



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

August 10, 2020

San Francisco Police Commission
San Francisco Police Headquarters
1245 Third Street, Sixth Floor
San Francisco, CA 94158

Re: SFPD Response to DPA Access to SFPD Records and Information

Dear members of the Police Commission:

SFPD offers this letter as a supplement to the Department of Police Accountability's July 14, 2020 letter regarding that agency's access to San Francisco Police Department records. SFPD is committed to ensuring DPA receives any and all documents it requires and to which it is entitled in order to achieve its mission. SFPD can routinely provide the majority of the documents requested or grant direct access where appropriate.

Due to the legal and technical challenges explained below, SFPD does not believe it can provide direct access to the Human Resources Management System ("HRMS"), body-worn camera database, IAD case management system, or any database containing Criminal Offender Record Information ("CORI"). SFPD shall, however, commit itself to promptly providing information from these databases that can be shared upon request.

I. Summary of SFPD Document Production

1. Intranet

SFPD can provide DPA direct access to all documents and information available on the SFPD intranet. Technical issues, however, currently prevent SFPD from providing such access. The current Intranet system is outdated and in need of replacement. SFPD Information Technology ("IT") is in the process of researching alternatives to the current system, including migrating content to other systems such as Sharepoint or PowerDMS. Once this project is complete, SFPD should be able to provide DPA direct access.

2. Human Resources Management System

SFPD cannot provide DPA blanket, direct access to HRMS because doing so would violate the City Charter and state law. Section 4.136(j) provides when disclosure of records to DPA is authorized: "*In carrying out its objectives . . .* DPA shall receive prompt and full cooperation

from all departments . . . which shall, *unless prohibited by state or federal law*, promptly produce all records and information requested by DPA . . .”¹

The confidentiality of peace officer personnel records complicates when SFPD can lawfully disclose information to DPA. With various exceptions, these records are confidential.² Civilian review agencies have the right to inspect confidential peace officer personnel records but only “when they are authorized by charter provision, ordinance or regulation of the city . . .”³ In San Francisco, DPA is authorized to review confidential peace officer records only pursuant to a request in carrying out an enumerated duty.⁴ Thus, a condition precedent to disclosure is that DPA has made a request for documents in carrying out a lawful objective. SFPD cannot provide DPA blanket, direct access to systems where confidential peace officer personnel records may be found, because doing so would disclose confidential documents that have not been requested for a specific enumerated purpose. Because HRMS contains disciplinary and medical information, blanket access cannot be granted.⁵

Due to the limitations of the system and the legal pitfalls, SFPD believes the best course of action is to continue to have the Legal Division handle disclosure on a per request basis.

3. Officer Employee ID (DSW) Numbers

SFPD will provide DPA a roster including employee DSW numbers.

4. SFPD Officer Roster

An SFPD roster has been provided to DPA on a routine basis. A follow-up system will be implemented by which an updated roster is provided via e-mail at regular intervals.

5. Department’s Electronic Databases for Storing Case-Specific Information

SFPD cannot provide DPA direct access to these databases, because they may contain CORI. DPA cannot lawfully receive CORI because DPA is not a criminal justice agency.⁶ The Department of Justice and the Federal Bureau of Investigation have ordered SFPD to not release CORI to DPA. SFPD, therefore, cannot share CORI with DPA.

The risk of sharing CORI prevents SFPD from providing DPA direct access to its body-worn camera database. The security system lacks the capability to allow access to only redacted

¹ Emphasis added.

² Pen. Code § 832.7(a).

³ 71 Ops. Cal. Atty. Gen. 1, 1 (Cal. A.G. 1988).

⁴ These duties are: (1) investigating complaints of police misconduct; (2) preparing recommendations concerning SFPD policies and practices; and (3) conducting audits regarding whether SFPD personnel have complied with law and policy. City Charter §§ 4.136(d), (h), & (k).

⁵ Pen. Code §§ 832.8(a)(2) & (a)(4).

⁶ Pen. Code §§ 13101, 11105(b)(1)-(26).

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footage: if a user has direct access, that user will have access to both redacted and un-redacted footage. SFPD cannot provide direct access to DPA given this challenge.

Similar challenges exist with Crime Datawarehouse: that database contains CORI. SFPD, therefore, cannot provide DPA direct access, but can only provide sanitized data upon request.

As a solution, SFPD suggests that DPA use Evidence.com to receive files. SFPD could create a shared folder of sanitized BWC footage and other files over Evidence.com that DPA could directly access. Items shared over Evidence.com would not need to be physically stored in a DPA database and can be accessed via cloud storage. DPA would incur the costs of an Evidence.com subscription, but would not need to pay for additional storage.

SFPD has ceased using E-Stop and has begun using the Stop Data Collection System (“SDCS”). SDCS data is not maintained by SFPD; rather, it is stored with the state of California. Therefore, SFPD cannot grant DPA direct access because there is no database to which access can be granted. SFPD can, however, process individual requests made by DPA.

Regarding CABLE access, SFPD will cease using that database by the end of the fiscal year.

6. Inclusion on Distribution Lists Announcing New Policy

SFPD will include DPA on future distribution lists announcing new bulletins and other related materials.

7. Access to Internal Affairs Division Case Management Systems

SFPD cannot provide DPA direct access to Internal Affairs Division (“IAD”) management systems because doing so would violate the City Charter and state law. As noted previously, DPA is entitled to records upon request in pursuit of a lawful objective. Where that condition precedent is not met, DPA has no right or authorization to review confidential peace officer personnel records. Therefore, SFPD cannot provide DPA blanket access to IAD systems.

SFPD can nonetheless ensure that DPA receives the documents it requires in a timely fashion upon request. Regarding notifications of intended discipline and final notices of discipline, IAD attorneys will ensure such documents are routed to DPA upon their service on the member. Information regarding concurrent IAD investigations and closed OIS investigations can be routed to DPA through IAD and Legal upon request.

8. Officer Internal Affairs Multiple-Cards

SFPD will provide IAD multiple-cards upon request. Blanket and direct access would violate the aforementioned issues regarding confidentiality.

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9. Academy Records of Completed Training

SFPD will provide Academy Records of completed training upon request.

SFPD is committed to ensuring that DPA can effectively and swiftly achieve its mission without unnecessary roadblocks. Legal and technical challenges prohibit direct access to some SFPD databases. Where these problems exist, however, SFPD is committed to ensuring document sharing through e-mail or other means. Where we can establish direct access, SFPD is happy to abide that request.

Sincerely,

William Scott
WILLIAM SCOTT
Chief of Police

cc: Exec. Dir. Paul Henderson, DPA