



National Lawyers Guild San Francisco Bay Area Chapter

558 Capp St | San Francisco, CA 94110 | www.nlgsf.org

p: 415 285-5067 | e: contact@nlgsf.org

August 1, 2018

SENT VIA FIRST CLASS MAIL

William Scott
San Francisco Police Commission Office
1245 3rd Street
San Francisco, CA 94158

Paul Henderson
Department of Police Accountability
25 Van Ness Ave, Suite 700
San Francisco, CA 94102

Department of Emergency Management
1011 Turk Street
San Francisco, CA 94102

RE: Police Accountability Complaint, Preservation of Records, and Public Records Act Request

The National Lawyers Guild San Francisco Bay Area Chapter (“NLGSF”) submits this complaint with the Department of Police Accountability and a request under the California Public Records Act in response to the brutal and unjustified arrests of 39 people who were protesting federal immigration policy outside the Immigration and Customs Enforcement (“ICE”) headquarters in San Francisco on July 9, 2018.

Police Accountability Complaint

NLGSF has been monitoring the San Francisco Police Department’s (“SFPD”) response to demonstrations for decades. We were also involved with the process that helped establish SFPD’s General Orders regarding First Amendment activity and crowd control. We are extremely concerned with the brutal and provocative manner in which the arrests on July 9th occurred. The late-night arrests stand out in contrast to SFPD’s practices in recent years; most notably, demonstrators were shot with Extended Range Impact Weapons (“ERIW”), clubbed, hit and/or dragged. Many of the demonstrators were injured, with two demonstrators requiring hospitalization for their injuries.

Of particular concern is SFPD's use of ERIW's. It is our understanding that the use of these so-called "less lethal" munitions on July 9th was a first for SFPD. This shift is deeply troubling. The type of ERIW used were high velocity foam rubber tipped plastic projectiles that can cause serious injury and/or death, especially if someone is hit on the head, neck, upper chest, or groin. ERIW's are particularly dangerous in crowd situations where people are in close proximity to each other, greatly increasing the likelihood that a round will strike an unintended target. This occurred at a demonstration in Oakland in 2011 when Scott Olsen, a young veteran, was struck in the head by an ERIW that an Oakland Police Department officer had aimed at someone standing behind him. Olsen sustained permanent brain damage. The Police Commission should immediately prohibit the use of ERIW's.

The activists arrested on July 9th were exercising their First Amendment right to join with others in protest. They had been peacefully camping in front of a single entrance to the ICE headquarters. One block of Washington Street, between Battery and Sansome Streets, had been blocked for over one week during the protests with no significant problems or issues. The activists assembled to bring attention to ICE's inhumane zero-tolerance policy that has separated thousands of children from their parents. Many of these families are fleeing violence and economic hardship in their home countries directly caused by American imperialism and militarism. San Francisco, as a city that has proudly held itself out as a sanctuary city since 1989, should not have wasted valuable resources to remove the peaceful activists who share its pro-immigrant values. Accordingly, the San Francisco District Attorney should not file charges against the 39 activists who were arrested on July 9th.

Public Records Request

Pursuant to the San Francisco Sunshine Ordinance ("Sunshine Ordinance") and the California Public Records Act ("PRA"), NLGSF submits a request for all documents, recordings, and images concerning the July 9th arrest outside the ICE headquarters including, but not limited to:

- All videos and photographs;
- All written and electronic communications between SFPD and the Department of Homeland Security and/or other federal agencies;
- All operations plans and other planning documents and briefings;
- All police reports including, but not limited to, incident reports, crime reports, arrest reports, supplemental reports, use of force reports, after action reports, and injury reports;
- All logs, including the operations center log;
- All weapons inventories for the event;
- All personnel detail; and
- All Computer Aided Dispatch reports and transcripts.

We ask that you release to us the documents, recordings and images requested above without delay, and in any event within the 10-day deadline by the Sunshine Ordinance and the PRA¹. If portions of the documents, recordings or images are exempt from disclosure, please provide the non-exempt portions². If the documents are available in electronic format, please email them to us at jaykim@nlgsf.org.

NLGSF is a non-profit organization dedicated to public service. We therefore request that you waive any fees that would be normally applicable to a PRA request. In addition, if you have the records in electronic form, they can be emailed to us without incurring any copying costs³. Should you be unable to do so, NLGSF will reimburse your agency for the direct costs of copying these records plus postage⁴. Please copy and send them as soon as possible and will promptly pay the required costs. If copying will result in any delays in the release of the information, please let us know the earliest that time we can come and examine the records⁵.

If you believe that the records are in fact exempt from disclosure, we will expect a written response setting forth the legal authority on which you rely in failing to disclose each document. In addition, please provide us with any documents that support this position, again under the PRA.

Preservation Request

NLGSF also seeks to ensure that the SFPD preserve any and all evidence related to the July 9, 2018 arrests outside the ICE headquarters. Please be advised that NLGSF is making this demand for the preservation of all documents, recordings and images requested above and any other materials relating to the events and to any subsequent investigation(s) of said events in anticipation of potential criminal and civil litigation. Under California law, such potential evidence may not be destroyed until the resolution of all claims and litigation (Cal. Govt. Code, § 26202.6; Pen. Code, § 135). Therefore, all of the above-referenced records and evidence must be preserved until the final resolution of any and all civil, criminal and/or other investigative proceedings arising from the July 9, 2018 arrests.

Thank you in advance for your prompt attention to the issues outlined in this letter. If you have any questions and/or concerns, please feel free to contact me at 415/285-5067.

Sincerely,



Jay Kim

Executive Director, National Lawyers Guild San Francisco Bay Area Chapter

¹ Gov't. Code § 6253(c); S.F. Admin. Code § 67.21(b).

² Gov't. Code § 6253(a).

³ Gov't. Code § 6253.9.

⁴ Gov't. Code § 6253(b).

⁵ Gov't. Code § 6253(a) (records must be made available when office is open).