



Office of the Public Defender
City and County of San Francisco

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March 10, 2011

George Gascón
District Attorney
City and County of San Francisco
880 Bryant St.
San Francisco, Ca, 94103

Jeff Godown
Acting Police Chief
City and County of San Francisco
880 Bryant St.
San Francisco, Ca, 94103

RE: Policy on master keys

Dear District Attorney Gascón & Acting Police Chief Jeff Godown,

In light of recent events — in which police used master keys to illegally enter homes of San Francisco residents and then lied about it — I request that the Police Department, in consultation with the District Attorney, issue a General Order prohibiting police use of hotel master keys.

Cases have held that landlords do not have the right to consent to searches for tenants, renters or lessees.¹

A landlord may not open a door to a tenant's apartment. By cajoling master keys from the hotel owners to engage in illegal searches, the police are subjecting these owners, and the City and County of San Francisco, to the possibilities of federal civil rights suits (See, 42 U.S.C. § 1983).

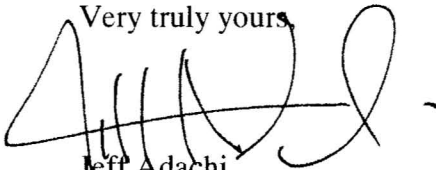
The Department should not put these citizen hotel owners, managers, and clerks at unknowing risk of violating their tenants' rights; and tenants' should be confident in their expectation of privacy. Hotel owners and employees are under the false impression that they must or should cooperate with good-faith requests of the police, but the police customary practice of abusing the

¹ *Chapman v. United States* (1961) 365 U.S. 610 (landlord smells illegal whiskey - cannot consent to police entry through tenant's unlocked window); *Stoner v. California* (1964) 376 U.S. 483 (hotel night clerk illegally uses key to open tenant's door for police); *People v. Smith* (1972) 7 Cal.3d 282 (police could not direct landlady to unlock a door to enter without a warrant); *People v. Jaquez* (1985) 163 Cal.App.3d 918 (real estate agent, with permission to show house, cannot give police permission to enter) *People v. Roman* (1991) 227 Cal.App.3d 674 (landlord illegally unlocks commercial tenant's warehouse with a key for police); *Burkholder v. Superior Court* (1979) 96 Cal.App.3d 421 (police illegally use master key to enter ranch lands); *United States v. Impink* (9th Cir. 1984) 728 F.2d 1228 (snooping landlord cannot give police permission to enter tenant's home); *United States v. Warner* (9th Cir. 1988) 843 F.2d 401 (even if landlord properly on grounds to do repairs sees contraband, police could not use his keys to enter without a warrant).

use of these keys has made them unknowing and liable accomplices in these invasions of privacy.

Therefore for the security and protection of all San Franciscans, I urge you to adopt a strong policy against the use of hotel master keys, so that tenants and guests can rest secure in their homes — whether that be an expensive ocean view apartment or the hotels here, in less expensive zip codes. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeff Adachi", with a horizontal line extending across the middle of the signature.

Jeff Adachi
Public Defender