

BEFORE THE OPEN GOVERNMENT COMMISSION  
OF THE CITY OF ALAMEDA

In Re the Complaint of  
Scott Morris

Scott Morris,  
Complainant

Case No. 21-2

The City of Alameda,  
Respondent

DECISION OF THE OPEN GOVERNMENT COMMISSION  
OF THE CITY OF ALAMEDA

The above-entitled matter came on for hearing and a decision by the Open Government Commission of the City of Alameda under the Sunshine Ordinance of the City of Alameda, Section 2-93.2(b) of the Alameda Municipal Code. (All further references to Section numbers are to the Alameda Municipal Code.)

**Facts**

On April 15, 2020, Complainant Scott Morris submitted a request seeking the following items of information for every person arrested by the city police from February 1, 2020 to April 15, 2020:

The full name and occupation of every individual arrested by the agency, the individual's physical description including the date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.

Exhibit A (S. Morris OGC Complaint,  
May 12, 2020).

The City completed its production of all records responsive to Mr. Morris's request on May 13, 2020, less than a month after receiving Mr. Morris's request. In total, Mr. Morris

received three productions of documents. Exhibit B (Email from A. Cohen to S. Morris, April 27, 2020) (first production); Exhibit C (Email from A. Cohen to S. Morris, May 12, 2020) (second production); Exhibit D (Email from A. Cohen to S. Morris, May 13, 2020) (third production). Although the City Attorney's Office initially informed Mr. Morris that some of the information he sought was exempt from disclosure (*see* Exhibit B), the City nonetheless produced the full universe of documents that Mr. Morris had requested.

At that point, the records request had been satisfied and Mr. Morris and the City agreed not to set his complaint for hearing. Exhibit E (Email from L. Weisiger to B. Schwartz, May 19, 2020). In January 2021, however, Mr. Morris discovered that the City had classified his complaint as voluntarily suspended for purposes of its annual report regarding OCG complaints, and disputed the accuracy of that characterization. He then renewed his May 12, 2020 complaint and asked that it be set for hearing.

### **Procedure**

Under the Sunshine Ordinance, when an official complaint has been filed, the Open Government Commission, created under the Sunshine Ordinance, hears the complaint and renders a formal written decision. The complainant and the City shall appear at a hearing. During the hearing, the Open Government Commission considers the evidence and the arguments of the parties before making its decision. Section 2-93.2 (b). The Open Government Commission conducted the hearing on April 5, 2021 and considered the evidence and arguments of Mr. Morris and the City.

### **Discussion**

Complainant Scott Morris alleges that the Alameda City Attorney and Alameda Police Department improperly denied his request for documents under the California Public Records Act, Cal. Gov. Code § 6250, et seq. and the City of Alameda's Sunshine Ordinance (Mun. Code § 2-92 et seq.).

The OGC finds that the City did not deny Mr. Morris's request. As explained above, however, and as demonstrated by Exhibits B through D, the City provided Mr. Morris with all responsive records. Because Mr. Morris has received all that he has demanded, and there has been no non-compliance with the Sunshine Ordinance.

The Commission's authority with respect resolving complaints, as defined by Mun. Code 2-22.4, is to "hear and decide complaints by any person concerning alleged non-compliance with the Sunshine Ordinance." If the Commission finds that a public record has been improperly withheld, the Commission "may recommend to the City steps necessary to cure or correct the violation," and issue fines in the event of repeated, similar violations. Mun. Code § 2-93.8(b). Here, because the OGC finds that City did not deny Mr. Morris's request and provided him the information he sought, there has been no violation of the Sunshine Ordinance. Moreover, the City would be well within its right to only disclose contemporaneous arrest records, consistent with its current 30 day look back policy.

For all of the above reasons, the complaint is determined to be unfounded.

Dated: April \_\_, 2021

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#### Exhibits

1. Exhibit A (S. Morris OGC Complaint, May 12, 2020)
2. Exhibit B (Email from A. Cohen to S. Morris, April 27, 2020)
3. Exhibit C (Email from A. Cohen to S. Morris, May 12, 2020)
4. Exhibit D (Email from A. Cohen to S. Morris, May 13, 2020)
5. Exhibit E (Email from L. Weisiger to B. Schwartz, May 19, 2020)

