IN THE SAN FRANCISCO
SUNSHINE ORDINANCE TASK FORCE

Anonymous v. Chief William Scott, Lt. R. Andrew Cox, San Francisco Police Department	Sunshine Ordinance Petition and Complaint Nov. 20, 2019 SOTF No. _____

COMPLAINT

I allege Respondents failed to respond to a request for public records in a timely or complete manner and failed to assist in a timely or complete manner.

FACTS OF THE CASE

I made an IDR public records request from 81227-34819567@requests.muckrock.com under the CPRA and Sunshine Ordinance on October 4, 2019, requesting police misconduct records between Jan. 1, 2019 to present under Cal. Penal Code §832.7(b)(1)(A)(i)-(ii), §832.7(b)(1)(B)(i)-(ii), §832.7(b)(1)(C) on both government and personal property subject to *San Jose v Superior Court (Smith).*

I also made a 7-day request under SFAC 67.21(c) for quantity, form, and nature of responsive records.

Since Oct. 4, 2019 through filing of this complaint, over 1.5 months, no records have ever been received. See Appendices for email thread and letters from SFPD.

ALLEGATIONS

1. Violations of SF Admin Code 67.21(c) - failure to assist in a timely or complete manner

I made a request for a statement under SF Admin Code 67.21(c) on Oct. 4. Because 67.21(c) dictates a seven day deadline for this statement, without any extensions, Respondent's failure to provide any such statement is unlawful.

2. Violations of SF Admin Code 67.21(b)/67.25 - incomplete or untimely response

The law requires rolling responses if requested. I requested a rolling response. No records have ever been provided to us.

3. Violations of SF Admin Code 67.26, 67.27 - more than minimal withholding, failure to cite justification for withholding with clear reference to statute or case law

Because no records have been provided as of this complaint, but records may be provided after filing the complaint but before SOTF judges the complaint, I reserve the right to allege withholding public parts of records and without justification.

REQUEST FOR RELIEF

Please find that the Respondents violated SF Admin Code sections 67.21, 67.25, 67.26, and/or 67.27, determine that some or all of the records or portions thereof withheld or not yet disclosed are public, and issue all appropriate orders.

Respectfully submitted,

ANONYMOUS
Complainant/Petitioner

From: Anonymous Person 10/04/2019

Subject: California Public Records Act Request: Police Misconduct Audit (SFPD) - Immediate Disclosure Request and 67.... Email

RE: Police Misconduct Audit (SFPD)

To Whom It May Concern:

** NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. **

This is an Oct. 4, 2019 Immediate Disclosure request under the San Francisco Sunshine Ordinance (Ordinance) and the California Public Records Act (CPRA) for the following items from SFPD. This is an also a SF Admin Code 67.21(c) request for 6 statements (one for each numbered request below) for the quantity (including even records you claim are exempt), form, and nature of records responsive to each request below -- which must be provided in 7 days with no extensions are permitted.

I have a right to receive records by email (67.21(b)) and moreover I cannot be required to use your web portal which imposes Terms of Service conditions beyond the CPRA's requirements. Please email (attachments) all responsive records.

We remind you of your obligation to provide electronic records in the format we request them if that format is easily generated (SFAC 67.21(l)). Therefore, e-mails exported in the .eml or .msg format with all non-exempt headers, metadata, attachments, etc. are our choice. Other Documents may be provided in text (not scanned) PDF format.
However, if you choose to convert emails, for example, to PDF or printed format, to easily redact them, you must ensure that you have preserved the full content of the original email record (as specified in request "A"), which contains many detailed headers beyond the generally used From/To/Subject/Sent/etc. For chat apps, a screenshot or print-out is acceptable.

If you use PDF, you must use properly redacted searchable or text pdfs. Don't use image PDFs to make it harder to analyze the records. Do not print out records and then re-scan them to PDF - simply redact them in Adobe Acrobat if needed for example. If you provide PDFs instead of original email files, only give a few of the headers or lacking attachments/images, and/or improperly withhold public records that exist on private accounts/devices you may be in violation of SF Admin Code and/or CPRA, and we may challenge your decision at the Sunshine Ordinance Task Force, Supervisor of Records, judicially, and/or via any other remedies available to us.

You must justify all withholding. All justifications must be made with particularity (every redaction must be specifically referenced to a justification).

Provide records in a rolling fashion. Do not wait for all records to be available.

Please provide only those copies of records available without any fees. If you determine certain records would require fees, please instead provide the required free notice of which of those records are available and non-exempt for inspection in-person if we so choose. Please use email to respond.

Every violation of the Sunshine Ordinance will be appealed --- please follow the Ordinance exactly as I am auditing your agency's public records regimen.

I look forward to your immediate disclosure.

1. all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(A)(i)-(ii) on govt. property. All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included.
2. all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(B)(i)-(ii) on govt. property. All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included.
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4. all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(A)(i)-(ii) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included.
5. all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(B)(i)-(ii) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included.
6. all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(C) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included.

Sincerely,
Anonymous

From: Muckrock Staff 10/14/2019

Subject: RE: California Public Records Act Request: Police Misconduct Audit (SFPD) - Immediate Disclosure Request an… 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 Oct. 4, 2019. 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: San Francisco Police Department 10/17/2019

Subject: Public Records Request :: P009436-101619 Email

Attachments:
PRA 9436 extension letter.pdf (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQrvEiRqHQz6uedWfSFdwV57RP9pZEh7758PgeAGDrWdNjJlIVb6Z-2Bf2svydKY49w5hwE3OowxUfzeZb3auoEn5InvfH6eKEsTDwCCBMfiFUyCYG9B-2FqF134pgWQ70VB4YE-3D_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgUSu6zh1-2Fzq6ylLFpoAQbJjG5hy45SVSLYOfxC4b4HoHApx-2FI9BBNt-2FcbLTRtRSYK0FLmBpR1O2G5rt4DnzpQO3UYaTIrKQBvwhEtvSlRd1PcFRiq3V-2BW1UiOYkHs9rAHzz39f7HYSXF-2FlgFOMHPy7iMPOSZB-2BuBF0WpaI1d8qYfe-2FcvbgulkMdeA5Ce-

2FNVhVGLDIjZ7BvDMBbcs7H33kfz7jx1JeVljmTEgBIXFyUYTU9wEM7dIDTcD1P24GWWJ1dtXIhgu03xSXUN80XxlHoXCevCn-2BlRgYty5x6q-2BJxg2peKvEh-2FZqAVk0EeNd7w4-2Fw-3D-3D)

--- Please respond above this line ---

October 17, 2019
Via email requests@muckrock.com

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

RE: Public Records Request, dated October 16, 2019, Reference # P009436-101619

Dear Anonymous:

In response to your request, please see attached document(s).

Sincerely,
Lieutenant R. Andrew Cox #287
Officer in Charge
Risk Management - Legal Division
To monitor the progress or update this request please log into the SFPD Public Records Center. (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66ZMXJDGxIkhWqlkMGRI8K8Y4-2BoObP4Hl0zB8wvvSoDxxL4DMNqcoNuU-2BDNqP9hLtg_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgUSu6zh1-2Fzq6ylLFpoAQbJjG5hy45SVSLYOfxC4b4HoHApx-2FI9BBNt-2FcbLTRtRSYK0FLmBpR1O2G5rt4DnzpQO3UYaTIrKQBvwhEtvSlRd1PcFRiq3V-2BW1UiOYkHs9rAHzz39f7HYSXF-2FlgFOMHPy7iMPOSZB-2BuBF0WpaI1d8qYfyLP59TrMFCPlQ5wEaS0vmuk8D29cKLlq0uSib9R8NNRzH7SGAk9jr2IE3pHREsqtn9N6CjJCbWhsYWxZib4uKHTnEAyQbCKOtJ1hEZEHYvmR352WezbPc1Qu-2BaVP3-2Fncp0pgfaxSjAfDwM3A83k22g-3D-3D)
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From: Anonymous Person 10/17/2019

Subject: RE: California Public Records Act Request: Police Misconduct Audit (SFPD) - Immediate Disclosure Request an… Email

The dates on this letter do not make sense.
My records show my original email was sent Oct 3 or 4 (depending on timezone).
Please search sfpdlegal email from this address and you should see the record.

--Anonymous

From: San Francisco Police Department 10/25/2019

Subject: Public Records Request :: P009436-101619 Email

Attachments:
PRA 9436 2nd extension letter.pdf (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6J

hPmxHQrvEiRqHQz6uedWfSFdwV578jf8hhkxAHLZ9WbvckVhXbj23pAZPWHO0U0Bgckuomqi4rUtwTY-2B-2FVAdozxmpy9hj5qMkWyns8YmyGMNPQjwSujE75Pv64lSYLA7cdgu5YM-3D_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgf6qFImUX-2FEsWU67ynIfZQPPLFNtSLjtKvuwI3t4DJ2Mjv9KNoqfpL5N4xyOq80BIzI-2FVdplbZb-2FoEVbXG2BJm4KXfMP7AMlBAI0EptvrCJ8ep65ZbjeOvyypF-2Bc-2B3mLEHPcbTRx3C-2BQHu2MSX10DWA58ibGW8vehRn2WQ0MpIWw-2FrW2NiAusOj3XHrODbbj3GMbAXTSXgLyODtzXjRVFZjIu0s0IHa9YtDX9OWf20wpObM2G3usrcdrRXtyLXLDgSKpHvzTpj8Fspq424KVU1qTzeVPfA9AyhBmHrGgEcmJwo6Kwjo5-2B-2FKdyQl9g2xLMA-3D-3D)

--- Please respond above this line ---

October 25, 2019
Via email requests@muckrock.com

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

RE: Public Records Request, dated October 16, 2019, Reference # P009436-101619

Dear Anonymous:

In response to your request, please see attached document(s).

Sincerely,
Lieutenant R. Andrew Cox #287
Officer in Charge
Risk Management - Legal Division
To monitor the progress or update this request please log into the SFPD Public Records Center. (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66ZMXJDGxIkhWqlkMGRI8K8Y4-2BoObP4Hl0zB8wvvSoDxxL4DMNqcoNuU-2BDNqP9hLtg_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgf6qFImUX-2FEsWU67ynIfZQPPLFNtSLjtKvuwI3t4DJ2Mjv9KNoqfpL5N4xyOq80BIzI-2FVdplbZb-2FoEVbXG2BJm4KXfMP7AMlBAI0EptvrCJ8ep65ZbjeOvyypF-2Bc-2B3mLEHPcbTRx3C-2BQHu2MSX10DWA58ibGW8vehRn2WQ0MpIWwPJLYo1SgpBzK2UhcnmE1z0-2BrvWTSQeUQOhq4lVsjfFiloxE0aEJFXfLR4eXeK2jRkNg8xI-2BtY2mkjoYDGk95LT-2BU4EbtZ-2FUMet6nNNcHKOb4o9KT7BxP-2BOD8boNcSRAA11-2FoS9-2BWAvqwXFpzgH8q-2BA-3D-3D)
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From: Anonymous Person 10/25/2019

Subject: RE: California Public Records Act Request #P009436-101619 Email

Ref P009436-101619

** NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. **

SFPD,

You are required by law to provide records in rolling fashion. However I have not received a single record. I expect at least some records by Oct. 28, which is 24 days after Oct. 4 when I sent my request.

I am also making this offer in compromise:
- I will not file a complaint to the SOTF about the timeliness of your response if:
- SFPD publishes whatever records re: police misconduct that have been released under PC 832.7 to me or other requesters to their public website and provide me a URL.

I do not waive any other rights.

Please let me know if you agree.

Thanks,
Anonymous

From: San Francisco Police Department 10/25/2019

Subject: Unrecognized Email :: U009560-102519 Email

Hello,

Unfortunately your email was not recognized and has not been routed accordingly. Please be advised that if you wish to submit a new request or check on the status of an already submitted request, you should visit the Description: TO: "San Francisco Police Records Portal"[sanfranciscopd@mycusthelp.net]

San Francisco Police Department
PRA Office
1245 3rd Street
SF, CA 94158
October 25, 2019
This is a follow up to request number P009436-101619:
Ref P009436-101619
** NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. **
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I do not waive any other rights.
Please let me know if you agree.
Thanks,
Anonymous

Filed via MuckRock.com
E-mail (Preferred): requests@muckrock.com
Upload documents directly: https://accounts.muckrock.com/accounts/login/?url_auth_token=AAAIhoft9NNEp8OnK6_3Ds3BnTQ%3A1iOBHP%3ALoBqkk5LqxTA_aQRzG3Ddp4-6nk&next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fsan-francisco-police-department-367%252Fpolice-misconduct-audit-sfpd-immediate-disclosure-request-and-6721c-request-81227%252F%253Femail%253Dsanfranciscopd%252540mycusthelp.net
Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.
For mailed responses, please address (see note):
MuckRock News
DEPT MR 81227
411A Highland Ave
Somerville, MA 02144-2516
PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On Oct. 25, 2019:
Subject: Public Records Request :: P009436-101619
Attachments:
PRA 9436 2nd extension letter.pdf (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQrvEiRqHQz6uedWfSFdwV578jf8hhkxAHLZ9WbvckVhXbj23pAZPWHO0U0Bgckuomqi4rUtwTY-2B-2FVAdozxmpy9hj5qMkWyns8YmyGMNPQjwSujE75Pv64lSYLA7cdgu5YM-3D_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgf6qFImUX-2FEsWU67ynIfZQPPLFNtSLjtKvuwI3t4DJ2Mjv9KNoqfpL5N4xyOq80BIzI-2FVdplbZb-2FoEVbXG2BJm4KXfMP7AMlBAI0EptvrCJ8ep65ZbjeOvyypF-2Bc-2B3mLEHPcbTRx3C-2BQHu2MSX10DWA58ibGW8vehRn2WQ0MpIWw-2FrW2NiAusOj3XHrODbbj3GMbAXTSXgLyODtzXjRVFZjIu0s0IHa9YtDX9OWf20wpObM2G3usrcdrRXtyLXLDgSKpHvzTpj8Fspq424KVU1qTzeVPfA9AyhBmHrGgEcmJwo6Kwjo5-2B-2FKdyQl9g2xLMA-3D-3D)

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From: Anonymous Person 10/25/2019

Subject: RE: California Public Records Act Request #P009436-101619 Email

Ref P009436-101619

** NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. **

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I am also making this offer in compromise:
- I will not file a complaint to the SOTF about the timeliness of your response if:
- SFPD publishes whatever records re: police misconduct that have so far been released under PC 832.7 to me or other requesters to their public website and provide me a URL, and will continue to do so until my request is completed.

I do not waive any other rights.

Please let me know if you agree.

Thanks,
Anonymous

From: San Francisco Police Department 11/08/2019

Subject: Public Records Request :: P009436-101619 Email

Attachments:
PRA 9436 3rd extension letter.pdf (https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQrvEiRqHQz6uedWfSFdwV57ux2Z3v3WBr5i-2BDpud3TWNWtVKR-2BWJQIt-2FtgN0yo10MPZ5jPsmRy-2FEkycpSv2bpGcZefrTS4OZ6ggntgNRX37V4V2Rtpy12AUqZ-2Fs8lP-2F-2BbU-3D_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgaaNh8s-2FE-2Brl0QF7ZRFdgSmiMHQypATz6WbAwmuBzqASMJ5JaAoJTxQ6giXyezX01RMZahLM129g2PpPp9DYWHgNBcofVL-2BYtYMlAqm1Soframpesgk0ytxCctCgFw4nYgDEQxI1dU1Ih77qHZQDoQgpXfMMsbiPE0ULBRbs4gRvJIEkJh-2BqDr9cLHs1Bx43Y-2FSxteOUTztEdm7DF-2BYd5xqfjgMyJ-2BOTW9Xwd9F16-2FSGxXoiSTRGX-2FG7TvlX7trT9wRZcF1hkDGeo76haCsWTceuyzn-2BXISlSnq-2F5f9sy4GPCkNdebaWclyaNPO6jYYQNA-3D-3D)

--- Please respond above this line ---

November 08, 2019
Via email requests@muckrock.com

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

RE: Public Records Request, dated October 16, 2019, Reference # P009436-101619

Dear Anonymous:

In response to your request, please see attached document(s).

Sincerely,
Lieutenant R. Andrew Cox #287
Officer in Charge
Risk Management - Legal Division
To monitor the progress or update this request please log into the SFPD Public Records Center.
(https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66ZMXJDGxIkhWqlkMGRI8K8Y4-

2BoObP4Hl0zB8wvvSoDxxL4DMNqcoNuU-2BDNqP9hLtg_IYcLe-2FsBaxpVrnweThVZTLrJlHg6avRfAZPcxChOOXzzFxE-2FbbftNjHqoyaXKS2OEdtvy-2FPH-2B1lGWzLGfc-2FQgaaNh8s-2FE-2Brl0QF7ZRFdgSmiMHQypATz6WbAwmuBzqASMJ5JaAoJTxQ6giXyezX01RMZahLM129g2PpPp9DYWHgNBcofVL-2BYtYMlAqm1Soframpesgk0ytxCctCgFw4nYgDEQxI1dU1Ih77qHZQDoQgpXfMMsbiPE0ULBRbs4gRvfxkVIvnHw4w5nLPBmO4idOQu0K9T94vI0hFcIKd4TQ65rgE1QbWANQkGBMuvmjRauxhn8habqhvMQkWzz1j2eTfsVuoVZdioh3iM8jjY89LrA81a9TTXA0vSTD7YHZkb9tpnaQ0dkOaWVABGsUKC2g-3D-3D)
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PRA209436203rd20extension20letter.pdf

Download

From: Anonymous Person 11/08/2019

Subject: RE: California Public Records Act Request #P009436-101619 Email

P009436-101619

You are required by law to provide me records in a rolling manner. There must be at least some records already released to other requesters under Penal Code §832.7(b)(1) that you could also release to me, in identical form, but you have refused to do so. Complaints will be filed Nov. 13 if records are not released in a rolling manner by then.

You also refused to provide me a quantity under SFAC 67.21(c) within 7 days.

In a prior case, SOTF required 7000 pages to be disclosed to be a reasonable amount by another agency. You have disclosed to me nothing in over one month.

SFPD will not be able to escape its obligations for public disclosure by indefinite delay.

Sincerely,
Anonymous

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158

LONDON N. BREED
MAYOR

WILLIAM SCOTT
CHIEF OF POLICE

October 17, 2019

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

RE: Public Records Request, dated October 16, 2019, Reference # P009436-101619

Dear Anonymous:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated October 16, 2019.

You requested, "*To Whom It May Concern: * * NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. * * This is an Oct. 4, 2019 Immediate Disclosure request under the San Francisco Sunshine Ordinance (Ordinance) and the California Public Records Act (CPRA) for the following items from SFPD. This is an also a SF Admin Code 67,21(c) request for 6 statements (one for each numbered request below) for the quantity (including even records you claim are exempt), form, and nature of records responsive to each request below -- which must be provided in 7 days with no extensions are permitted. I have a right to receive records by email (67.21(b)) and moreover I cannot be required to use your web portal which imposes Terms of Service conditions beyond the CPRA's requirements. Please email (attachments) all responsive records. We remind you of your obligation to provide electronic records in the format we request them if that format is easily generated (SFAC 67.21(1)). Therefore, e-mails exported in the .eml or .msg format with all non-exempt headers, metadata, attachments, etc. are our choice. Other Documents may be provided in text (not scanned) PDF format. However, if you choose to convert emails, for example, to PDF or printed format, to easily redact them, you must ensure that you have preserved the full content of the original email record (as specified in request "A"), which contains many detailed headers beyond the generally used From/To/Subject/Sent/etc. For chat apps, a screenshot or print-out is acceptable. If you use PDF, you must use properly redacted searchable or text pdfs. Don't use image PDFs to make it harder to analyze the records. Do not print out records and then re-scan them to PDF - simply redact them in Adobe Acrobat if needed for example. If you provide PDFs instead of original email files, only give a few of the headers or lacking attachments/images, and/or improperly withhold public records that exist on private accounts/devices you may be in violation of SF Admin Code and/or CPRA, and we may challenge your decision at the Sunshine Ordinance Task Force, Supervisor of Records, judicially, and/or via any other remedies available to us. You must justify all withholding. All justifications must be made with particularity (every redaction must be specifically referenced to a justification). Provide records in a rolling fashion. Do not wait for all records to be available. Please provide only those copies of records available without any fees. If you determine certain records would require fees, please instead provide the required free notice of which of those records are available and non-exempt for inspection in-person if we so choose. Please use email to respond. Every violation of the Sunshine Ordinance will be appealed --- please follow the Ordinance exactly as I am auditing your agency's public records regimen. I look forward to your immediate disclosure. 1.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(A)(i)-(ii) on govt. property. All reports,*

investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. 2.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(B)(i)-(ii) on govt. property. All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. 3.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(C) on govt. property. All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. 4.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(A)(i)-(ii) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. 5.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(B)(i)-(ii) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. 6.all records created, sent, or received from Jan. 1, 2019 to present, within the scope of Cal. Penal Code §832.7(b)(1)(C) on personal private property, subject to disclosure under City of San Jose v Superior Court (2017). All reports, investigations, text messages, chats, memos, email messages, evidence, statements, and every other record within the cited code section must be included. Sincerely, Anonymous"

The immediate disclosure process is for requests that are "simple, routine or otherwise readily answerable." Please see San Francisco Administrative Code section 67.25(a). Your request is not simple or routine. The maximum deadline for responding to a request applies.

SFPD will, of course, respond to your request in compliance with the law. But, as explained below, we will face time constraints in doing so.

Prior to January 1, 2019, California Penal Code Section 832.7 protected from public disclosure peace officer personnel records and the information in those records subject to certain narrow exceptions. But on September 30, 2018, Governor Brown signed into law SB 1421, which, effective January 1, 2019, amended Section 832.7 to create additional exceptions to the confidentiality for peace officer personnel records, thus making available to the public a broad range of records that previously could not be disclosed. These new exceptions relate to specific incidents or determinations, allowing for the public release of:

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- a sustained finding that an officer was dishonest directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another officer. (See Penal Code § 832.7(b)(1)(A)-(C).)

SFPD has received a number of requests for previously confidential peace officer records made public as a result of the passage of SB 1421. Despite our best efforts to respond promptly, a backlog has quickly developed and will remain for some time.

SFPD must balance its duty to respond to public records requests with its duty to perform the broad range of tasks performed by SFPD personnel that result in keeping the peace and maintaining safety in our communities. Responding to your request will be quite burdensome and time-consuming, especially when coupled with our duty also to respond to like public records requests from others. SFPD will not be able to respond within the customary time frame without unreasonably impinging on its ability to perform its other duties.

It is in this rare circumstance that we find it necessary to invoke a rule of reason to guide the timing of our response to your public records request. As the City Attorney has stated on pages 97-98 of the *Good Government Guide*, which is available on the City Attorney's website, the law recognizes that when there is a conflict between a department's performance of its wide range of duties, and its responsibilities under public records laws, reason demands flexibility in the timing of responses to requests. Under this rule and given the SFPD's other public obligations, we will not be able to devote an unlimited amount of staff time to your request and like requests. Nevertheless we intend to provide a complete response to your request, but it will take longer than ordinarily is the case.

Over time, we expect this backlog problem to recede, and expect to be able to move more quickly on requests such as yours, particularly if the records being sought have already been reviewed in order to respond to an earlier request. But we are not there yet. For now, we intend to provide records in response to your request, and other like requests, on a rolling basis. We will provide you with a brief update by Friday, October 25, 2019.

Please let me know if you have any questions pertaining to this letter, or any suggestions you might have that could expedite our response to your request.

If you have any questions, please contact Ofc. Jose Mora at 415-575-6700.

Sincerely,

Lieutenant R. Andrew Cox #287
Officer in Charge
Risk Management - Legal Division

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158

LONDON N. BREED
MAYOR

WILLIAM SCOTT
CHIEF OF POLICE

October 25, 2019

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

RE: Public Records Request, dated October 16, 2019, Reference # P009436-101619

Dear Anonymous:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated October 16, 2019. On October 17, 2019 the SFPD invoked the extension of time to respond to your request pursuant to Government Code Section 6253(c) because of the need to consult with another agency.

You requested, "*To Whom It May Concern: * * NOTE: this is a public mailbox, and all of your responses (including disclosed records) may be automatically and instantly available to the general public on the MuckRock.com service used to issue this request (though I am not a MuckRock representative). Redact your responses correctly because once you send them to us, there is no going back. * * This is an Oct. 4, 2019 Immediate Disclosure request under the San Francisco Sunshine Ordinance (Ordinance) and the California Public Records Act (CPRA) for the following items from SFPD. This is an also a SF Admin Code 67,21(c) request for 6 statements (one for each numbered request below) for the quantity (including even records you claim are exempt), form, and nature of records responsive to each request below -- which must be provided in 7 days with no extensions are permitted. I have a right to receive records by email (67.21(b)) and moreover I cannot be required to use your web portal which imposes Terms of Service conditions beyond the CPRA's requirements. Please email (attachments) all responsive records. We remind you of your obligation to provide electronic records in the format we request them if that format is easily generated (SFAC 67.21(1)). Therefore, e-mails exported in the .eml or .msg format with all non-exempt headers, metadata, attachments, etc. are our choice. Other Documents may be provided in text (not scanned) PDF format. However, if you choose to convert emails, for example, to PDF or printed format, to easily redact them, you must ensure that you have preserved the full content of the original email record (as specified in request "A"), which contains many detailed headers beyond the generally used From/To/Subject/Sent/etc. For chat apps, a screenshot or print-out is acceptable. If you use PDF, you must use properly redacted searchable or text pdfs. Don't use image PDFs to make it harder to analyze the records. Do not print out records and then re-scan them to PDF - simply redact them in Adobe Acrobat if needed for example. If you provide PDFs instead of original email files, only give a few of the headers or lacking attachments/images, and/or improperly withhold public records that exist on private accounts/devices you may be in violation of SF Admin Code and/or CPRA, and we may challenge your decision at the Sunshine Ordinance Task Force, Supervisor of Records, judicially, and/or via any other remedies available to us. You must justify all withholding. All justifications must be made with particularity (every redaction must be specifically referenced to a justification). Provide records in a rolling fashion. Do not wait for all records to be available. Please provide only those copies of records available without any fees. If you determine certain records*

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Sincerely,

Sgt. Victoria Sullivan #571

Lieutenant R. Andrew Cox #287
Officer in Charge
Risk Management - Legal Division

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158

LONDON N. BREED
MAYOR

WILLIAM SCOTT
CHIEF OF POLICE

November 8, 2019

Anonymous
DEPT MR 81227 411A Highland Ave
Somerville, MA 02144-2516

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Risk Management - Legal Division