

# SOTF 19103 - Supplemental documentation, and for DCA analysis

---

Sent: Friday, November 29, 2019 1:16 AM

To: SOTF, (BOS) [sotf@sfgov.org](mailto:sotf@sfgov.org)

CC: Leger, Cheryl (BOS) [cheryl.leger@sfgov.org](mailto:cheryl.leger@sfgov.org), [sotf@brucewolfe.net](mailto:sotf@brucewolfe.net) [sotf@brucewolfe.net](mailto:sotf@brucewolfe.net)

---

Ms. Leger- Please enter this email with inline images and PDF attachment into the SOTF 19103 public file.

SOTF,

I believe the Chair asked the Task Force's DCAs to do further analysis of SOTF 19103 re: *Times Mirror Co vs Superior Court (1991)*, however I think there was some confusion at the committee hearing. I will also present this add'l info at the full task force hearing. I would request that the SOTF DCAs consider this in their analysis.

## **Part 1**

The *Times Mirror Co vs Superior Court (1991)* case cited by the Supervisor of Records and Mr. Heckel in his letter to the SOTF in response to this complaint has been mis-construed.

Mr. Heckel's response letter stated (emphasis mine):

"That case related to a public records request for the Governor's daily calendar and **upheld exemptions from disclosure for calendar entries concerning future meetings of such executive government officials**, because information regarding the time, place and details of such meetings could jeopardize the security protections necessarily afforded to such officials."

This is an incorrect statement. *Times Mirror* never considered the "future meetings" of "executive government officials" - it solely considered a request for the Governor's past calendars. I challenge Respondents to show a citation within the case exempting future meetings OR applying the case to anyone other than the Governor. Furthermore, it never considered security procedures of police agencies, it was solely considering the safety of the Governor themselves AND the Governor's deliberative process privilege, which is precisely why it uses the balancing test (see below), and not 6254(f).

## **Part 2**

*Times Mirror*'s conclusion that the Governor's **past** calendars are exempt is as follows (pg. 12, Conclusion):

Accordingly, we are persuaded, on the instant record, that the public interest served by not disclosing the Governor's appointment calendars and schedules clearly and substantially outweighs the public interest in their disclosure. (§ 6255.)

This conclusion of the Supreme Court relies **solely** on Govt Code 6255 (the public interest balancing test). The Task Force and Respondents are prohibited from exempting information based on Gov Code 6255 (SFAC 67.24(g,i)). I cannot find any reference to Govt Code 6254(f), the exemption Respondents wish to use, anywhere in this case. Neither the Task Force, nor Respondents, may thus cite this case under the Sunshine Ordinance as a valid exemption case law. Even worse, part of the balancing test used by the Court (pg. 8-10) weighed the importance of the Governor's deliberative process as a balancing factor against disclosure - SFAC 67.24(h) also prohibits the deliberative process privilege exemption.

**Part 3**

The Respondents did not cite *Times Mirror* in their justification to the withholding to the Oct 4 IDR. Instead the Respondents cited *Times Mirror* in its response to the Task Force. Their response to us on Oct. 7 was solely GC 6254(f) and a "rule of reason analysis." Regardless, we know now at least part of the Oct. 21-28 calendar entries of the Mayor which were previously withheld in its entirety under Govt Code 6254(f). See the excerpt image below.

Are the words "Senior Staff Check In," "Bi-Weekly Meeting with Ken Rich," "Press Time," "Ed Reiskin (Staff: Andres Power," "Weekly Meeting with Police," "Jeff Cretan," or "Kanishka Cheng re: Commissions" *all* "security procedures" of a "local police agency"? Of course they are not - and the Task Force therefore must find the Respondents in violation of SFAC 67.26 by not minimizing withholding of future calendar/meeting entries.

20	21 9:00am Senior Staff Check In (Remote Conference Call) 3:30pm Bi-Weekly Meeting with Ken Rich (City Hall, Room	22 11:00am Press Time	23 11:00am Press Time 2:30pm Ed Reiskin (Staff: Andres Power, (City 4:00pm 4-5pm Weekly Meeting with Police	24 11:00am Press Time 1:30pm Jeff Cretan (City Hall, Room 200, MO ) 2:30pm Kanishka Cheng re: Commissions 2:30pm Mawuli	25 [REDACTED]	26
27	28	29 [REDACTED]	30 [REDACTED]	31 [REDACTED]	Nov 1	2

PropG, Mayor (MYR) 10 10/21/2019 11:47 AM

**NOTE: Nothing herein is legal, IT, or professional advice of any kind. The author disclaims all warranties, express or implied, including but not limited to all warranties of merchantability or fitness. In no event shall the author be liable for any special, direct, indirect, consequential, or any other damages whatsoever. The digital signature, if any, in this email is not an indication of a binding agreement or offer; it merely authenticates the sender. Please do not include any confidential information, as I intend that these communications with the City all be public records.**

Sincerely,

Anonymous complainant in SOTF 19103



Screen Shot 2019-11-29 at 12.14.51 AM.png  
209.57 KB



Times-Mirror.pdf  
264.53 KB