File No.12005

SOTF Item No. 9
CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force — Date: May 2, 2012

Compliance and Amendments Committee — Date: _____

CAC/SOTF

☐	☒	**Memo**
☐	☒	**Complaint**
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OTHER

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Completed by: Andrea Ausberry **Date** April 25, 2012
Completed by: _____ **Date** _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

JERRY THREET
Deputy City Attorney

Direct Dial: (415) 554-3914
Email: jerry.threet@sfgov.org

MEMORANDUM

TO: Sunshine Task Force

FROM: Jerry Threet
Deputy City Attorney

DATE: March 22, 2012

RE: *Complaint No. 12005, Anonymous v. Municipal Transportation Agency ("MTA")*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

The anonymous complainant ("Anonymous ") alleges that the Municipal Transportation Agency ("MTA") violated public records laws by failing to adequately respond to their October 26, 2011 Immediate Disclosure Request ("IDR") for Muni camera footage pertaining to the intersection of 3d Street and Oakdale Avenue from July 16, 2011.

COMPLAINANT FILES COMPLAINT:

On January 9, 2012, Anonymous filed this complaint against MTA, alleging that Caroline Celaya of MTA failed to respond to the IDR within 24 hours and that MTA never produced the requested records.

JURISDICTION

MTA is a City department subject to the provisions of the Sunshine Ordinance. The Department does not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.21 governs the process for gaining access to public records.
- Section 67.25 governs the immediacy of response.
- Section 67.26 governs the withholding of records.
- Section 67.27 governs the written justifications for withholding of records.

Section 6250 et seq. of Cal. Gov't Code (PRA)

- Section 6253 governs time limits for responding to public records requests.
- Section 6254(f) governs exemption from disclosure for law enforcement investigative files and related records.

APPLICABLE CASE LAW:

See cases cited in discussion, below

MEMORANDUM

TO: Sunshine Task Force
DATE: March 22, 2012
PAGE: 2
RE: ***Complaint No. 12005, Anonymous v. MTA***

ISSUES TO BE DETERMINED

Uncontested Facts: Anonymous alleges that on October 25, 2011, they personally delivered to Caroline Celeya, MTA, and IDR requesting Muni camera footage pertaining to the intersection of 3d Street and Oakdale Avenue on July 16, 2011. Anonymous further alleges that, as of January 9, 2012, MTA still had not communicated with them or released the records requested by the IDR.

Ms. Celaya responds that MTA did respond the day after the IDR was received, on October 26, 2011. MTA's response further alleges that the specific records requested were: 1) "camera footage from the T-Light Rail MUNI train that was present at 3rd Street and Oakdale Avenue between 4:20 p.m. and 4:55 p.m. on July 16, 201" and 2) "surveillance camera footage from the three municipal cameras at the intersection of 3rd Street and Oakdale Avenue on the date July 16, 2011 for the time interval of 4:30 pm to 5:00 pm."

MTA states that it responded by letter on October 26, 2011 asserting an exemption to disclosure for the camera footage under Government Code section 6254(f) and Ordinance section 67.24(d). It further states that the letter was returned on November 7, 2011 with an insufficient address sticker, at which time MTA sought an email address from the complainant by calling the telephone number provided and then sent the letter to that email address.

MTA asserts that because the camera footage requested by the IDR was provided to a law enforcement agency for the purposes of an ongoing criminal investigation, MTA is not required to disclose that footage in response to the IDR. MTA further asserts that it need only provide the requested footage once the District Attorney or a court determines that a prosecution will not be sought of once the statute of limitations for filing charges has expired.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- What was the purpose for which the cameras on the T-Light rail train were installed?
- What was the purpose for which the three municipal cameras located at 3rd Street and Oakdale Avenue were installed?
- Does MTA ordinarily maintain the cameras on the T-Light rail train and maintain custody of the footage recorded by that camera?
- Does MTA ordinarily maintain the three municipal cameras located at 3rd Street and Oakdale Avenue and maintain custody of the footage recorded by that camera?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Did the MTA violate the public records laws by failing to disclose the footage requested by the IDR from these cameras?

DISCUSSION

This discussion addresses the argument by MTA that it may withhold the camera recordings requested by Anonymous on the grounds that they have been provided to a law enforcement agency to assist in their criminal investigation. MTA makes this claim under Government Code section 6254 (f) and S.F. Administrative Code section 67.24(d). Section

6254(f) of the Government Code makes certain records related to law enforcement investigations exempt from disclosure, even though they may otherwise qualify as public records. Section 67.24(d) governs disclosure of records related to law enforcement investigations once an investigation is closed.

Section 6254 (f) exempts from disclosure two categories of records: 1) "records of . . . investigations conducted by . . . [a] local police agency" and 2) "investigatory . . . files compiled by any . . . local agency for correctional, law enforcement, or licensing purposes." See *Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1068. The first category, records of an investigation conducted by law enforcement, are exempt without regard for whether the prospect of enforcement proceedings are definite. *Haynie, supra,* 26 Cal.4th at 1069. The second category, investigatory files compiled by a local agency for law enforcement purposes, is exempt from disclosure only if the "prospect of enforcement proceedings [by the local agency that compiled the records] is concrete and definite." *Uribe v. Howie* (1971) 19 Cal.App.3d 194, 212. If the primary purpose of compiling the records is not law enforcement and they were not being used for those purposes at the time of the request, then they are not exempt from disclosure. *Id*; see also *Register Division of Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 904 [holding sheriff's investigation report on throat slashing of prisoner in county jail not exempt from disclosure under section 6254 (f) because it was conducted primarily to determine the validity of a tort claim against the county.]

Based on the allegations of the parties, it appears that the records requested do not fall under the first category of records exempted by section 6254 (f), as they do not appear to be records of an investigation conducted by SFPD. Therefore, the question is whether the camera footage requested by the IDR constitutes investigatory files compiled by a local agency for law enforcement purposes, and thus falls under the second category of records exempted by section 6254 (f). It is unclear from the facts whether the records would qualify under the second category. This determination would depend in large part on the primary purpose for which the camera footage requested was recorded. Assuming that the footage in question is maintained and held in custody by MTA, for purposes related to the efficient operation of transit services, then it is questionable whether the exemption would apply. Assuming instead, however, that the footage is recorded for the purpose of investigating crimes that may occur on or around MTA vehicles, then it may qualify for the exemption if at the time of recording there was a "concrete and definite" prospect of enforcement proceedings related to events recorded in the footage.

Section 67.24(d) applies to govern disclosure where records pertain to investigations, arrests and other law enforcement activity, generally the same category as those subject to Section 6254 (f). Section 67.24(d) does not appear to create any exemptions to disclosure, but only to govern the circumstance under which records that are subject to the exemption of Section 6254(f) must eventually be disclosed.

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

CITY AND COUNTY OF SAN FRANCISCO OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Sunshine Task Force
DATE: March 22, 2012
PAGE: 4
RE: ***Complaint No. 12005, Anonymous v. MTA***

CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)

SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

. . .

SEC. 67.24. PUBLIC INFORMATION THAT MUST BE DISCLOSED.

Notwithstanding a department's legal discretion to withhold certain information under the California Public Records Act, ***the following policies shall govern*** specific types of documents and information and shall provide enhanced rights of public access to information and records:

(d) Law Enforcement Information.

The District Attorney, Chief of Police, and Sheriff are encouraged to cooperate with the press and other members of the public in allowing access to local records pertaining to investigations, arrests, and other law enforcement activity. However, no provision of this ordinance is intended to abrogate or interfere with the constitutional and statutory power and duties of the District Attorney and Sheriff as interpreted under Government Code sectio 25303, or other applicable state law or judicial decision. Records pertaining to any ***investigation, arrest or other law enforcement activity*** shall be disclosed to the public once the District Attorney or court determines that a prosecution will not be sought against the subject involved, or once the statute of limitations for filing charges has expired, whichever occurs first. Notwithstanding the occurrence of any such event, individual items of information in the following categories may be segregated and withheld if, on the particular facts, the public interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

(1) The names of juvenile witnesses (whose identities may nevertheless be indicated by substituting a number or alphabetical letter for each individual interviewed);
(2) Personal or otherwise private information related to or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
(3) The identity of a confidential source;
(4) Secret investigative techniques or procedures;
(5) Information whose disclosure would endanger law enforcement personnel; or
(6) Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is concrete and definite.

This subdivision shall not exempt from disclosure any portion of any record of a concluded inspection or enforcement action by an officer or department responsible for regulatory protection of the public health, safety, or welfare.

SEC. 67.25. IMMEDIACY OF RESPONSE.

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.
(c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.
(d) Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this article.

SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.
No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

SEC. 67.27. JUSTIFICATION OF WITHHOLDING.
Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
(b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
(d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)

SECTION 6253
(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) **Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records.** The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

SECTION 6254. EXEMPTION OF PARTICULAR RECORDS
(f) ***Records of complaints to, or investigations conducted by***, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and ***any state or local police agency, or any investigatory or security files compiled by***

any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

(2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a

scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: SFMTA

Name of individual contacted at Department or Commission: Caroline Celaya

☑ Alleged violation public records access
☐ Alleged violation of public meeting. Date of meeting: _____

Sunshine Ordinance Section: 67.25 (a)
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

On October 26, 2011 after multiple attempts I was able to serve (in person) Ms. Celaya with an immediate disclosure request for Muni cameras footage pertaining to the intersection of 3rd St + Oakdale Ave. on July 16th of 2011. continued →

Do you want a public hearing before the Sunshine Ordinance Task Force? ☑ yes ☐ no
Do you also want a pre-hearing conference before the Complaint Committee? ☑ yes ☐ no

(*Optional*)[1]
Name: [redacted] Address: [redacted] 16th St. Suite #[redacted] (94103)
Telephone No. 415-[redacted] E-Mail Address: [redacted]@gmail.com
Date: 01/09/2012

I request confidentiality of my personal information. ☑ yes ☐ no

[1] NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

No response was rendered from Ms. Celaya as of a week later. The ~~sho~~ ordinance requires a 24-hour response, or a legal justification for delay. I attempted to follow up multiple times by telephone and with in-person visits to the SFMTA office. As of the date of this complaint (01/09/2012) in contravention of San Francisco law, Ms. Celaya has not communicated with me nor released the requested records. I seek immediate resolution of this matter by the appropriate organs of government.

[redacted]

Idriss Stelley Foundation
2940 16th St. Suite # 209
San Francisco, CA 94103

[redacted]

Celaya, Caroline

From: Celaya, Caroline
Sent: Thursday, November 10, 2011 4:40 PM
To: '[redacted]@gmail.com'
Subject: [redacted] [redacted] 10.26.11.pdf
Attachments: [redacted], [redacted] 10.26.11.pdf

Per your request.

Caroline

Caroline Celaya
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

October 26, 2011

[redacted]
Co-Director
Education Not Incarceration/Idriss Stelley Foundation
1940 – 16th Street, Suite #209
San Francisco, CA 94103

RE: Immediate Disclosure Request dated October 25, 2011

Dear Mr. Miller:

On behalf of the San Francisco Municipal Transportation Agency (the "SFMTA"), this letter responds to your public records request dated October 25, 2011.

Records Requested

You have requested the surveillance camera footage from the T-Light Rail MUNI train that was present at 3rd St. + Oakdale Ave. between 4:20pm and 4:55pm on July 16, 2011. You have also requested the surveillance camera footage from the three municipal cameras at the intersection of 3rd st. and Oakdale Ave. on the date of July 16, 2011 for the time interval of 4:30pm to 5:00pm.

Exemptions and Privileges

The video you have requested have been provided to a law enforcement agency for the purposes of an investigation. The SFMTA is not required to disclose videos submitted to law enforcement agencies in connection with ongoing criminal investigations. (California Government Code section 6254(f)). The Sunshine Ordinance recognizes the need to keep records related to pending investigations confidential. San Francisco Administrative Code Section 67.24(d) provides that disclosure of "records pertaining to any investigation, arrest, or other law enforcement activity" is only required once the District Attorney or court determines that a prosecution will not be sought or once the statute of limitations for filing charges has expired. As a result, we are unable to provide you with the videos you seek at this time.

Please do not hesitate to contact the Sunshine Request line at 415-701-4670 or sfmtasunshinerequests@sfmta.com if you have any questions.

Sincerely,

Caroline Celaya

February 3, 2012

Hope Johnson
Chair, Sunshine Ordinance Task Force
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Complaint against the Municipal Transportation Agency
Complaint No. 12005

Dear Ms. Johnson:

I am writing in response to complaint #12005 filed by Anonymous. Anonymous complains that the San Francisco Municipal Transportation Agency ("SFMTA") failed to respond to his October 25, 2011, request for public records.

As explained below, the SFMTA did complete a response to this request within the time frame required by the Sunshine Ordinance.

On Tuesday, October 25, 2011, the SFMTA received an immediate disclosure request and sent a response on Wednesday, October 26, 2011. The request sought surveillance camera footage from the T-Light Rail MUNI train that was present at 3rd St. + Oakdale Ave. between 4:20pm and 4:55pm, and the surveillance camera footage from the three municipal cameras at the intersection of 3rd St. and Oakdale Ave. between 4:30pm to 5:00pm for July 16, 2011.

The SFMTA's October 26, 2011, response letter (copy attached) explained that the video requested had been provided to a law enforcement agency for the purposes of an investigation. The SFMTA is not required to disclose videos submitted to law enforcement agencies in connection with ongoing criminal investigations. (California Government Code section 6254(f)). The Sunshine Ordinance recognizes the need to keep records related to pending law enforcement investigations confidential. San Francisco Administrative Code Section 67.24(d) provides that disclosure of "records pertaining to any investigation, arrest, or other law enforcement activity" is only required once the District Attorney or court determines that a prosecution will not be sought or once the statute of limitations for filing charges has expired. As a result, we are unable to provide the requestor with the videos he sought at that time.

On November 7, 2011, the SFMTA's letter was returned with an insufficient address sticker and a call was placed to the requestor seeking an email address to send the letter. An email address was provided and the letter was sent via email on November 10, 2011 (copy attached).

Sincerely,

Caroline Celaya
Manager, Public Records Requests