

SOTF 19121 - Anonymous v Police Commission, et al. - re: Adachi and Carmody communications

1. Sept 11, 2019 - IDR for comms of each Commissioner and Secretary
2. Sept 11 - initial response for non-immediate deadlines
3. Sept 18 to Oct 4 - rolling responses. Withheld documents were **not** justified in writing (SFAC 67.27), nor were they even acknowledged. Redactions did **not** have footnotes or other clear references to justifications (SFAC 67.26).
4. Nov. 9 - SOTF Complaint and Sup. of Records Petition filed.
5. Dec. 3 - Commission admits approx. 40 of the alleged unlawful redactions were in fact wrong and corrects some of them.

Request excerpt

A. IMMEDIATE DISCLOSURE REQUEST: 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 all messages, emails, communications, events, or posts SENT or RECEIVED by each of the following ON THEIR CITY-OWNED GOVT EMAIL OR CALENDAR ACCOUNTS, containing any of the following (case insensitive): "adachi" OR "public defender" OR "carmody" OR "North Bay News" between Jan. 1, 2019 and Sept 10, 2019

1. Robert Hirsch
2. Damail Taylor
3. Petra DeJesus
4. Thomas Mazzucco
5. John Hamasaki
6. Cindy Elias
7. DionJay Brookter
8. Sgt. Jayme Campbell

Issue: Redactions and withholdings were not justified

- At the time of the filing of the complaint, Commission did not key all redactions in the then-provided records by footnote or other clear reference to the legal justification for exemption (SFAC 67.26).
- At the time of the filing of the complaint, Commission did not justify in writing the withholding of information/documents (SFAC 67.27).
- Even after the complaint, Commission justified only the redactions we called out. The law requires *all* redactions and *all* withholdings to be justified. Either they can justify the withholding *or they must release ALL the information*.
- Why is this important? Of the ~50 withholdings we challenged, ~40 were *admitted* to be incorrect by the Commission. **When the City does not justify each and every withholding/redaction, they can easily over-redact. Justifying forces the custodian to think carefully about every withholding.**

Note: It appears, Commission in later records requests has accepted the obligation and has changed their practice to provide a key of a list of justifications and then match their redactions with their keys, but please confirm with Respondent.



The Police Commission
CITY AND COUNTY OF SAN FRANCISCO

Redaction index

| Redaction # | Exemption |
|-------------|--|
| 1 | California Penal Code § 832.7(b)(5)(A) – personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers. |
| 2 | California Penal Code § 832.7(b)(5)(B) – to preserve the anonymity of complainants and witnesses. |
| 3 | California Penal Code § 832.7(b)(5)(C) – to protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by peace officers and custodial officers. |
| 4 | California Penal Code § 832.7(b)(5)(D) – disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person. |
| 5 | California Penal Code § 832.7(a) - except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. |
| 6 | California Penal Code § 832.7(b)(6) - personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information. |
| 7 | California Penal Code § 11105 et. seq. – CPL data (personal identifiable criminal |

17 UNIDENTIFIED SPEAKER: There's two.
 18 UNIDENTIFIED SPEAKER: There is two, #5, #3
 19 [REDACTED]. Two cases, maybe someone can be in touch with us
 20 about that.
 21 UNIDENTIFIED SPEAKER: Sure and I read #5, #3
 22 before.
 23 UNIDENTIFIED SPEAKER: I know.
 24 UNIDENTIFIED SPEAKER: I didn't know -- I didn't
 25 get any of this stuff.

Issue: Records provided are not copies of the original records

- Commission sometimes provides a copy of a “forward” of the original responsive email record that was requested. Forwarding an email record creates a new record, with different To/From/Sent/Cc and also prevents the public from knowing the Bcc of the original record.

(Commission did produce some email header metadata in response to this request, but it was often of the *wrong* email. They provided the metadata of the email forward, not the original email.)