



LONDON N. BREED
MAYOR

CITY AND COUNTY OF SAN FRANCISCO
POLICE DEPARTMENT
HEADQUARTERS
1245 3RD Street
San Francisco, California 94158



WILLIAM SCOTT
CHIEF OF POLICE

March 20, 2023

Anonymous,

RE: Public Records Request, dated October 12, 2020, Reference # P016344-101620

Dear Anonymous:

The San Francisco Police Department (SFPD) received your Public Records Act request, dated October 12, 2020. On October 16, 2020, October 23, 2020, December 18, 2020, January 15, 2021, February 19, 2021, March 19, 2021, April 19, 2021, May 24, 2021, June 21, 2021, June 29, 2021, August 23, 2021, September 20, 2021, October 18, 2021, November 22, 2021, December 20, 2021, January 17, 2022, February 22, 2022, March 21, 2022, April 18, 2022, May 23, 2022, June 21, 2022, July 18, 2022, August 22, 2022, September 19, 2022, October 17, 2022, November 21, 2022, December 19, 2022, January 23, 2023, February 21, 2023, the SFPD invoked the extension of time to respond to your request pursuant to Government Code Section 6253(c) because of the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records included in a single request.

You requested, "October 12, 2020 To Whom It May Concern: Pursuant to the CPRA and the Sunshine Ordinance, I hereby request the following records as an Immediate Disclosure Request: - All records related to the shooting and death of **Cesar Vargas** by SFPD (including but not limited to incident reports, statements, photos, exhibits, attachments, bodycam footage, CAD reports, 911 calls, and audio recordings of officers and dispatch during the incident, "investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports;" (PC 832.7(b)(2)), and also any emails or text messages sent or received by the officers involved in the incident or by Chief Scott regarding the incident) The records listed above are disclosable due to one or more portions of state or local law, including but not limited to: - Gov Code 6254(f)(2)(A) and 6254(f)(4) - exceptions to the law enforcement investigation exemptions requiring disclosure - SF Admin Code 67.24(d) - Penal Code 832.7(b)(1)(A) "(A) A record relating to the report, investigation, or findings of any of the following: (i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer. (ii) An incident in which the use of force by a peace officer or custodial officer against a person resulted in death, or in great bodily injury." Furthermore: "Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. " No complaint or misconduct need be alleged - these records are disclosable due to the shooting and death of person involved. You must provide exact copies and rolling responses. Electronic records must not be printed and scanned as that does not constitute a "copy" (see ruling against SFPD in SOTF 19098). You must justify every withholding of any information in writing. You must provide footnotes or other clear references to justify each and every redaction (see ruling against SFPD in SOTF 19098). If you do not provide correct copies of electronic records or do not justify by footnote or other clear reference each and every redaction, we will ask SOTF to again file official misconduct charges against Chief Scott before the Ethics Commission, as we did in SOTF 19112, pursuant to SFAC 67.34. Thank you in advance for your anticipated cooperation in this matter. 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"

On October 23, 2020, SFPD produced the Town hall notes, CSI photos, BWC footage, surveillance video, and dispatch audio (portal link OIS 20-003)." At that time, SFPD declined to "release records to an open investigation under California Government Code Section 6254(f), which exempts from disclosure records of complaints to, investigations conducted by intelligence information or security procedures of, and investigatory or security files compiled by local police agencies.

SFPD will, of course, respond to the remainder of your request in compliance with the law. But, as explained below, we will face time constraints in doing so.

SFPD has received a number of requests for previously confidential peace officer records made public as a result of the passage of SB 1421. Despite our best efforts to respond promptly, a backlog has quickly developed and will remain for some time.

SFPD must balance its duty to respond to public records requests with its duty to perform the broad range of tasks performed by SFPD personnel that result in keeping the peace and maintaining safety in our communities. Responding to your request will be quite burdensome and time-consuming, especially when coupled with our duty also to respond to like public records requests from others.

SFPD will not be able to respond within the customary time frame without unreasonably impinging on its ability to perform its other duties.

It is in this rare circumstance that we find it necessary to invoke a rule of reason to guide the timing of our response to your public records request. As the City Attorney has stated on pages 97-98 of the *Good Government Guide*, which is available on the City Attorney's website, the law recognizes that when there is a conflict between a department's performance of its wide range of duties, and its responsibilities under public records laws, reason demands flexibility in the timing of responses to requests. Under this rule and given the SFPD's other public obligations, we will not be able to devote an unlimited amount of staff time to your request and like requests. Nevertheless, we intend to provide a complete response to your request, but it will take longer than ordinarily is the case.

Over time, we expect this backlog problem to recede, and expect to be able to move more quickly on requests such as yours, particularly if the records being sought have already been reviewed in order to respond to an earlier request. But we are not there yet. For now, we intend to provide records in response to your request, and other like requests, on a rolling basis. We will provide you with a brief update by Monday, April 17, 2023.

Sincerely,

Lieutenant Christopher Beauchamp #561
Officer in Charge
Risk Management - Legal Division