

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DAVID CHIU
City Attorney

JENNIFER CHOI
Deputy City Attorney

Direct Dial: (415) 554-3887
Email: jennifer.choi@sfcityattty.org

October 3, 2024

Via U. S. Mail and Electronic Mail

Joshua A. Baskin
Wilson Sonsini Goodrich & Rosati
One Market Plaza
Spear Tower, Suite 3300
San Francisco, CA 94105
"jbaskin@wsgr.com"

Re: Publication of Sealed Document by Substack

Dear Mr. Baskin:

On September 19, 2024, my office notified your client Substack in writing that it had published a sealed San Francisco Police Department incident report number [REDACTED] ("Incident Report") on its platform, in violation of a court order and Substack's own "Acceptable Use Policy." We demanded that Substack immediately remove the Incident Report and its contents from its website and ensure that the index to postings no longer allow for it to be downloaded. Substack failed to do so.

Instead, on September 24, 2024, you responded on behalf of Substack and advised that Section 230 of the Communications Decency Act bars Substack from liability for the content posted by its users. You then recommended that the City contact the post's publisher.

Your September 24, 2024 response is inadequate. Regardless of whether Substack has liability for continuing to post the Incident Report on its platform, Substack is now on notice that the posting of the Incident Report violates its own "Acceptable Use Policy" as well as a court order. Substack has also failed to remove what it now knows to be a posting that violates its own "Acceptable Use Policy" as well as a court order. Your September 24, 2024 letter also fails to state whether Substack has asked the author of the posts to comply with Substack's "Acceptable Use Policy" and take down the posts related to the Incident Report.

While the City will also contact the author of the posts, Substack has a separate duty to follow its own "Acceptable Use Policy" and court orders.

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Please alert us when the Incident Report and its contents have been taken down from Substack's platform. As stated previously, please also refrain from publishing this material in the future.

Thank you.

Very truly yours,

DAVID CHIU
City Attorney

A handwritten signature in black ink, appearing to read "J Choi", with a long horizontal flourish extending to the right.

JENNIFER E. CHOI
Deputy City Attorney