

August 7, 2020

Dennis Herrera
Attn. General Government Team
City Attorney/Supervisor of Records
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Via email to supervisor.records@sfcityatty.org

Supervisor of Records,

Herrera must order disclosure of parts of records he already determined are public

You previously determined that some part of the SB1421 withheld records were public (record requester identity, minus personal email/phone and home address). Yet you have not completed your duty under the Ordinance: "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)). Please "immediately order" disclosure of those parts of the record that you have in fact already determined are public. Note that the 5 day grace period for SFPD is **after** you issue the order, not between your determination and your order. There is no lawful justification to refuse to issue this order.

New petition for records was never considered in prior petition

The new record I petitioned last night, 13-002_-_130188386_-_production_1.pdf ([SFPD link](#)), has never been considered by the Supervisor of Records previously, as it was not provided (with redacted info) to me until **after** I had filed my earlier petition which you replied to yesterday. This is a new SFAC 67.21(d) petition for a determination that some or all withheld portions of records described below are public and an associated order for their disclosure by the SFPD. Here are examples of disputed redactions. You have an obligation to actually consider these redactions and my arguments - you will uncover routine, inappropriate, redactions being made by SFPD that are not in fact exempt in SB 1421 records. I've explained them below by Bates number:

1. Bates 137 - the official govt email address and official govt phone number of the Assistant DA are redacted from a letter (not email headers) without justification
2. The identity of the suspect is redacted in various parts of the document, yet the suspect was arrested, charged (see Bates 9), and pled guilty, so his identity should not be withheld (GC 6254(f)(1)). In fact on pg. 10 (only) it states, without redaction "**Tillman**

would later plea guilty to the 254(c)PC - Assault Peace Officer/Great Bodily Injury- 2yr State Prison." All other instances of the arrested suspect's name should be unredacted.

3. Bates 47-49 must be unredacted pursuant to Gov Code 6254(f)(2)(A), including the redacted locations (addresses and store names), and the contents of the quotes made by suspects to victims as "factual circumstances surrounding the crime or incident." Note that the mere fact that an incident report is physically being kept in officers' personnel records does not exempt the information within the incident report that is ordinarily non-exempt. "The fact that information is in a personnel file does not necessarily make it exempt information." (*Summary of the California Public Records Act 2004*, California Attorney General's Office, citing *New York Times Co. v. Superior Court* (1997) 52 Cal.App.4th 97, 103.)
4. Bates 1 and 2 (and elsewhere) - the address of the police shooting is not exempt. It is in fact the location of the arrest, so must be disclosed per Gov Code 6254(f)(1).
5. Incident report Bates 50-60 must be unredacted also pursuant to Gov Code 6254(f)(2)(A) and Gov Code 6254(f)(1). Basic information on arrested individuals' identity, their charges, and descriptions of the incidents' locations and factual circumstances cannot be redacted. See #8 above as well.
6. Bates 3 (and elsewhere) - the date of hire of the officers involved in the shooting should not be exempt. Date of hire is part of the employment contract, and "in California, employment contracts are public records and may not be considered exempt...The letters were memoranda of [employee's] appointment to a position and the rescission thereof; they therefore manifested his employment contract. Because the letters regarded business transactions and contained no personal information, the court properly ordered disclosure of the letters." (*Braun v. City of Taft*, 154 Cal. App. 3d 332, 342 (1984)).
7. Bates 6 - first 3 redactions of the gender pronouns of the witness/victim of a related incident. Yet that info is in fact unredacted in '**her** silver BMW' in the same sentence.
8. Bates 9 - redactions 3 and 4 - the names of the officers in the chain of custody for the video evidence are redacted without justification
9. Bates 12 - suspect's license plate and firearm serial numbers redacted without justification
10. Bates 14 - the type of lab results redacted without justification
11. Bates 105 - identity of arrested person cannot be redacted (Gov Code 6254(f)(1))
12. Bates 141-144 - notes of post-incident training. "Information such as an individual's qualifications, training, or employment background, which are generally public in nature, ordinarily are not exempt." (*Summary of the California Public Records Act 2004*, California Attorney General's Office, citing *Eskaton Monterey Hospital v. Myers* (1982) 134 Cal.App.3d 788.)

Yours,

Anonymous