



DENNIS J. HERRERA
City Attorney

Direct Dial: (415) 554-4700
Email: supervisor.records@sfcityattorney.org

October 23, 2020

Sent via email (88199-65424898@requests.muckrock.com)

Re: Petition to Supervisor of Records

To Whom It May Concern:

This letter responds to your petition to the Supervisor of Records concerning your requests to the San Francisco Police Department ("SFPD") dated February 16, 2020 (P011148-022520), and April 3, 2020 (P011562-040320), seeking messages exchanged via text and other messaging platforms between Chief of Police William Scott and Mayor London Breed. You filed a petition with the Supervisor of Records dated April 14, 2020, contesting SFPD's responses to these two requests, and on July 6, 2020, we received your amended petition to further challenge SFPD's failure to provide a timely response to a June 3, 2020, request (P012129-060320). The portion of your petition challenging SFPD's failure to provide a timely response to the June 3, 2020, request is outside the jurisdiction of the Supervisor of Records under Section 67.21(d) of the Administrative Code, so will not be addressed here.

The remaining elements of your petition challenge SFPD's responses to the February 16, 2020, and April 3, 2020, requests, asserting that SFPD improperly redacted personally identifying information for COVID-19 positive individuals referenced in messages, improperly redacted information regarding locations under investigation by the SFPD, improperly withheld the identities of certain message recipients, and improperly withheld media and other attachments to responsive messages.

We have reviewed unredacted versions of the messages at issue and find that SFPD appropriately redacted identifying information regarding COVID-19 positive individuals discussed in responsive messages and location information relating to SFPD investigations. We are unable to reach a determination regarding your claim that SFPD improperly failed to identify certain individuals included on responsive messages, as SFPD has indicated that the identities associated with the relevant phone numbers are unknown to them. We understand that the images attached to responsive messages have now been disclosed (with SFPD's response to your April 3, 2020, request, number P011562-040320), so that portion of the petition is moot.

Redactions of Identifying Information Regarding COVID-19 Positive Individuals

Your petition challenges redactions in the body of messages exchanged on March 23, 2020, and March 24, 2020 (at page 7 of SFPD's response to your February 16, 2020, request, number P011148-022520). The redacted information in these messages is all personally identifying information regarding SFPD employees identified as COVID-19 positive. This information is properly redacted on the basis of Government Code sections 6254(c) and (k), Article I, Section 1 of the California Constitution, Evidence Code 1040, and Penal Code sections 832.8(a)(2) and (a)(6).

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Redactions of Location Information Relating to SFPD Investigations

Your petition challenges redactions, in messages exchanged between Chief Scott and members of the Mayor's office, various information regarding law enforcement complaints and investigations, including identifying information for complainants, and details regarding locations under investigation by the SFPD. This information is properly redacted on the basis of Government Code sections 6254(c) and (f), Article I, Section 1 of the California Constitution, and Evidence Code 1040.

Failure to Disclose the Identity of All Participants in Communications

Your petition challenges SFPD's failure to disclose the identities of certain recipients of responsive messages, and SFPD's labeling of these unidentified recipients as "unknown." As SFPD has indicated the identities of these undisclosed recipients are unknown, we are unable to make a determination as to whether or not these recipients' identities were properly withheld.

Failure to Disclose Image Files and Other Message Attachments

Your petition challenges SFPD's failure to disclose images attached to text messages responsive to your February 16, 2020, request, number P011148-022520. We understand that SFPD has disclosed all such text messages with its response to your April 3, 2020, request, number P011562-040320, so we find that this aspect of the petition is now moot.

For the reasons stated above, your petition is denied.

Very truly yours,

DENNIS J. HERRERA
City Attorney

/s/ Sarah A. Crowley

SARAH A. CROWLEY
Deputy City Attorney