

Anonymous

83876-31149286@requests.muckrock.com



December 23, 2019

Supervisor of Records
San Francisco, CA
supervisor.records@sfcityatty.org

SUBJECT: Request #83876 / DPA - SB 1421 / Petition #2

Supervisor of Records,

This is a new SFAC 67.21(d) petition for written determination that parts of specific records are public and an order for their disclosure. We previously sent a DPA-related petition on Dec. 18, 2019 and this is a distinct petition that does not replace the prior one and is about distinct records. On December 23, 2019, Stephanie Wargo-Wilson of the Department of Police Accountability published online on MuckRock.com a record in DPA's continuing rolling response to our request¹ of Nov. 28, 2019:

| | | |
|---|--|------------|
| From: Department Of Police Accountability | | 12/23/2019 |
| Subject: None | | Web |
| Please see the two attachments. | | |
|  | 12_23_201920MuckRock20Disclosure20Letter20-200441-1220-20MJPP20Sww.pdf | |
| | Download | |
|  | Prepared20for20Production20-200441-12.pdf | |
| | Download | |

¹ 1) IMMEDIATE DISCLOSURE: all responsive records DPA has already provided under SB 1421 to any other requestor. Since you should not redact more information for me than you have provided any other member of the public (Gov Code 6254.5), you should be able to immediately provide these.

2) REGULAR DISCLOSURE: every record retained, owned, prepared, or used by DPA of: all records of officer's discharge of a firearm at a person, all records of an officer's use of force that results in death or great bodily injury, sustained findings of officer's sexual assault of a member of the public, sustained findings of officer's dishonesty that are disclosable under DB 1421 (*sic*). This is of course a very large request, and you may provide rolling responses. You stated in a letter (https://sfgov.org/sunshine/sites/default/files/sotf_120419_item12.pdf, page 12) that others have made similar expansive requests and I expect you to treat me with no less priority than anyone else. Please note, I expect you to redact these records in accordance with the Sunshine Ordinance - and you must justify each and every redaction or withholding with a clear reference, such as a footnote (SFAC 67.26), to a statute or case law (SFAC 67.27). If you provide only a general list of justifications, I will appeal, and you will eventually have to do all of the redaction work again as other City agencies have had to do. (For example, consider the functionality of Adobe Acrobat that allows you to put a redaction code in every redaction.) Please do not destroy any records during the pendency of my request or appeals. All records must be provided in their original electronic record, or .EML/.MSG formats, and with all metadata and headers. Please perform record production correctly the first time, as appeals and Orders from Court, SOTF, or Sup. of Records, will be quite time-consuming to have to re do.

This response is one of many rolling responses to our request #2 in the footnote above, and is DPA's investigation record "SF DPA - 0441-12". DPA published the record to:

https://cdn.muckrock.com/outbound_request_attachments/DepartmentOfPoliceAccountability/83876/Prepared20for20Production20-200441-12.pdf

and a letter to:

https://cdn.muckrock.com/outbound_request_attachments/DepartmentOfPoliceAccountability/83876/12_23_201920MuckRock20Disclosure20Letter20-200441-1220-20MJPP20SWW.pdf

which I have not attached due to the large size of the files, but which I will describe as Exhibit A and Exhibit B respectively and are incorporated by reference herein.

Because:

- the withholding of information has been justified in writing using a completely generic reason "based on subdivisions of Penal Code Section 832.7 that mandate and allow redactions of certain information listed in the code section" (Exhibit B, para 1) which does not actually meet the requirement that it be a "specific permissive exemption" in the CPRA or elsewhere or "specific statutory authority" prohibiting disclosure (SFAC 67.27) since PC 832.7 has, as DPA states, numerous subdivisions, and
- not all of the redactions are in fact being withheld based on any subdivisions of PC 832.7 as some are clearly being redacted for the privacy of the OCC complainant (just as an example),
- none of the "masking" of purportedly exempt information (aka redactions) are "keyed by footnote[s] or other clear reference[s]" to justifications (SFAC 67.26),

therefore, I ask for the following parts of Exhibit A to be deemed public in writing, and ordered disclosed.

1. All redactions are unlawful due to violations of SFAC 67.26, 67.27 and must be unredacted (i.e. disclosed). While I am aware you have no jurisdiction to force DPA to justify their redactions correctly pursuant to SFAC 67.26/67.27, if they did, this entire process would be much easier. I urge you or someone in your office to speak to DPA about their Sunshine process.
2. It is entirely unknown which records in investigation "SF DPA - 0441-12" were deemed exempt or withheld. No justification for withholding entire records was provided, so all withheld records (if any) should be deemed public and disclosable.
3. Because you have in the past requested examples (though I do not believe I have to provide them), I also provide this incomplete list of examples of redactions that are unlawful since they have no justifications. All references are to page numbers in Exhibit A. If a page is listed without further info, all redactions on that page are challenged. Redactions are numbered from top to bottom, left to right.
 - a. Pg 1, form Items 5 and 9
 - b. Pg 5, redactions 2, 3, 5, 6
 - c. Pg 7, form items 13, 14, 19, and last redaction
 - d. Pg 8, form items 13, 14, 19, and last redaction

- e. Pg 12, all redactions except the “work address”
- f. Pg 13, the fully hidden row on “Cited 1” - we can’t even see the names of the fields to challenge their redaction
- g. Pg 19, all redactions, we can’t even see the names of the fields to challenge their redaction
- h. Pg 21-25 - all photos must be reproduced so as to not withhold any information. These are completely illegible. (If DPA possesses no better copies, then there is nothing better to produce).
- i. Case numbers, incident numbers, report numbers, and similar must be disclosed. It is unknown what exemption these could possibly be exempt under for long-closed investigations.
- j. Pg. 34 - all redactions, we can’t even see the names of the fields to challenge their redaction
- k. Pg. 68-72 - all redactions
- l. Pg 77-81 - all redactions
- m. Pg 92 - bottom redaction
- n. Pg 99-103 - all redactions

NOTE: Please be certain you have properly redacted all of your responses. Once you send them to us, there is no going back. The email address sending this request is a publicly-viewable mailbox. All of your responses (including all responsive records) may be instantly and automatically available to the public online via the MuckRock.com FOIA service used to issue this request (though the requester is an anonymous user, not a representative of MuckRock). 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 disclosable public records.

Sincerely,

ANONYMOUS
Requestor/Petitioner