



April 10, 2008

Mayor Gavin Newsom
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Fax: 415-554-6160

Chief Heather Fong
San Francisco Police Department
850 Bryant Street, 5th Floor
San Francisco, CA 94103
Fax: 415-554-1554

Re: Request for Records – Immediate Disclosure Request

Dear Mayor Newsom and Chief Fong,

We are writing to express our disappointment in the way they City handled the Olympic Torch relay, as well as to request records relating to the relay. A run along the planned and publicly released route, with people supporting, opposing and just simply observing this historic event could have served as a shining example of San Francisco's values of free speech, diversity of opinion, and open and robust debate.

Instead, the world saw the torch whisked away from those who came to see it, depriving tens of thousands of people of their right to express their opinion about the torch run, China, and the Olympics within a reasonable proximity to the event. The route change left observers with the image of San Francisco running from people exercising their right to free speech, rather than celebrating it. And, given the overwhelmingly peaceful nature of the spectators, it seems like an overreaction, and one that had the effect if not the intent of suppressing free expression on all sides.

We are further troubled that we were not notified of the plans and decision to change the route. On March 13, 2008, we filed a sunshine ordinance request for the route of the Torch run, among other things. Your offices responded, indicating that your offices would release the route once it was finalized. The route was publicized and thousands of people came to San Francisco to see the torch, in expectation that the route would be substantially followed. Our March 13 request was a continuing request for records through April 15. We were never notified of any change to the released route.

M. QUINN DELANEY, CHAIRPERSON | ROBERT CAPISTRANO, SUSAN FREIWALD, LISA HONIG, NATALIE WORMELI, VICE CHAIRPERSONS | NANCY PEMBERTON, SECRETARY/TREASURER
MAYA HARRIS, EXECUTIVE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | ERIKA CLARK, COMMUNICATIONS DIRECTOR | JUSTINE SARVER, ORGANIZING DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR
ANN BRICK, MARGARET C. CROSBY, TAMARA LANGE, JULIA HARUMI MASS, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS | NATASHA MINSKER, NICOLE A. OZER, MARK SCHLOSBERG, POLICY DIRECTORS
STEPHEN V. BOMSE, GENERAL COUNSEL

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF NORTHERN CALIFORNIA

39 DRUMM STREET, SAN FRANCISCO, CA 94111 | T/415.621.2493 | F/415.255.1478 | TTY/415.863.7832 | WWW.ACLUNC.ORG



We are therefore writing to request records and information under the San Francisco Sunshine Ordinance, Chapter 67 of the Administrative Code, the California Public Records Act, Government Code section 6250 *et seq.*, and Article I, Section 3 of the California Constitution. We request are the following records:

1. At 8:00 am on April 9th, we observed no police barricades up north of Lombard and Embarcadero through Fisherman's Wharf, no signs restricting parking in light of the planned Torch run, and no other sign that police were planning for a run along that half of the announced route. You also made several public pronouncements prior to April 9, 2008, that the route might be altered. In light of this, we seek:
 - a. All documents reflecting plans to accommodate the torch run and demonstrations created up to and including April 9th, 2008 including but not limited to operations plans (both final and prior drafts); plans to manage crowds north of Lombard on the Embarcadero and through the Fishermen's Wharf area; communication and contracts with city and/or private entities that supply the fencing for police barricades; concerns about violence, crowd management, protection of the torch, or traffic.
 - b. All documents reflecting plans and the decision to alter the torch route, including any contingency plans for alternate routes created on or before April 9, 2008; internal communication within your respective offices and with other law enforcement agencies regarding the decision to alter the route; e-mails, text messages, or any other documents relating to the decision to alter the route.
 - c. All documents reflecting communication regarding the torch run, the route, concerns about the route, and planned, potential, or actual changes to the route with outside entities including representatives from the United States Olympic Committee, the International Olympic Committee, the Beijing Olympic Committee, the Chinese Consulate, any other representative of the Chinese government, domestic and international media organizations, and organizations supporting or opposing the torch run. The records we seek are those created or received between March 9, 2008 and April 10, 2008.
2. In the days before the relay both of your offices had been very clear that Justin Herman Plaza and the closing ceremonies would be open to all, that demonstrators would be able to hold signs there, and that no one would be turned away because of their political views. But on April 9 we witnessed San Francisco Police Officers and San Francisco Park Rangers discouraging individuals and groups protesting China and the torch run from entering these

areas. We also saw police and rangers ordering groups of peaceful protestors to leave the Plaza, claiming that Justin Herman Plaza was reserved for pro-Chinese groups. These latter actions prompted us to contact the San Francisco Police Department command center to alert them to our concerns. We are therefore requesting:

- a. All documents, orders, or other policies and procedures that instructed officers on the protocol for whether or not to allow demonstrators into Justin Herman Plaza and/or the closing ceremony area, whether signs would or would not be allowed, and how to determine who to allow in or to discourage from entering.
- b. All documents reflecting permits from organizations or holds placed by the city on Justin Herman Plaza and/or the portion being used for the planned closing ceremony.

As used above, “documents” includes any reports, evaluations, meetings agendas and minutes, memoranda, letters, emails, charts, graphs, diagrams, maps, telephone records, or other materials. Also, as used above “policies and procedures” includes but is not limited to orders, general orders, codes, regulations, unit or special department orders, bulletins, memoranda, directives and training materials. We would appreciate being informed if these policies or procedures are currently in the process of being updated or revised.

If you believe that any of these materials may be in the possession of some other department or agency of the City and County of San Francisco or the State of California, please forward this request to that department or agency.

This is an “Immediate Disclosure Request” pursuant to the San Francisco Sunshine Ordinance and is a readily answerable request. As such, it should be satisfied no later than the close of business on the day following the day of the request. We would appreciate being notified if any of the materials will not be produced in this time frame.

Thank you for your anticipated response to this request. We can be reached at 415-621-2493.

Sincerely,



Mark Schlosberg
Police Practices Policy Director
ACLU of Northern California



Michael Risher
Staff Attorney
ACLU of Northern California