that the names of all e-mail headers are public parts of records.*[10]

> *11. Determine that the values or some part of the values of each e-mail header below are public parts of records (you may find some or all of them are public, independently):*

   (1) Age
   (2) Alternate-Recipient
   (3) Alternates
   (4) ARC-Authentication-Results
   (5) ARC-Message-Signature
   (6) ARC-Seal
   (7) Authentication-Results
   (8) Autoforwarded
   (9) Auto-Submitted
 (10) Autosubmitted
 (11) Bcc
 (12) Body
 (13) CalDAV-Timezones
 (14) Cc
 (15) Comments
 (16) Content-Description
 (17) Content-Duration
 (18) Content-Encoding
 (19) Content-Disposition
 (20) Content-Language
 (21) Content-MD5

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[9] In fact Mr. Coté argued as such on behalf of your office in your reply to SOTF Complaint 19089 explaining why your responses to petitions in SOTF 19044 and 19047 took so long. "In some situations, a request may be unusually complex, in terms of legal issues or factual issues or both, or may require the requester or the responding department to follow up in order to make the issue or issues ripe for determination. This was just such a case. Evaluating whether disclosure of metadata could result in a security risk is a highly technical and specialized effort. To the best of our knowledge, this is the first time that the Mayor's Office has ever received a request that raised these specific issues, and also the first time that the Supervisor of Records has received a petition dealing with these specific issues. Understandably, it has taken time for both the Mayor's Office and the Supervisor of Records to evaluate the request and security risks. Rather than respond at the 10-day mark with *incomplete information and poorly informed analysis*, the Supervisor of Records wrote to the requester on May 21, 2019 (within 10 days of receipt of the petition) to confirm that the petition was received and under review. The Supervisor of Records also sent the requester status updates on June 7, July 1, and July 24. After completing a thorough review of the petition and underlying requests and responses related to the petition, the Supervisor of Records issued its final determination on August 26, 2019." (emphasis mine). Your office, presumably, now has complete information and well-informed analysis.

[10] Withholding header names is analogous withholding the *name* of a form field "Social security number" instead of just redacting the SSN itself.

(22) Content-Type
(23) Date
(24) Date-Received
(25) Deferred-Delivery
(26) Delivery-Date
(27) Disclose-Recipients
(28) Distribution
(29) DKIM-Signature
(30) Encoding
(31) ETag
(32) Expires
(33) Followup-To
(34) Forwarded
(35) From
(36) Generate-Delivery-Report
(37) Host
(38) Importance
(39) In-Reply-To
(40) Keywords
(41) Label
(42) Language
(43) Latest-Delivery-Time
(44) List-Archive
(45) List-Id
(46) List-Owner
(47) Location
(48) Message-ID
(49) Message-Type
(50) MIME-Version
(51) Organization
(52) Original-From
(53) Original-Message-ID
(54) Original-Recipient
(55) Original-Sender
(56) Originator-Return-Address
(57) Priority
(58) Received (IP addresses, hostnames, and *timestamps of receipt*)
(59) Received-SPF
(60) References
(61) Reply-By
(62) Reply-To
(63) Resent-Bcc
(64) Resent-Cc
(65) Resent-Date
(66) Resent-From
(67) Resent-Message-ID
(68) Resent-Reply-To
(69) Resent-Sender
(70) Resent-To
(71) Return-Path
(72) Sender

(73) Subject
(74) To
(75) Topic
(76) Xref
(77) Thread-Index
(78) Thread-Topic
(79) X-Envelope-From
(80) X-Envelope-To
(81) Delivered-To
(82) Mailing-List
(83) Accept-Language
(84) X-Originating-Ip
(85) X-MS-Has-Attach
(86) X-MS-Exchange-Organization-SCL
(87) X-MS-TNEF-Correlator
(88) X-MS-Exchange-Organization-MessageDirectionality
(89) X-MS-Exchange-Organization-AuthSource
(90) X-MS-Exchange-Organization-AuthAs
(91) X-MS-Exchange-Organization-AuthMechanism
(92) X-MS-Exchange-Organization-Network-Message-Id
(93) X-MS-PublicTrafficType
(94) X-MS-Exchange-Organization-ExpirationStartTime
(95) X-MS-Exchange-Organization-ExpirationStartTimeReason
(96) X-MS-Exchange-Organization-ExpirationInterval
(97) X-MS-Exchange-Organization-ExpirationIntervalReason
(98) X-MS-Office365-Filtering-Correlation-Id
(99) X-MS-Office365-Filtering-HT
(100) X-Microsoft-Antispam
(101) X-MS-TrafficTypeDiagnostic
(102) X-MS-Exchange-PUrlCount
(103) X-LD-Processed
(104) X-MS-Oob-TLC-OOBClassifiers
(105) X-Forefront-Antispam-Report
(106) X-MS-Exchange-CrossTenant-OriginalArrivalTime
(107) X-MS-Exchange-CrossTenant-FromEntityHeader
(108) X-MS-Exchange-CrossTenant-Id
(109) X-MS-Exchange-CrossTenant-Network-Message-Id
(110) X-MS-Exchange-CrossTenant-MailboxType
(111) X-MS-Exchange-CrossTenant-UserPrincipalName
(112) X-MS-Exchange-Transport-CrossTenantHeadersStamped
(113) X-MS-Exchange-Transport-EndToEndLatency
(114) X-MS-Exchange-Processed-By-BccFoldering
(115) X-Microsoft-Antispam-Mailbox-Delivery
(116) X-Microsoft-Antispam-Message-Info

Sincerely,

Anonymous