

IN THE SAN FRANCISCO
SUNSHINE ORDINANCE TASK FORCE

Anonymous

v.

Chief William Scott, Lt. R. Andrew Cox,
San Francisco Police Department

Supplement #1

Nov. 28, 2019

SOTF No.

19112

SUPPLEMENT #1 TO COMPLAINT

On Oct 23, I alleged Respondents violated SFAC 67.21, 67.26, and 67.27 in failing to respond correctly to an Oct. 8 IDR for Chief Scott's calendar records. SOTF noticed Respondents on or around Oct. 30, and on Nov. 5, Respondents responded to SOTF. Due to further disclosures by the Respondent, I further supplement my complaint below.

AMENDED ALLEGATIONS

This supplements, and does not replace, allegations in the Oct. 23 complaint.

A. All allegations re: failure to provide future calendar dates are maintained. I continue to dispute all blanket exemptions of meetings in the future. Future meetings were originally withheld using Admin Code 67.29-5(a), which is not an exemption at all. (SFAC 67.26, 67.27). If a calendar exists at the time of a request, it is a public record, and needs to be exempt in whole or in part under a CPRA mandatory or permissive provision. Remember the Sunshine Ordinance cannot create additional exemptions, it can only limit those of the CPRA.

B. Respondent admits a timeliness violation in paragraph 2 of their Nov. 5 response to the Task Force: "The SFPD takes responsibility for not providing a response to the requestor within the required time frame." The Task Force should find a timeliness violation without further argument.

C. In response to my complaint, Respondents provided in redacted form the non-Prop G calendars previously withheld in their entirety. Respondent claims a misunderstanding, but my initial request was clear: both Prop G and non-Prop G calendars were demanded, and it made specific reference to SOTF 19047 and the Sup. of Records letter of Sept. 6 regarding non-Prop G calendars. The non-Prop G (Outlook) calendar entries were previously withheld in their entirety, and were clearly public with only specific redactions, thus Respondents violated SFAC 67.26 for non-minimal withholding and/or SFAC 67.21 for providing an incomplete response. *See SOTF 19047, and Sup. of Records letter of Sept 6.*

D. In addition, they have also (after the filing of the complaint) provided lists of justifications (with clear reference to most, but not all, redactions). The following are examples of improper redactions or withholdings, in most cases where the law cited does not actually exempt the information withheld (SFAC 67.26/67.27), which should all be determined public parts of records and ordered disclosed. Furthermore, if you find that the information is exempt BUT Respondents used a false justification, that would still be a SFAC 67.26/67.27 violation, but you would not need to order it disclosed.

1. Once formerly-future dates had passed, entries were withheld/redacted using Admin Code 67.29-5(b) and Admin Code 67.29-5(e), which are not exemptions at all. Whatever records are being withheld under these must be produced.

Page numbers below refer to [linked] [Nov. 5 production entitled "P9438 - responsive 3.pdf"](#). Purported exemption reasons are taken from p. 1, of that document.

2. Pg. 39-41 - GC6254(f) - these redactions are completely wrong. I have received a copy of a similar record from the Mayor's Office/Sean Elsbernd as well, with far fewer redactions. On that basis, I assert that a portion of this redacted record is unlawfully withheld. I suspect a large portion of the redacted portion of record looks like **Exhibit A**, which is an excerpt from Elsbernd's similar, public record.
3. pp.12-13, GC6254(c) - Sept 30, 2019 - 3:30pm - names of employees at RSA and SF Travel
4. Pg. 17 - GC6254(c) has no relevance to this redaction mark
5. Pg. 18, 19 - GC6254(c) cannot exempt Chief Scott's government email address
6. Pg. 25 - GC6254(f) - how is the title of this meeting a security procedure, intelligence or investigation information? "Law enforcement sensitive" is not the actual exemption in the law.
7. Pg. 27 - GC6254(c) and 6254(f) - there are multiple redactions on this page. Which redaction has which justification? Also, I challenge the redactions - this is a business trying to sell or work with SFPD on something, not a personal issue - it should be released.
8. Pg. 36-37 - GC6254(c) and 6254(f) - there are multiple redactions on this page. Which redaction has which justification?
9. Pg. 36 - 9am redacted without any justification
10. Pg. 57 - community barbeque information redacted as 6254(f) law enforcement sensitive. Is this a security procedure, investigation, or intelligence information?
11. Pg. 63-71 - all redactions challenged. Names and email addresses of government employees are not secret. Names of businesses and employees doing business with the city are not secret. Descriptions of Fleet Week are not secret.
12. Pg. 78-79 - GC6254(c), GC6254(f), PC 832.7. there are multiple redactions on this page. Which redaction has which justification? All redactions challenged. Various email bodies are inside this meeting entry, all government employee names/email addresses, and the topics of discussion should be unredacted.
13. Pg. 94-96 - GC6254(c) and 6254(f) - there are multiple redactions on this page. Which redaction has which justification? Regardless, Govt email addresses should be provided for AGZoneMeeting and Genesis Coronado. Govt office phone number for Coronado must also be provided. The full Agenda of this meeting between public officials should also be provided - 2 lines were redacted.

14. Pg. 102 - GC6254(c) - this is a public official (Commissioner Taylor) apparently using their personal email address for government business. See Govt Code 6254.3(b)(1) for special provisions re: disclosure of such email address.
15. Pg. 113 - Individual record entries for each of the three 10am meetings were withheld without justification. If these records were deleted by SFPD after I made my request but before they produced records for me, we will further allege an incomplete response, which can no longer be cured. Whether Chief Scott participated in a meeting is irrelevant to whether a public record exists. The record clearly exists since it is on his summary view and must be disclosed.
16. Pg. 118 - this 4pm meeting has no justifications for any redactions. All the redactions are unlawful and must be disclosed.
17. Pg. 124 - Individual record entries for each of the 10am, 1pm, and 3pm meetings were withheld without justification. If these records were deleted by SFPD after I made my request but before they produced records for me, we will further allege an incomplete response, which can no longer be cured. Whether Chief Scott participated in a meeting is irrelevant to whether a public record exists. The record clearly exists since it is on his summary view and must be disclosed.

PROPOSED COMPROMISE

I will withdraw¹ the allegation of 67.21 violation of this complaint 19112, if Respondent Chief Scott agrees in a letter signed by him, to myself and the SOTF, and copied to the Police Commission, published² in the public record, on behalf of himself and the SFPD that:

- (1) all of Scott's and SFPD's calendar records, for dates in the future and/or past, whether Prop G (SFAC 67.29-5) or non-Prop G, are public records and must be disclosed if such records exist at the time of a records request, except for redactions for explicitly exempt information, and
- (2) disclosure of Scott's Prop G (SFAC 67.29-5) calendars cannot be delayed for 3 business days until after the date of the calendar entry, *if such records already exist at the time of a records request.*

The letter must be from and signed by Chief Scott himself as it is his calendars at issue. Unfortunately, the 67.26/67.27 allegations remain because some of the records produced have been redacted using exemptions that do not apply to the information redacted (see Part D above). However, if the above letter is provided and Respondents fix the redactions in Part D to my satisfaction, I can withdraw the entire complaint.

Respectfully submitted,
ANONYMOUS
Complainant/Petitioner

¹ I do not agree to waive any other rights including in future or other complaints before SOTF, or any other rights whatsoever, including but not limited to before the Supervisor of Records or a court of law.

² Subject to online publication in the Commission's agenda documents and in the SOTF's agenda documents

ATTACHMENT 1

Original URLs published by Respondents:

Nov. 5:

P9438 - 2019.11.05 sfpd response.pdf

(https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQqhE8SBIByC-2FmFUDCw9sWTf66pYiINKCvKV0U6FFX58o49Fr35IVshHfokb5IyznUMd7gSpqvaJQm8L7X385fUK9zgTXrGdNn-2BuG7l7Y0IjEXUKaXMJEKFBzY31A2nhsU-3D_xvw-2Fq5Qf9Z0xuMyoz7A9OyA4BnKd7iiC2u2QRAa4wUP8BClCPavJGuOXm5ue-2BZ9mxtkQgZo905zN2pdo6HGtL2TWYm8b0mRtJCdW-2FRlrHQts-2BcQbY1fHOUKD5ixYyhcVQ9ESSap-2B605GWUXTJ2OTDWSYRlSc2sO4oeH9fuT1X8kj1Z7tXYw-2Fg2SBDybASaQEY8328iQnWtp17pYzE6gt6GLtTRLrVJ5cOjhYZkcMl668hLbMPeS8BD2yd-2F-2BBobvFpCZEn7aIrVpYInbnaH9rtUpxe8ZKYIbj8k-2FAD176Z-2BxuPX39qMtH49Z7XJfCGCJuI9PPWaB8ZxiqQjbxhkl8Aaaei04xBpj6PgHxLJi-2B-2FKjCNR12Qy7ILpmpU5X82cAjfAbTicP9dLa3zSOgPPDA-3D-3D)

P9438 - responsive 3.pdf

(https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQqhE8SBIByC-2FmFUDCw9sWT7SfeNn0s1-2Fhci7FTJkUoMC-2FvJn5lWk-2BAIU-2F6ImeMmMHsLb1xwMx21nJgOonuoHh1W3IQqc663CVRc4H2CN9HNL1Luo2hFs7vHrC25iKomNI-3D_xvw-2Fq5Qf9Z0xuMyoz7A9OyA4BnKd7iiC2u2QRAa4wUP8BClCPavJGuOXm5ue-2BZ9mxtkQgZo905zN2pdo6HGtL2TWYm8b0mRtJCdW-2FRlrHQts-2BcQbY1fHOUKD5ixYyhcVQ9ESSap-2B605GWUXTJ2OTDWSYRlSc2sO4oeH9fuT1X8kj1Z7tXYw-2Fg2SBDybASaQEY8328iQnWtp17pYzE6gt6GLtTRLrVJ5cOjhYZkcMl668hLbMPeS8BD2yd-2F-2BBobv7uwT47Am6mscIFsWOWjq1pmUXowbBPltA7Y7EsQ5orGBLiXfEjTXEiT22QfVSDh9I7twgf4XHqoI8RSz6juOKqwFehgUl6OmX9D2-2FJRWUJJNq56-2Fors00ki1hY-2BlS WKylXP8yUqLbOL0KK-2F5OvE0xQ-3D-3D)

Oct. 29:

P9438 - 2019.10.29 sfpd response.pdf

(https://u8387795.ct.sendgrid.net/wf/click?upn=Ow1KccipsoIsnXbuEgm-2FN-2B3KuyZ5YHnuXVUop6SBUj6Zl2gPWQsh2hjE0JdlwH66QdMJzrpYUZ4H0oDUn9cqKrPktPrLi0CPeV6JhPmxHQqhE8SBIByC-2FmFUDCw9sWTbNZ8WkaSZR9PFq0qkkrIPHL5T3FfZSakilL8Rp77IwVaxWrVE5Dnl-2F4NCIuG0gpR8bDzMVfhHGkgy8L0r-2Fc-2Fs5lxV8vAPMx5OVbSmEsi030-3D_xvw-2Fq5Qf9Z0xuMyoz7A9OyA4BnKd7iiC2u2QRAa4wUP8BClCPavJGuOXm5ue-2BZ9mxtkQgZo905zN2pdo6HGtL5DePgsBiNfE8EGSUbQ08JhB192tJS A4Rr5SWLaIMR6CSZ3yDDkUB1nXkfMGmmBU-2Fj3WW-2FevNBU4hnbVJtGiEpE-2FQcmMhP3mjhl9BsP4yvxHw-2FUxnvGF26A.Jxh85ZxXmuqq5-2FvAcU7swuM-2FmdQEtmMsvCvOmYlcVwUCoVED1prO2WPLHhET3WoxQeaqaOGbp1mX83gfOKo7eHLrm9wr-2BvlcFGvTeQOoNf0dSPYpYBQjv5FSDi9108OOihMH2PyUyKNB5X1yLMYnu-2BSVOBpnz65uNeTBL8Hi-2FehPLvAmIvwD1w0Y-2F1MQ3mSr9APlz3m1g-3D-3D)

P9438 - responsive 2_10.21 and 10.29.19.pdf

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Oct. 23:

P9438 - 2019.10.23 sfpd response.pdf

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P9438 - responsive 1_Calendar_09.30to10.07.19.pdf

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Oct. 16:

P9438 - 2019.10.16 sfpd response.pdf

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EXHIBIT A

Excerpt of unredacted calendar entry from Sean Elsbernd public record released on Nov. 27. Note the unredacted recurrence and text; compare to pp 39-41 of SFPD Nov. 5 production.

Fay, Abigail (MYR)

Subject: HSOC Principals Policy Group
Location: City Hall, Room 201

Start: Thu 10/31/2019 11:45 AM
End: Thu 10/31/2019 12:30 PM

Recurrence: Weekly
Recurrence Pattern: Occurs on Thursday every other week from 11:45 AM to 12:30 PM effective 11/29/2018 until 12/19/2019.

Meeting Status: Accepted

Organizer: Carroll, Maryellen (DEM)
Required Attendees: Elsbernd, Sean (MYR); Wagner, Greg (DPH); Pam Tyson - DEM (pamela.tyson@sfgov.org); Thomas, Kenya (DPH); Kelly, Naomi (ADM); Scott, William (POL); Simpliciano, Sophia (MTA); Rydstrom, Todd (CON); Rosenfield, Ben (CON); Nuru, Mohammed (DPW); Nicholson, Jeanine (FIR); DeGuzman, Faye (DPH); Marcaida, Michelle (MYR); Hennessy, Vicki (SHF); Executive, DEM (DEM); Forbes, Elaine (PRT); Alfaro, Nancy (ADM); Kositsky, Jeff (HOM); Carr, Rowena (POL); Lane, Maura (CON); Maguire, Tom (MTA); Saenz, Johanna (SHF) (johanna.saenz@sfgov.org); Leu, Lihmeei (ADM); Hervey, Myisha (DPW); Ma, Annie (HOM)
Optional Attendees: Carter, Tom (PRT); Reilly, Joseph (PRT)

HSOC Principals,

This calendar invitation is for the HSOC Principals Policy Group. This smaller group is intended to provide space for candid conversation between principals regarding HSOC. If you are unable to attend, please send a designated representative in your place that is able to speak on behalf of your agency. Otherwise, this meeting will remain principals only.

Thank you,
Mary Ellen

HSOC Principals Policy Group Meetings (2018 – December 2019)

- Thursday November 29, 2018
- Thursday December 13, 2018
- Thursday December 27, 2018
- Thursday January 10, 2019
- Thursday January 24, 2019
- Thursday February 7, 2019
- Thursday February 21, 2019
- Thursday March 7, 2019
- Thursday March 21, 2019
- Thursday April 4, 2019
- Thursday April 18, 2019
- Thursday May 2, 2019
- Thursday May 16, 2019
- Thursday May 30, 2019

Thursday, June 13, 2019
Thursday, June 27, 2019
Thursday, July 11, 2019
Thursday, July 25, 2019
Thursday, August 8, 2019
Thursday, August 22, 2019
Thursday, September 5, 2019
Thursday, September 19, 2019
Thursday, October 3, 2019
Thursday, October 17, 2019
Thursday, October 31, 2019
Thursday, November 14, 2019
~~Thursday, November 28, 2019~~ – CANCELLED DUE TO THANKSGIVING HOLIDAY
Thursday, December 12, 2019
~~Thursday, December 26, 2019~~ – CANCELLED DUE TO CHRISTMAS HOLIDAY