

File No. 12018

SOTF Item No. 16

CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: June 6, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

Memorandum

Complaint and Supporting documents

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Completed by: Andrea Ausberry Date May 31, 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.



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

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

MEMORANDUM

TO: Sunshine Ordinance Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: May 25, 2012
RE: Complaint 12018 – Hartz v. Chief Suhr

BACKGROUND

Complainant Ray Hartz ("Complainant") alleges that SFPD Chief Greg Suhr (the "Chief") violated the Sunshine Ordinance by failing to adequately respond to his Immediate Disclosure Request ("IDR") for all public records related to Police Incident Report #120098278.

COMPLAINT

On March 16, 2012, Mr. Hartz filed a complaint with the Task Force alleging multiple violations of the Ordinance.

JURISDICTION

The Chief has not contested jurisdiction to hear the complaint.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.21 governs the procedure for obtaining public records.
- Section 67.25 governs the time in which to respond to public records requests.
- Section 67.26 governs withholding of public information.
- Section 67.27 governs justification for withholding of public information.

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: On March 16, 2012, Complainant alleged that on March 14, 2012, he filed an IDR with SFPD for public records related to Police Incident Report #120098278, in which he was a "named party." He further alleged that SFPD responded late, incompletely and unlawfully, without providing further detail to these allegations.

Complainant on May 12, 2012 supplemented his complaint with the following allegations¹:

¹ These detailed allegations were provided in an email from Complainant to Supervisor of Records DCA Paula Jesson, with a cc to the Task Force and request that the information be

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The attached document [a redacted copy of SFPD Incident Report #120098278] is the sum of what I have received from SFPD to date. An investigation was done, including a visit to my home by two SFPD officers, including Inspector Jim Miranda. The Department has never indicated whether the investigation was completed and/or whether there are any subsequent documents pertaining to the visit to my home, my statements regarding this matter, or a decision by the SFPD regarding the matter. I have submitted written statements to the SFPD pertaining to the matter and have not even received an acknowledgement of receipt, let alone any indication that they would be included in the record. Unless the SFPD is expecting that, as a subject of an official police complaint, I believe that the Department will expend City resources to conduct an investigation and subsequently produce NO documentation of that investigation and/or its conclusion, then YES I believe they have withheld public records.

Jewelle Gomez, President of the Public Library Commission filed this complaint against me for **supposedly** making threats. The Library published on their website a recording of Ms. Gomez making ACTUAL THREATS against me following the meeting at which I made my public comments. These statement have been verified by independent sources and some of the facts published in the San Francisco Examiner. I believe it reasonable to assume that Ms. Gomez filed this complaint with the intention of seeking retribution and/or inhibiting my rights to make completely lawful public comments.

Ms. Gomez has been found in violation of open meeting laws and recommended by the San Francisco Ethics Commission for removal from office. Subsequently, Ms. Gomez has instigated this effort to inhibit the public comments of myself and others by using the resources of the San Francisco Police Department to do what she could not otherwise do without further damage to her reputation. The Department has done absolutely nothing to dispel that perception. In fact, in its dealing with this complaint and the subsequent "investigation," I believe the Department has at minimum allowed itself to be used by another City agency as a means of retaliation, or, at worst has been a knowing and willing participant in the effort.

The Chief has not responded to this Complaint.

included with this Complaint. The pdf file of the May 12, 2012 email did not include a cc to SFPD, so it is unclear whether they were provided these supplemental allegations.

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QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- What was the exact wording of the IDR filed with SFPD and with whom was it filed?
- Who responded to the IDR?
- What was the response? Was it simply a document or was any other communication from SFPD provided? Have there been oral exchanges between the parties related to the IDR?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Under §67.21, did respondent timely respond to the IDR and/or provide assistance in identifying the location and nature of responsive documents?
- Under §67.25, did respondent timely respond to the IDR, or properly invoke an extension?
- Under §67.26, did respondent withhold public information properly?
- Under §67.27, did respondent provide a proper written justification for any public information withheld from production?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

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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. 67.25. 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

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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**

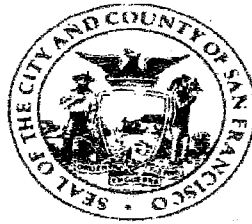
- (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.
- (b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.
- (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,

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“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.



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 SAN FRANCISCO POLICE DEPARTMENT

Name of individual contacted at Department or Commission GREG SHAR, CHIEF OF POLICE

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section 67.21(c)(d) 67.25 AND 67.26 AND 67.27
 (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.

AN IDR WAS FILED WITH THE SFPD ON MARCH 14, 2012
FOR PUBLIC RECORDS RE: POLICE REPORT # 120098278 IN WHICH
I AM A "NAMED PARTY." THE DEPARTMENT REPLIED LATE,
INCOMPLETELY AND UNLAWFULLY.

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 RAY WHARTZ, JR Address 839 LEAVENWORTH ST #304
SAN FRANCISCO CA 94109

Telephone No. (415) 345-9144 E-Mail Address RWHARTZJR@SBCGLOBAL.NET

Date MARCH 16 2012 Signature Ray Whartz

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).

Report Type: Initial

San Francisco Police Department
SFPD INCIDENT REPORT

120098278

120098278

I N C I D E N T	Incident Number 120-098-278	Occurrence from Date/Time 2/2/12 16:30	Occurrence to Date/Time 2/2/12 18:00	Reported Date/Time 2/4/12 17:40	CAD Number 120352528	
	Type of Incident Suspicious Occurrence -64070					
	Location of Occurrence 100 Larkin St At Intersection with/Premise type Government Premises District TEND					
	Confidential Report? <input type="checkbox"/>	Arrest Made? <input type="checkbox"/>	Suspect Known? <input checked="" type="checkbox"/>	Suspect Unknown? <input type="checkbox"/>	Non-Suspect Incident? <input type="checkbox"/>	Domestic Violence? <input type="checkbox"/>
	Reporting Unit 3J104					
Location Sent 301 Eddy St						
How Cleared?	Reported to Bureau Operations Center	Name Guerro, R	Star 1162	Date/ 2/4/12	Time 18:15	
			Elder Victim <input type="checkbox"/>	Gang Related? <input type="checkbox"/>	Juvenile Subject? <input type="checkbox"/>	
					Prejudice Based? <input type="checkbox"/>	

SEARCHED
SERIALIZED
SID/2-4-2012

O F F I C E R I A T I O N	I declare under penalty of perjury, this report of 4 pages is true and correct, based on my personal knowledge, or is based on information and belief following an investigation of the events and parties involved.				
	PROP 115 CERTIFIED 5 YEAR/POST Signature: <i>[Signature]</i>				
	Reporting Officer Kwan, Patrick	Star 978	Station Tenderloin Station	Watch 1100-2100	Date 2/4/12 20:08:22
	Reviewing Officer SGT. MARK IM # 2096	STAR	Station Tenderloin Station	Watch 1100-2100	Date 2/4/12
	Officer Lt. Joseph W. Engler #2091	STAR	Station Tenderloin Station	Watch 1100-2100	Date 2/4/12
Related Case	Related Case	Re-Assigned to SID	Assigned by PK #978		
		Copies to Varies	Add'l Copies		

R / V I C T I M	Code RV 1	Name (Last, First Middle)	Alias
	Day Phone Type	Home Address	City
	Night Phone Type	Work Address	City
	DOB / Age Unk. <input type="checkbox"/>	or age between: and	Race
	Confidential Person <input checked="" type="checkbox"/>	Violent Crime Notification <input type="checkbox"/>	293 PC Notification <input type="checkbox"/>
School (if Juvenile)	Injury/Treatment	Other Information/If Interpreter Needed Specify Language	

S U S P E C T	Code S 1	Name (Last, First Middle) Hartz, Ray William	Alias Jr
	Day Phone Type	Home Address 839 Leavenworth #304	City San Francisco
	Night Phone Type	Work Address	City
	DOB Unknown <input type="checkbox"/>	Date of Birth 50	Age 61
	SFNO	J/D# (if Juvi.)	ID Type/Jurisdiction/Number DL CA
	Book Section #1	Book Section #2	Book Section #3
	Warrant #	Court #	Action #
	Warrant Violation(s)	Bail	Mirandized <input type="checkbox"/>
	Citation #	Violation(s)	Appear Date/Time
	Book/Cite Approval	Star	Mass Arrest Code
Other Information: Citation/Warrant/Booking Charge(s)/Missing Person-Subject Description; Scars, Marks, Tattoos			

4/2018

120098278

San Francisco Police Department
SFPD PROPERTY LISTINGS

E 1	Code/No EVD 1	Item Description Photo				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers Provided by Gomez							
E 2	Code/No EVD 2	Item Description Statement by Gomez				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity 1	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							
	Code/No	Item Description				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							
	Code/No	Item Description				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							
	Code/No	Item Description				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							
	Code/No	Item Description				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							
	Code/No	Item Description				Brand	Model	
	Serial No.	Gun Make	Caliber	Color	Narcotics Lab No.	Quantity	Value	
	Seized by (Star)		From Where					
	Additional Description/Identifying Numbers							

120098278

On the above date and time, (R/V1) [REDACTED] came into Tenderloin Station to report a threatening statement that was made against her during the Library Commissioner meeting on 2/2/2012.

[REDACTED] is the appointed president of the San Francisco Public Library Commissioning Board. For the past year or so, (S1)Hartz has been attending the Library commissioning board's meetings that takes place at the Main Library located at 100 Larking street on Thursday evenings. Each meeting Hartz would speak and each meeting his speech would get more agitated and animated. Hartz's agitated and animated speeches would be hateful and loud but did not violate any criminal laws. However, on 2/4/2012 during Hartz's heated speech, he made the following a statement similar to : Roman Senators had to suffer with an Emperor who ruled for life -all they could do was hope for his assassination. When the statement was made, [REDACTED] stated that she became shaken and became extremely concerned for her safety. As a city official, she felt that her safety was at stake and that Hartz's statements and actions has been escalating through the year. She is also fearful that Hartz's word will escalate to some sort of negative action at some point.

While at Tenderloin Station, [REDACTED] completed a written statement(E2) of the incident. It should be noted that [REDACTED] is in contact with City Attorney Kimberly Bliss who is looking into a stay-a-way or restraining order against Hartz.

I am in touch with the San Francisco Library Administration and they are securing a copy of the audio and video footage of the Commissioner's meeting for 2.2.2012. A photo of Hartz(E1) was also provided to me by [REDACTED] I contacted Lt. Gracie #733 of SID and briefed her on the situation.

SAN FRANCISCO POLICE DEPARTMENT

INCIDENT REPORT STATEMENT

INCIDENT NO. 120098278		PAGE 4 of 4	
NAME (LAST, FIRST, MIDDLE) OF PERSON GIVING STATEMENT [REDACTED]		DOB / AGE [REDACTED]	BUSINESS PHONE (DAY/NIGHT) [REDACTED]
RESIDENCE ADDRESS / CITY IF NOT SAN FRANCISCO [REDACTED]		ZIP CODE [REDACTED]	BUSINESS ADDRESS / CITY IF NOT SAN FRANCISCO SFP Library ZIP CODE [REDACTED]
DATE OF STATEMENT 2.4.12	TIME STARTED 1745	TIME COMPLETED 1800	LOCATION WHERE STATEMENT TAKEN AT SCENE <input type="checkbox"/> OTHER: TENDERLOIN STATION
STATEMENT TAKEN BY (NAME / STAR) SGI. P. KWAN #978		IN PRESENCE OF	

In the 3 minute public comment before the vote for my re-election as President of the SFPD Commission Ray Hearty, Jr. ranted about my bullying the other commissioners so they felt they had to vote for me. His agitation has often been unnerving at the meetings it is often focussed on me. This time he grew more red in the face and really loud and ended by saying something like: Roman Senators had to suffer with an Emperor who ruled for life - all they could do was hope for his assassination! Members of the audience gasped. So did I and the Commissioner I was so shaken I had to work hard to keep the meeting going + not excuse myself. The facilities mgr. called in a guard to keep an eye on him. I was so shaken I could barely drive home and was trembling all night and could barely sleep. Before the meeting was over he tried to minimize his comment saying it was just a metaphor. This did not make me feel any less fearful. It was like a clever coner up. I left the meeting feeling something I never have as a public servant, something I'd never felt in our library - fear for my safety now + in the future.

(315) 553-1285



Ray Hartz

120098278
#978



Fw: San Francisco Police Department contemplates prosecution against citizen exercising Constitutional rights!

Ray Hartz Jr

to:

SOTF

05/15/2012 11:28 AM

Cc:

MSW Bruce Wolfe

Show Details

Dear Ms. Ausberry,

Please include the following email chain in the documents for Case #12018 Ray Hartz v Greg Shur, Chief of Police.

Thank you.

Ray W. Hartz, Jr.
Director, San Francisco Open Government

----- Forwarded Message -----

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>

To: Jennifer.Dorantes@sfgov.org

Cc: Greg.Suhr@sfgov.org; SOTF <sotf@sfgov.org>; MSW Bruce Wolfe <sotf@brucewolfe.net>; Paula Jesson <paula.jesson@sfgov.org>; Matt Dorsey <matt.dorsey@sfgov.org>; jsabatini@sfxaminer.com

Sent: Tue, May 15, 2012 11:17:45 AM

Subject: San Francisco Police Department contemplates prosecution against citizen exercising Constitutional rights!

Good morning Lt. Dorantes,

The SFPD, and in particular your division, could have complied with the Sunshine Ordinance and the California Public Records Act (CPRA) in accordance with both laws. For some reason, the Department chose to ignore the requirements of the law and waited well beyond any acceptable response date to raise these "justifications." You forced me to file a petition with the Office of the City Attorney, in his capacity as Supervisor of Records, to get you to finally admit to the existence of additional documents and provide justification for withholding. I believe this goes to a "pattern of behavior" of the Police Department and it's leadership to retaliate against those who question City government, especially the San Francisco Police Department.

I have asked that this response be included in the file for Sunshine Ordinance Task Force case # Case #12018 Ray Hartz v Greg Suhr, Chief of Police. This case is to be heard on June 6, 2012.

I have to say that I view your statement that "Neither the District Attorney nor Court has determined that a prosecution will not be sought, and the statute of limitations for filing charges has not expired." is really nothing but a ham-handed threat that action is being considered. I will speak to this matter before the Police Commission tomorrow, May 16, 2012

12 018

5/15/2012

You leave me no choice but to file a Police complaint against Library Commission President Jewelle Gomez for the threats she made against me following the meeting of the Commission on February 2, 2012, including, but not limited to: knowing 12 people who would "fucking" bury me, that she wanted to throw the "fucking" microphone at me, that she wanted to "garotte" me with the microphone cord, and that she grew up in the "ghetto" carrying a "straight razor." These threats were published by the San Francisco Public Library on the Library website and remained there for several weeks. The statements have been verified by independent sources and also reported in the San Francisco Examiner. I guess, since the SFPD has allowed itself to be used in this way, you leave me no choice but to fight "fire with fire" as a means of self-defense.

Previously I really was not fearful about Ms. Gomez comments, but, the SFPD response in withholding documents has made me reconsider filing a complaint against Ms. Gomez and the San Francisco Public Library. Ms. Gomez made the threats and the San Francisco Public Library posted those threats on their website. Now the San Francisco Police Department is threatening a "prosecution." I AM NOW TRULY FEARFUL, FOR MY SAFETY FROM BOTH MS GOMEZ AND THE SAN FRANCISCO POLICE DEPARTMENT!

Please be aware of a Sunshine Ordinance Task Force (SOTF) Order of Determination in case #10050 RAY HARTZ v POLICE COMMISSION found:

"Judging from the testimony and evidence presented, the Task Force finds that Mr. Hartz's comments to the commission constituted criticism protected by Section 67.15(d), and that the commission abridged that criticism in violation of same."

At that meeting the then Vice-President of the Police Commission, **Thomas Mazzuco, looked me in the eye and lied to my face.** He told me that I was not allowed to voice my criticism, a fact that as a lawyer, a member of the California Bar, a former prosecutor, a person subject to both Sunshine training and yearly filing of a Sunshine Declaration, had to know was not true. When I challenged Mr. Mazzuco that he was violating my Constitutionally protected right to speak, he said he was "just enforcing the rules," as if "the rules" could invalidate the protections of the United States Constitution, the Constitution of the State of California, the Brown Act, and the Sunshine Ordinance. This was also in total disregard to the oath he took when joining the commission!

Ray W. Hartz, Jr.
Director, San Francisco Open Government

From: "Jennifer.Dorantes@sfgov.org" <Jennifer.Dorantes@sfgov.org>
To: rwhartzjr@sbcglobal.net
Cc: Paula.Jesson@sfgov.org
Sent: Tue, May 15, 2012 10:30:13 AM
Subject: Immediate Disclosure Request

Good Morning Mr. Hartz,

Chief Suhr asked that I respond to your email regarding the status of the Department's investigation of

case number 120098278. At this time, that investigation is open but inactive.

Regarding your public records request for a copy of the police incident report in that case, and "documents produced in relation to this complaint," the Department does have responsive investigative records in addition to the police incident report that we provided previously. However, those records are records of a complaint to and an investigation conducted by a local police agency, and are exempt from production under California Government Code Section 6254(f). While San Francisco Administrative Code Section 67.24(d) provides for the disclosure of records pertaining to a law enforcement investigation in some circumstances, those circumstances do not apply here. Neither the District Attorney nor Court has determined that a prosecution will not be sought, and the statute of limitations for filing charges has not expired. Accordingly, the Department is not disclosing these additional responsive records.

If you have any further questions please feel free to contact me.

Lieutenant Jennifer Dorantes #559
Officer in Charge, Legal Division
San Francisco Police Department
850 Bryant Street, Rm 575
415-553-7929



Re: Fw: Fw: IMMEDIATE DISCLOSURE REQUEST

Ray Hartz Jr

to:

Paula.Jesson

05/12/2012 10:46 AM

Cc:

SOTF, MSW Bruce Wolfe

Show Details

Dear Ms. Jesson,

The attached document is the sum of what I have received from SFPD to date. An investigation was done, including a visit to my home by two SFPD officers, including Inspector Jim Miranda. The Department has never indicated whether the investigation was completed and/or whether there are any subsequent documents pertaining to the visit to my home, my statements regarding this matter, or a decision by the SFPD regarding the matter. I have submitted written statements to the SFPD pertaining to the matter and have not even received an acknowledgement of receipt, let alone any indication that they would be included in the record. Unless the SFPD is expecting that, as a subject of an official police complaint, I believe that the Department will expend City resources to conduct an investigation and subsequently produce NO documentation of that investigation and/or its conclusion, then YES I believe they have withheld public records.

Jewelle Gomez, President of the Public Library Commission filed this complaint against me for **supposedly** making threats. The Library published on their website a recording of Ms. Gomez making ACTUAL THREATS against me following the meeting at which I made my public comments. These statements have been verified by independent sources and some of the facts published in the San Francisco Examiner. I believe it reasonable to assume that Ms. Gomez filed this complaint with the intention of seeking retribution and/or inhibiting my rights to make completely lawful public comments. Ms. Gomez has been found in violation of open meeting laws and recommended by the San Francisco Ethics Commission for removal from office. Subsequently, Ms. Gomez has instigated this effort to inhibit the public comments of myself and others by using the resources of the San Francisco Police Department to do what she could not otherwise do without further damage to her reputation. The Department has done absolutely nothing to dispel that perception. In fact, in its dealing with this complaint and the subsequent "investigation," I believe the Department has at minimum allowed itself to be used by another City agency as a means of retaliation, or, at worst has been a knowing and willing participant in the effort.

I have included the Sunshine Ordinance Task Force (SOTF) in the listing to receive a copy of this communication and am asking them to include it, in its entirety, with the documents relating to a pending case (File No. 12018: Ray Hartz v Greg Suhr, Chief of Police). This case is scheduled to be heard at the next full SOTF meeting.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

From: "Paula.Jesson@sfgov.org" <Paula.Jesson@sfgov.org>

To: rwhartzjr@sbcglobal.net

Sent: Fri, May 11, 2012 4:37:24 PM

File No. 12018

5/14/2012

Subject: Re: Fw: Fw: IMMEDIATE DISCLOSURE REQUEST

Dear Mr. Hartz,

I have obtained information from the Police Department regarding its response to the records request at issue in your petition. In light of that information, it would be helpful if you could clarify whether you contend that the Police Department has located responsive records that it is improperly withholding. This question arises because of the limited role of the Supervisor of Records. That role is to determine whether a City department is improperly withholding a record in response to a public records request. A City department may have violated various provisions of the Sunshine Ordinance, including the requirements governing the time for responding to requests, but the review by the Supervisor of Records under San Francisco Administrative Code section 67.21(d) is limited to determining "whether the record requested, or any part of the record requested, is public."

My understanding is that the Police Department provided you with a redacted version of the police incident report that you requested and informed you that staff would ask Inspector Miranda if he had additional records. I understand further that you had a discussion with Inspector Miranda and that he informed you that he had no additional records in the file. It appears that the Police Department has responded to your request. Is it your position that the Police Department has responsive records that it is, at this time, improperly withholding, in whole or in part.

Thank you.

Paula Jesson
Deputy City Attorney
City and County of San Francisco
Room 325 City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Telephone: (415) 554-6762
Fax: (415) 554-4699
email: paula.jesson@sfgov.org

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
To: paula.jesson@sfgov.org
Date: 05/03/2012 10:56 AM
Subject: Fw: Fw: IMMEDIATE DISCLOSURE REQUEST

----- Forwarded Message -----

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
To: paula.jesson@sf.gov.org
Sent: Thu, May 3, 2012 8:35:03 AM
Subject: Fw: Fw: IMMEDIATE DISCLOSURE REQUEST

Ms. Jesson,

Here is the original request sent on March 16, 2012. As you can see, this was sent to Matt Dorsey, Jack

5/14/2012

Jack Song and Jerry Threet, with no response from anyone. And, they obviously did not send it to you! you!

The SFPD delayed on the original request, simply stating that it was not an Immediate Disclosure Request (IDR). The Sunshine Ordinance Task Force (SOTF) has determined in prior cases that a City agency simply cannot find that an IDR is not an IDR. When finally provided, the entire report was only four pages, hardly a document that could not have been provided within the time frame for an IDR. The department also delayed the processing of the complaint by having people "point fingers" at one another as the person who was responsible for the processing of the IDR. The SFPD needs to accept that when an IDR is sent to someone in a "responsible" position, they subsequently have a responsibility to either deal with the request or direct it to the appropriate person to do so. Instead, the department becomes unresponsive and uncooperative: example Sgt Goss simply refused to provide an email address for the Records division and I had to make a request of request of Captain Falvey, of the Administrative Division, to get the address.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

----- Forwarded Message -----

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
To: Matt Dorsey <matt.dorsey@sfgov.org>; Jack Song <Jack.Song@sfgov.org>; SFCityAtty_Threet Jerry <Jerry.Threet@sfgov.org>
Cc: SOTF <sof@sfgov.org>; Greg.Suhr@sfgov.org; Timothy Falvey <Timothy.Falvey@sfgov.org>; "Maureen.Conefrey@sfgov.org" <Maureen.Conefrey@sfgov.org>; Richard.Goss@sfgov.org; Jennifer.Dorantes@sfgov.org
Sent: Fri, March 16, 2012 1:11:04 PM
Subject: Fw: Fw: IMMEDIATE DISCLOSURE REQUEST

Dear Mr. Herrera,

I am requesting your office in it's capacity as "supervisor of records" to determine whether any of the the records requested under my Immediate Disclosure Request" of March 14, 2012 are being withheld withheld without justification under either the Sunshine Ordinance and/or the California Public Records Records Act.

It is my intention to file a complaint against the SFPD for unlawfully withholding Public Records without justification.

The Department has a well established history of believing itself "above the law." It particularly likes to likes to flaunt it's violations by using someone being "out of the office," or other delaying tactics.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

----- Forwarded Message -----

From: "Maureen.Conefrey@sfgov.org" <Maureen.Conefrey@sfgov.org>

To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
Cc: Jennifer.Dorantes@sfgov.org; Richard.Goss@sfgov.org; Jimmy.Miranda@sfgov.org
Sent: Fri, March 16, 2012 12:25:08 PM
Subject: Re: Fw: IMMEDIATE DISCLOSURE REQUEST

Hello Mr. Hartz,

Attached is a copy of the police report you requested with redactions required by law. Inspector Miranda is out of the office today. I left him a message to call me next week to see if there are any additional public records in his file.

As you know, the purpose of the immediate disclosure request is to expedite the Department's response to a simple, routine, or otherwise readily answerable request. As this does not fall under those parameters, the Department is invoking the extension allowed pursuant to Admin. Code § 67.25(b).

Thank you for your courtesy and cooperation regarding this matter.

Maureen Conefrey
Police Legal
Hall of Justice
(415) 553-9843

-----Jennifer Dorantes/SFPD/SFGOV wrote: -----
To: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
From: Jennifer Dorantes/SFPD/SFGOV
Date: 03/16/2012 10:53AM
Cc: Maureen Conefrey/SFPD/SFGOV@SFGOV
Subject: Re: Fw: IMMEDIATE DISCLOSURE REQUEST

Good Morning Mr. Hartz,

I have just received your request and will look into this.

Lieutenant Jennifer Dorantes #559
Officer in Charge, Legal Division
San Francisco Police Department
850 Bryant Street, Rm 575
415-553-7929

-----Ray Hartz Jr <rwhartzjr@sbcglobal.net> wrote: -----
To: Jennifer.Dorantes@sfgov.org
From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
Date: 03/15/2012 04:04PM
Cc: SOTF <soft@sfgov.org>, James Chaffee <chaffeej@pacbell.net>
Subject: Fw: IMMEDIATE DISCLOSURE REQUEST

Lt. Dorantes,

Capt Falvey informs me he forwarded this request to you. I also sent this request to the SFPD Records Division as well as Sgt Goss of the Legal Division.

5/14/2012

Inspector Miranda (#1491) has not returned my recent messages regarding this report which was from from the first week in February.

Sincerely,

Ray W. Hartz, Jr.
Director, San Francisco Open Government

----- Forwarded Message -----

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>
To: SFPD Records <SFPD.Records@sfgov.org>; Richard.Goss@sfgov.org
Cc: sotf@brucewolfe.net; James Chaffee <chaffeej@pacbell.net>
Sent: Wed, March 14, 2012 1:34:54 PM
Subject: IMMEDIATE DISCLOSURE REQUEST

IMMEDIATE DISCLOSURE REQUES

Sergeant Richard Goss #1416
San Francisco Police Department
Legal Division, Room #575
Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 505
San Francisco, California 94103-4603
(415) 734-3620
Sergeant Goss,

This request is for a copy of Police Department Complaint #120098278, in which I am a named party.
party.

I would also like copies of any and all documents produced in relation to this complaint. This would include, but is not limited to, statements submitted as part of the complaint and as a result of any result of any investigation of the complaint. In particular is would include any documents produced by produced by Inspector Jim Miranda (Star #1491) and another officer (unnamed) who discussed this complaint with me at my residence on Monday, February 6, 2012.

I would like to receive the copies by email in electronic format. As this is an IDR, and I see no reason reason why these few sheets cannot be provided within the normal business day, I will expect to receive receive the copies by close of business tomorrow, Thursday, March 15, 2012. Thank you for you attention to this request.

Sincerely,

Ray W. Hartz, Jr.

Director, San Francisco Open Government

IMMEDIATE DISCLOSURE REQUES