

THE MAREK LAW FIRM

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September 16, 2024

VIA FIRST-CLASS MAIL & ELECTRONIC MAIL

Jack Poulson
Executive Director
Tech Inquiry
180 N Taaffe Street
Sunnyvale CA 94086
jack@techinquiry.org

Re: Demand for Removal of Sealed Document and Information Related to Sealed Document

Dear Mr. Poulson:

I am writing on behalf of my client, Maury Blackman, regarding your unauthorized possession, release, and publication of a police report that was sealed by court order. The report in question, San Francisco Police Department Incident Report 21012755, was sealed by on Ordered entered by the Honorable Judge Carolyn Gold on February 17, 2022, to protect my client's personal information. By publishing this report on your Substack platform and on the Tech Inquiry website, you have violated multiple legal protections, resulting in significant harm to my client's reputation and causing emotional distress. Your actions in disseminating this sealed report and information related to the sealed report are unlawful and require immediate remedy.

Background

On September 14, 2024, you uploaded to your Substack blog an arrest report that had been sealed by court Order related to my client. The sealed report that you uploaded contained a unique identifier. As a result of that unique identifier, it is known or suspected that the copy of the sealed report that you uploaded was obtained by Newton Oldfather, a lawyer who had previously worked for the San Francisco City Attorney's Office and the Department of Police Accountability and was, at that time, involved in an adversarial relationship with my client's employer, from the San Francisco Police Department on May 9, 2022. Since your initial upload of the sealed report, you have published approximately four additional posts relating to this sealed report. You have also appeared to conspire with Bryon Tau, author of *Means of Control*, to use the sealed report to promote his book and your blog.

At the time of your initial post on September 14, 2023, you had or should have had knowledge that this report was sealed pursuant to a Court Order dated March 17, 2022. A routine phone call to the San Francisco Police Department would have revealed that the report had been sealed by Court Order. The Court Order refers you to the applicable statute that governs the treatment of sealed reports. Further, you surely knew or should have known the report had been sealed pursuant to a Court Order between September 14, 2023 and now. Yet, you have failed to remove the sealed report and your posts concerning the sealed report.

Legal Issues

By publishing the sealed report and disseminating its contents, you have subjected yourself to potential liability for, including but not limited to, the following:

1. Violation of Court-Ordered Seal (Contempt of Court)

Under California Penal Code Section 166(a)(4), the willful disobedience of a lawful court order constitutes contempt of court. The release and publication of this sealed report are direct violations of this statute, reflecting a flagrant disregard for judicial authority. Courts take these violations seriously, as contempt undermines the integrity of the judicial process. In *In re Nolan W.* the California Supreme Court confirmed that violating a court order subjects the violator to sanctions. (2009) 45 Cal.4th 1217, 1230. Here, you released the report and continue to disseminate it in violation of a Court Order.

2. Violation of California Penal Code Section 851.92 (Sealed Arrest Records)

California Penal Code Section 851.92 provides specific protections for sealed arrest records, prohibiting their dissemination without court authorization. See Section 851.92(b)(5) (“Arrest records, police investigative reports, and court records that are sealed under this section shall not be disclosed to any person or entity except the person whose arrest was sealed or a criminal justice agency.”); Section 851.92(c) (“Unless specifically authorized by this section, a person or entity, other than a criminal justice agency or the person whose arrest was sealed, who disseminates information relating to a sealed arrest is subject to a civil penalty of not less than five hundred dollars (\$500) and not more than two thousand five hundred dollars (\$2,500) per violation. The civil penalty may be enforced by a city attorney, district attorney, or the Attorney General. This subdivision does not limit any existing private right of action. A civil penalty imposed under this section shall be cumulative to civil remedies or penalties imposed under any other law.”) The statute was enacted to ensure that individuals who have been arrested but not convicted are protected from the lifelong consequences of public exposure to their arrest records. By publishing the sealed police report, which involved my client, you disseminated a sealed report without authorization.

3. Invasion of Privacy

Publishing the sealed police report constitutes a direct and actionable invasion of my client’s privacy. California Civil Code Section 1708.8 provides that individuals have the right to

privacy in matters that are not of legitimate public concern. The California Supreme Court, in *Shulman v. Group W Productions, Inc.*, explained that public disclosure of private facts that are offensive to a reasonable person, and not of legitimate public concern, is an invasion of privacy. (1998) 18 Cal.4th 200, 214. The report you published includes sensitive personal details about my client that were sealed specifically to protect his privacy.

4. Defamation (Libel)

The publication of this sealed report has resulted in substantial reputational damage to my client, constituting defamation under California Civil Code Section 45. Libel occurs when false statements or damaging implications about an individual are published in a way that causes harm to their reputation.

5. Intentional Infliction of Emotional Distress (IIED)

Your actions by disseminating and failing to remove the sealed report meet the standard for Intentional Infliction of Emotional Distress (IIED) under California law. IIED occurs when an individual engages in extreme and outrageous conduct that is intended to cause—or recklessly disregards the likelihood of causing—severe emotional distress to another.

6. Negligence and Failure to Investigate

Publication of the sealed report and information related to the sealed report and/or failing to investigate the report constitutes negligence.

8. Tortious Interference with Contractual Relations

Your actions also constitute tortious interference with contractual relations. Under California law, tortious interference occurs when one party intentionally disrupts a contract between two other parties, resulting in economic harm. By publishing this sealed report, you have interfered with my client's ability to maintain existing business contracts and relationships, leading to financial and reputational harm.

9. Tortious Interference with Prospective Economic Advantage

Beyond disrupting existing contracts, your publication of this sealed report has interfered with my client's prospective economic advantage. By releasing a sealed report that includes damaging personal information, you have undermined my client's ability to secure future business, employment, and professional opportunities.

Demand for Action

My client demands the following:

1. Immediate Removal: Within 24 hours you and Tech Inquiry must cease and desist from further publication or dissemination of the sealed police report in any form. All copies must be

removed from your Substack platform, the Tech Inquiry website, and any other platform under your control.

2. Written Confirmation: You and Tech Inquiry are required to provide written confirmation by Wednesday, September 18th that you have complied with this demand.

3. Compensation for Damages: My client seeks monetary compensation from you and Tech Inquiry for the damages he suffered, including reputation harm, lost business opportunities, emotional distress, and legal costs, in the amount of \$25,000,000.

Failure to comply with these demands will leave us no choice but to pursue all available legal remedies, including but not limited to the claims described herein.

Sincerely,

/s/

David Marek