

File No. 24025

Item No. 8

SUNSHINE ORDINANCE TASK FORCE AGENDA PACKET CONTENT LIST

Committee: Sunshine Ordinance Task Force

Date: May 28, 2024

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** An asterisked item indicates a document that exceeds 25 pages. The complete document is in the file and available on a disk.*

Completed By: Cheryl Leger (May 16, 2024)

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 24025

Anonymous v. Chief William Scott, Lt. Chris Beauchamp, Walter Ware and
Christopher Campbell, Police Department

Date filed with SOTF: 5/8/24

Contact information (Complainant information listed first):

Anonymous (sfpdordinanceviolation@proton.me) (Complainant)

Lt. Chris Beauchamp (chris.g.beauchamp@sfgov.org) Police Department (Respondent)

File No. 24025: Complaint filed by Anonymous against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner; 67.25(a)(d) by failing to respond to an Immediate Disclosure Request in a timely and complete manner and if needed provide requested records on a rolling basis, 67.34 for willful violation.

From: [anonymous](#)
To: [SOTF \(BOS\)](#); [Petersen, Patricia \(BOS\)](#)
Subject: Sunshine Ordinance Complaint Against the SFPD Legal Division
Date: Tuesday, May 7, 2024 3:58:00 PM
Attachments: [sfpd violation complaint 1.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom It May Concern:

Please find attached a PDF containing a complaint against SFPD Chief William Scott and SFPD employees Lt. Chris Beauchamp, Walter Ware, and Christopher Campbell, and a request that the Task Force "immediately order [SFPD] to comply with [my] request."

As you will see, the PDF pages are a full and complete account of the Department's flagrant violations not only of the Sunshine Ordinance but also the California Civic Code and the guidance of the San Francisco City Attorney.

Please confirm receipt of this complaint and notify the respondents as soon as possible.

Thank you.



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 FORM

Anonymous

Complainant Name (*Optional*)

Date of Request:

March 11, 2024

Please identify the City Official(s) and/or Employee(s) against whom the complaint is being made:

Chief William Scott, Lt. Chris Beauchamp, Christopher Campbell, Walter Ware

Please identify the Officials' and/or Employees' Board, Commission, Task Force, Department or other type of agency.

San Francisco Police Department, San Francisco Police Department Legal Division

Name of the Custodian of Records tasked with providing the requested information:

San Francisco Police Department

- Alleged violation of public records access
- Alleged failure to provide information in a timely manner in accordance with the provisions of the Sunshine Ordinance
- Alleged violation of a public meeting

Please indicate date of meeting if known

§ 67.21(b) and 67.25(a)(d), 67.34, and Calif. Gov. Code § 7922.535(a)(b)

Sunshine Ordinance Section(s)

(*If known, please cite specific provision(s) being violated*)

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

This is a violation of failure on the part of the Legal Division to provide timely access to records in accord with the Sunshine Ordinance. It is also a request for the Task Force, or its next available committee, to determine that the records are public records.

Are you requesting a public hearing before the Sunshine Ordinance Task Force?¹

yes no

If yes, please provide 1 or more preferred method(s) of contact:

<input type="checkbox"/> Phone: _____	<input type="checkbox"/> Mailing Address: _____
<input type="checkbox"/> Fax: sfpdordinanceviolation@proton.me	_____
<input checked="" type="checkbox"/> Email: _____	<input checked="" type="checkbox"/> Other: sfpdordinanceviolation@proton.me

Signature: /s/ X

Date: May 7, 2024

¹ NOTICE: PERSONAL INFORMATION THAT IS PROVIDED WHEN ADDRESSING A PUBLIC POLICY BODY IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE. MEMBERS OF THE PUBLIC ARE NOT REQUIRED TO PROVIDE PERSONAL IDENTIFYING INFORMATION, AND COMPLAINTANTS MAY REMAIN ANONYMOUS. HOWEVER, FOR PROPER NOTICING AND PROCESSING OF A HEARING REQUEST, A RELIABLE MEANS OF CONTACT IS RECOMMENDED. PLEASE NOTE THAT THE SOTF ADMINISTRATOR WILL NOT REDACT ANY INFORMATION PROVIDED IN THESE SUBMISSIONS.

Complaint

Immediate Disclosure

On Monday, March 11, 2024, I submitted an immediate disclosure request to the San Francisco Police Department (“SFPD”) under California Gov. Code § 7920.000–7931.000 (“CPRA”)¹ and San Francisco Administrative Code, Chapter 67². I requested higher quality versions of records present in the public domain. *See Ex. A.*

On March 12, 2024, SFPD violated Admin. Code 67.25(a) and 67.25(d) by failing to respond or produce the requested documents within the allocated two-day business period.

On March 13, 2024, SFPD responded and again violated Admin. Code 67.25(a) and 67.25(d). In its response, SFPD asserts that my request was not “simple or routine” and thus not subject to immediate disclosure. Two reasons were given for this assertion: records stored at an off-site storage facility and consultation with other law enforcement departments. *See Ex. B.*

III.B.C.b.iii of the City Attorney’s *Good Government Guide* discusses off-site records and external departmental consultation as reasons for invoking the allocated ten day delay in *the context of immediate disclosure requests*. Absent is mention of either circumstance as grounds for reclassification as a non-immediate disclosure request. *See Ex. C.*

This delay constitutes yet another violation of Admin. Code 67.25(a) and 67.25(d).

SFPD’s first stated reason (off-site storage) is contradicted by the City & County of San Francisco Index of Records, which lists homicide investigation files as being kept permanently on-site while offering no information (literally, “N/A”) about off-site storage.³ In contrast, the Index entry for non-homicide investigation files lists off-site retention as “five years” and “on-site until case closed plus 2 years.”⁴ *See Ex. D.*

¹https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=GOV&division=10.&title=1.&part=&chapter=&article=

²<https://www.sfcityattorney.org/good-government/sunshine/sunshine-ordinance/>

³<https://index.sfgov.org/node/9505>

⁴<https://index.sfgov.org/node/9506>

On March 21, 2024, SFPD dispatched another letter, which reads in part: “The San Francisco Police Department (SFPD) is still in process of identifying possible responsive records, duplicating those records, and reviewing those records for release to the public. The SFPD anticipates completing this review in the next few weeks.” With this missive, SFPD again violated Admin. Code § 67.25(a) and 67.25(d) as well as 67.21(b), which requires SFPD to comply with my request “as soon as possible and within ten days following receipt of a request.” My request was a valid immediate disclosure request, but even if it was not, this section's deadline applied and SFPD violated it. *See Ex. E.*

With this letter, SFPD also violated Calif. Gov. Code § 7922.535(a)(b), which reads:

- (a) 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. If the agency determines that the request seeks disclosable public records, the agency shall also state the estimated date and time when the records will be made available.
- (b) In unusual circumstances, the time limit prescribed in this article and Article 1 (commencing with Section 7922.500) may be extended by written notice from the head of the agency or a 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.

SFPD's estimate of “a few weeks” provides no specified date. It also gives no sense, whatsoever, of a time frame, let alone one held to the allocated 14 day window.

SFPD's notice of March 21, 2024 was not properly posted to the GovQA public records portal. To receive notice of its existence, I was forced to email Lt. Chris Beauchamp of the Legal Division on March 25, 2024. *See Ex. F.*

On April 3, 2024, I again emailed Lt. Chris Beauchamp informing him that SFPD's March 21, 2024 letter violates Calif. Gov. Code § 7922.535(b). *See Ex. F.*

On April 3, 2024, I received an email response from Lt. Beauchamp in which he informed me—incorrectly—that SFPD’s actions were proper under Calif. Gov. Code § 7922.535(a) and San Francisco Administrative code 67.25(d). *See* Ex. F.

Lt. Beauchamp’s email is contradicted by a recent memorandum from the office of the City Attorney, dated November 16, 2021⁵, which makes clear SFPD’s burdens under the existing statutes. *See* Ex. F.

The relevant portions of the memorandum make explicitly clear SFPD’s burden and duty and also make explicitly obvious that SFPD has violated both:

Deadlines to Respond to Standard Records Requests: As discussed below, departments must provide copies of records within 10 calendar days of a request or within a 14-day extension period. Under the Mayor’s orders, departments could respond to requests with an initial response stating whether disclosable records exist and providing an estimated date when the department would make the records available...

Standard Requests

1. Initial Deadline for Response

Departments must respond within 10 calendar days to a standard public records request to inspect or copy records. Cal. Govt. Code § 6253(c); Admin. Code § 67.21(b). Because the Ordinance calls for compliance with the request in that time period, we interpret the Ordinance as imposing an initial deadline of 10 days to permit the inspection (or deny or restrict it if there is a legal basis for doing so) and to require disclosure of copies of responsive records, if any (unless such records are exempt from disclosure).

⁵ <https://www.sfcityattorney.org/wp-content/uploads/2021/11/Deadlines-for-Responding-to-Public-Records-Requests-Following-the-Termination-of-the-Mayors-March-2020-Emergency-Orders-1.pdf>

2. Extension of Deadline

A department does not have an open-ended right to extend the time for responding to a public records request. But in four circumstances, specified below, departments may have up to 14 additional calendar days to respond. To invoke such an extension, the department must inform the requester in writing of the extension within the initial 10-day deadline, setting forth the reasons for the extension and the date on which a response will be made. Cal. Govt. Code § 6253(c). It will often be appropriate to state the maximum period for the extension because a precise date for completing the response may be elusive; but, even if so, it is advisable for the department to make a good faith effort to respond earlier than that deadline.

On April 8, 2024, I again emailed Lt. Beauchamp, informing him that SFPD stood in violation of existing statute. I inquired whether or not SFPD was invoking the “rule of reason” allowance detailed in the *Good Government Guide* and, if this was the case, to please confirm that the Department had consulted with the City Attorney’s office per the recommendations of the *Guide*. *See* Exes. F and H.

On April 10, 2024, SFPD uploaded a letter to the GovQA portal stating that it had found responsive records but giving no time frame for their delivery. In so doing, SFPD again violated Admin. Code § 67.25(a) and 67.25(d) as well as 67.21(b), which requires SFPD to comply with my request “as soon as possible and within ten days following receipt of a request.” My request was a valid immediate disclosure request, but even if it was not, this section’s deadline applied and SFPD violated it. Furthermore, SFPD again violated Calif. Gov. Code § 7922.535(a)(b). *See* Ex. I.

On April 16, 2024, I received a response from Lt. Beauchamp the contained an interpretation of existing statutes that is contradicted by the words of those statutes, the *Good Governance Guide*, and the City Attorney’s November 16, 2021 memorandum. *See* Ex. F.

On April 19, 2024, SFPD uploaded some, but not all, of the requested records. In so doing, SFPD again violated Admin. Code § 67.25(a) and 67.25(d) as well as 67.21(b), which requires SFPD to comply with my request “as soon as possible and within ten days following receipt of a request.” My request was a valid immediate disclosure request, but even if it was not, this section’s deadline applied and SFPD violated it. Accompanying this email was another letter uploaded to the GovQA portal on April 19— although its text is dated April 17— in which SFPD suggests that the remaining responsive records are still being located. No time estimate is given for their delivery, which constitutes another violation of Calif. Gov. Code § 7922.535(a)(b) and Admin. Code § 67.21(b) as well as 67.25(a)(d). *See Ex. J.*

As of this writing, May 7, 2024, SFPD has not completed this request.

I petition the Sunshine Ordinance Task Force to find that SFPD, its department head, Lt. Chris Beauchamp, and any of its employees involved in processing my request have violated Calif. Gov. Code § 7922.535(a)(b) as well as Admin. Code § 67.21(b) and 67.25(a)(d) by denying my immediate disclosure request and failing to produce the records in a timely and/or complete manner.

I further petition the Task Force to determine that by willfully failing to produce the requested records, SFPD, its department head, Lt. Chris Beauchamp, and any of its employees involved in processing this request have also violated Admin. Code § 67.34 of the Sunshine Ordinance and should be referred to the Ethics Commission.

Determination of the Records as Public

All of the requested records are available online and/or were reproduced in period newspapers circa 1969 to 1971. As such, any withholding of the requested records by SFPD would constitute “selective disclosure” as prohibited by *Black Panther Party v. Kehoe*, 42 Cal.App.3d 645 (1974), the original CPRA codification of California Gov. Code § 6254.5 (1988), and the recodified CPRA California Gov. Code § 7921.505(b).

7921.505(b) reads:

Notwithstanding any other law, if a state or local agency discloses to a member of the public a public record that is otherwise exempt from this division, this disclosure constitutes a waiver of the exemptions specified in:

- (1) The provisions listed in Section 7920.505.
- (2) Sections 7924.510 and 7924.700.
- (3) Other similar provisions of law.

Therefore, I petition that under Admin. Code § 67.21(b), the Sunshine Ordinance Task Force or its next available Committee determine “as soon as possible” that the requested are public and that the Task Force “immediately order [SFPD] to comply with [my] request.”

Thank you for your valuable time in considering this matter.

Petitioner's Supporting Documents

Exhibit A

Immediate Disclosure Request