

SUNSHINE ORDINANCE TASK FORCE
2005 ANNUAL REPORT
TO THE BOARD OF SUPERVISORS
CITY AND COUNTY OF SAN FRANCISCO

I. SUMMARY

The Sunshine Ordinance Task Force continued to undertake an extensive review of the Sunshine Ordinance and proposed amendments. The Task Force administered a survey to City Departments to collect data pertaining to amendments to the Sunshine Ordinance.

The Task Force was also involved in discussions with the San Francisco Community College District Board of trustees relative to adopting portions of the Sunshine Ordinance and on how Proposition 59 (November 2004) should guide them in their efforts to comply with the requirements of the Sunshine Ordinance.

The Task Force also held discussions regarding the San Francisco Unified School District's Open Government Policy, and recommended certain amendments to their policy. Finally, pursuant to Board of Supervisors Resolution No. 562-05 (File #051299) the Task Force encouraged the San Francisco Redevelopment Agency to adopt their draft Public Records Policy, and also that the Task Force be consulted with regards to any future amendments to that Policy.

In 2005, the Task Force conducted 11 meetings and its committees conducted 35 meetings.

II. ACCOMPLISHMENTS

- Developed and sent survey's to City Departments and Agencies to obtain input regarding proposed amendments to the Sunshine Ordinance. Continued discussion regarding proposed amendments will occur in 2006.
- The Task Force conducted joint meetings with members of the San Francisco Community College Board to discuss adoption of portions of the Sunshine Ordinance.
- The Task Force had discussions regarding members of the public making harassing or discriminatory comments at or during public meetings.
- The Task Force urged the Board of Supervisors to vote against two proposed Charter Amendments (File #050930 and 050925): 1) authorizing City departments to post notices on department web sites rather than in the official newspaper, and 2) establishing Minimum Qualification for members of City bodies that oversee and administer election, campaign

finance, lobbying, conflict of interest, open meeting, and public records laws.

- Task Force Members met with several members of the press to discuss the role of journalists and Sunshine Ordinance.
- The Public Education & Information Committee was renamed the Education, Outreach and Training Committee and began updating its Mission Statement and Work Program to better reflect its function and mission.
- Responded to a total of 2,551 public inquiries. 100% of Sunshine Requests made to the Task Force were responded to within 5 days.
- There was an increase in the number of complaints filed in 2005 from 25 to 40 complaints. This may be a result of proactive measures taken to educate the public regarding their options with regard to alleged departmental non-compliance with Open Government laws.
- The Complaint Committee revised the complaint procedures used by the Task Force.
- From the 41 complaints received from community members, the Task Force issued a total of 28 Orders of Determinations, 19 to City departments and nine to a Commission.

III. COMPLAINTS RECEIVED OR ADJUDICATED DURING 2005

Date Received	Complainant	Department	Status	Violation
12/7/2004	Roland Sheppard (#05001)	Public Utilities Commission	Order of Determination 1/25/05 dismissing complaint	None
12/7/2004	Luce Forward on behalf of Joe Cassidy (#05002)	Supervisor Maxwell's Office	Order of Determination 1/25/05 dismissing complaint	None
12/7/2004	Luce Forward on behalf of Sean Keighran (#05003)	Supervisor Maxwell's Office	SOTF Hearing 1/25/05, Letter 1/31/05 (No action taken).	No Action
12/7/2004	Cheryl Brinkman, Pat Christensen, Sue Vaughan (#05004)	Golden Gate Park Concourse Authority	Order of Determination 1/25/05 (Violation)	67.6 (f)
12/16/2004	Joseph Engler (#05005)	Police	Order of Determination 1/25/05 (Violation)	67.21 (b), 67.24 (c), 67.27 (a) and (c),

Date Received	Complainant	Department	Status	Violation
12/20/2004	Anonymous Letter (#05006)	Ethics Commission	Order of Determination 2/23/06 (Violation)	67.6 (f)
1/5/2005	Curtis Eisenberger, Fred Snyder (#05009)	City Planning	Order of Determination 2/23/05 (Violation)	67.21, 67.25
1/27/2005	Ben Rosenfeld (#05010)	Sheriff	Order of Determination 2/23/05 (Violation)	67.21, 67.24 (b), 67.27
2/2/2005	Dr. Ahimsa Porter Sumchai (#05011)	Supervisor Maxwell's Office	Order of Determination 3/22/05 (No Violation)	None
2/2/2005	Jon Golinger (05012)	Port Commission	Closed; did not want to pursue the complaint (2/18/05)	None
2/16/2005	Joseph Engler (#05013)	Police	Order of Determination 3/22/05 (Violation)	67.21 (b), 67.24 (c), 67.27 (a) and (c),
2/28/2005	Anonymous Letter (#05014)	Municipal Transportation Agency	Withdrew complaint	None
4/25/2005	John Darmanin (#05015)	Fire Commission	Task Force 7/26/05 (Complaint Dismissed)	None
4/25/2005	John Darmanin (#05016)	Fire Commission	Order of Determination 7/26/05 (Complaint Dismissed)	None
5/4/2005	John Kelly (#05017)	Treasurer-Tax Collector	Order of Determination 5/26/05 (Violation)	67.21
5/13/2005	John Darmanin (#05018)	Fire Commission	Task Force 7/26/05 (Complaint Dismissed)	None
6/6/2005	John Kelly (#05019)	Police	Complaint Withdrawn 8/16/05	None
6/6/2005	John Kelly (#05020)	Controller	Complaint Withdrawn 7/10/05	None
6/15/2005	Richard Midgett (#05021)	Controller	Order of Determination 9/27/05 (Complaint Dismissed)	None
6/27/2005	Micki Jones (#05022)	Fire	Order of Determination 7/26/05 (Violation)	67.21 (b); 67.24 (c)(7); 67.27 (a) and (c),
6/15/2005	Dr. Nataraj Akkiraju (#05023)	Public Utilities Commission	Complaint Withdrawn 10/3/2005	None

Date Received	Complainant	Department	Status	Violation
6/28/2005	Todd Wallack (#05024)	Human Services	Complaint Withdrawn 7/6/05	None
7/11/2005	Juan De Anda (#05025)	Public Health	Order of Determination 8/23/05 (No Violation)	None
7/17/2005	Patrick Monette-Shaw (#05026)	Mayor's Long Term Care Coordinating Council	Order of Determination 8/23/05 (No Violation)	None
7/20/2005	James Keys (#05027)	Mayor's Office	Order of Determination 8/23/05 (No Violation)	None
7/22/2005	Tom Feledy (#05028)	Human Resources and Police	Order of Determination 8/23/05 (No Action Taken)	No Action
7/22/2005	Tom Feledy (#05028A)	Civil Service Commission	Letter 8/25/05 (No Action Taken)	No Action
8/2/2005	John Kelly (#05029)	District Attorney	Order of Determination 10/25/05(Violation)	67.21 (a) and (b)
8/3/2005	Todd Wallack (#05030)	Assessor-Recorder	Order of Determination 9/27/05 (Violation)	67.25; 67.28
8/22/2005	Karen Fishkin, Robert Planthold (#05031)	Mayor's Office of Criminal Justice	Order of Determination 9/27/05 (Violation)	67.21 (b), 67.24 (e)(1)
9/7/2005	Christopher Willers (#05032)	Zoological Society	Order of Determination 10/25/05 (Violation)	67.25
9/8/2005	Joseph Engler (#05033)	Civil Service Commission	Complaint Withdrawn 11/21/05	None
9/13/2005	Justin Augustine (#05034)	Animal Care and Control	Order of Determination 11/22/05 (Technical Violation)	67.21
9/13/2005	James Chaffee (#05035)	Board of Supervisors	Complaint Withdrawn 9/26/05	None
10/4/2005	Espanola Jackson (#05036)	Board of Supervisors	Order of Determination 11/22/05 (No Violation)	None
10/11/2005	Sue Cauthen (#05037)	Municipal Transportation Agency	Order of Determination 1/24/06 (No Violation)	None

Date Received	Complainant	Department	Status	Violation
10/19/2005	David Parker (#05038)	Police	Order of Determination 11/22/05 (Violation)	67.21, 67.24 (i), Cal Gov Code 6254 (g)
11/10/2005	Louis Dillon (#05039)	Recreation and Parks	Order of Determination 1/3/06 (Violation)	67.7; 67.7-1; 67.15
11/29/2005	Juan De Anda (#05040)	Public Health	Order of Determination 1/24/06 (No Violation)	None
12/13/2005	John Wickham (#05041)	Parking & Traffic	Complaint Withdrawn 2/28/06	None
12/19/2005	Steve Lynch (#05042)	Fire	Order of Determination 2/28/06 (Technical Violation)	67.25

IV. MEMBERSHIP

The Task Force reorganizes each May and elects new officers.

Officers elected May 2004:

Garrett Jenkins, Chair
Alexandra Nickliss, Vice-Chair

Garrett Jenkins resigned from the Task Force in March 2005

Officers of the Task Force beginning May 2005:

Doug Comstock served as Chair
Erica Craven served as Vice-Chair

The Task Force has 11 seats, four of which are dedicated:

- The Society of Professional Journalists has one seat for an attorney and one for a member of the media.
- The League of Women Voters has one seat.
- The New California Media now called New America Media has one seat. Seat 4 remained vacant during the year.
- The other members must have demonstrated consumer involvement or community activism.
- At least one person with a physical disability is required to be a member of the Task Force.
- The Board of Supervisors appoints members to fixed two-year terms.

- There are two non voting ex-officio members—one appointed by the Mayor and the other by the Clerk of the Board. The Mayor has not appointed an ex-officio member to that seat.
- The gender breakdown of the Task Force for 2005 was four females and six males.
- The ethnic breakdown of the Task Force for 2005 was one African-American, and nine Caucasians.
- See Section VII, Addendum #1 for a membership listing.

V. ORGANIZATION & COMMITTEE STRUCTURE

The Task Force was four Standing Committees:

- (1) **Complaint Committee:** If the efforts of the Administrator and the Deputy City Attorney fail to obtain the information to which a complainant is legally entitled, the matter will be referred to the Complaint Committee for a hearing to determine whether the Task Force has jurisdiction over the complaint. If jurisdiction is found, a Task Force hearing will be held at which time the complainant and the respondent will state their respective cases and answer questions from members of the Task Force; afterwards an Order of Determination will be issued. See Section VII, Addendum # 2 for a copy of the complaint form.

Members of the Complaint Committee in 2005 were: Sue Cauthen (Chair); David Pilpel; Bruce Wolfe.

The Complaint Committee shall:

- Thoroughly review petitions/complaints submitted to the Task Force so as to ensure their prompt and satisfactory resolution;
- Make a determination regarding subject matter jurisdiction after hearing the recommendation made by the City Attorney;
- Where the SOTF has jurisdiction and a hearing has been requested, the committee will prepare for the hearing by identifying pertinent legal questions and requesting the necessary legal research, identifying key issues for questionings at the hearing, making sure that all of necessary and other helpful parties have been invited to the hearing, and assisting in the determination of possible conflicts of interest;
- Where the SOTF has jurisdiction and no hearing has been requested, the committee will first ask the SOTF Administrator to ask the complainant if they want a hearing held on their complaint, and if no hearing is desired, the committee will make an Order of Determination based on the petition/complaint, supporting materials, the response of the City entity in question, and any other relevant information for recommendation to the full SOTF;

- Work with the SOTF Administrator and legal counsel to further the best level of communication between the SOTF, members of the public and representatives of the City policy body most knowledgeable about the allegations made in a complaint.
- (2) Compliance & Amendments Committee: The Committee was appointed in 2002. This Committee monitors compliance with the Orders of Determinations adopted by the Task Force and recommends to the Task Force amendments to the Sunshine Ordinance.

Members of the Compliance and Amendments Committee in 2005 were: Richard Knee (Chair), Erica Craven; Doug Comstock.

The Compliance & Amendments Committee shall:

- Thoroughly review the Orders of Determination adopted by the SOTF, and when appropriate, schedule public hearings to ensure their prompt and satisfactory compliance;
- Report to the SOTF regarding compliance of each Order of Determination;
- Work with the SOTF Administrator and legal counsel to obtain compliance with Orders of Determination;
- Where non-compliance has been found, make recommendations to the SOTF for resolution;
- Consider and make recommendations to the Task Force from staff and community members regarding amendments to the Sunshine Ordinance, and when appropriate, hold public hearings to invite comment on proposals for amendments;
- Distribute information to non-profits covered under Administrative Code Chapter 12L;
- Other duties as may be determined by the committee or assigned by the full SOTF;
- Ensure that the SOTF, the SOTF Administrator and the City Attorney are all following the complaint procedure. This includes providing assistance in making sure that the City representatives are cooperating with requests for responses to complaints and sending a representative to the hearings;
- Review and revise the complaint procedure as needed, and make recommendations to the full SOTF regarding any proposed changes;
- Address any additional concerns regarding the complaint process and make recommendations for reform to the full SOTF; and
- Other duties as may be determined by the committee or assigned by the full SOTF.

The Chair of the Task Force appoints committee chairs and its members. Each member of the Task Force must also be a member of a committee.

Ad Hoc Committees are appointed as needed. There have been several Ad Hoc Committee meetings to deal with suggested Sunshine Ordinance provisions for the City College Board, access to public meetings and public records at the San Francisco Community College District, and the San Francisco Unified School District's proposed Open Government Policy.

- (3) Education, Outreach, and Training Committee: Unless the public is aware of its right of access to information and participation, the value of the ordinance would be minimal. Therefore, Education, Outreach and Training Committee was created whose purpose is to oversee the preparation and publication of information.

Members of the Education, Outreach, and Training Committee in 2005 were: David Pilpel (Chair); Bruce Wolfe; and Nicholas Mueller.

The Education, Outreach, and Training Committee's mission is to address:

- The rights of citizens and the responsibilities of City officials and departments under the Sunshine Ordinance;
- The rights of citizens and the responsibilities of non-profit organizations under Admin Code Section 12L;
- The procedures for requesting documents and/or access to meetings as mandated by the Sunshine Ordinance; and
- The procedures for filing a complaint with the Task Force and what to expect at a hearing.

- (4) A Rules Committee was established to develop by-laws-procedures so the Task Force's work could proceed in an orderly way. As with all committees, recommendations for action are made to the full Task Force for final action.

Members of The Rules Committee in 2005 were: Heather Sterner (Chair); David Parker; Bruce Wolfe

The Rules Committee's mission is to:

- Monitor the ability of the Sunshine Ordinance Task Force to easily and properly consider and take action on agenda items and complaints;
- Monitor how easily and fully the public participate in the workings of the Sunshine Ordinance Task Force by availing themselves of public comment, filing complaints, and cooperation in investigation of complaints;
- Suggest changes to simplify, clarify, and/or improve the efficiency of both the full Sunshine Ordinance Task Force and its subcommittees; and

- Review the rules and procedures of the Task Force annually.

VI. ADDENDA

1. Membership of Task Force
2. Complaint Form and Overview of Procedures
3. Sunshine Ordinance Task Force Web Page

**SUNSHINE ORDINANCE TASK FORCE
MEMBERS DURING 2005
(Terms expire 4/27)**

Seat 1	Submitted by the local chapter of the Society of Professional Journalists and be an attorney. Appt 8/25/04 to fill unexpired term of N. Dogwill. N. Dogwill appointed 4/5/04 and resigned 6/04	Erica L. Craven Term ends 4/06 District 8
Seat 2	Submitted by the local chapter of the Society of Professional Journalists and be a journalist. Appt 5/3/02 re-appointed 4/15/04	Richard Knee Term ends 4/06 District 3
Seat 3	Member of the press or electronic media with an interest in citizen access. Appt 5/3/02; re-appointed 5/15/04	Sue Cauthen Term ends 4/06 District 3
Seat 4	Appointed from names submitted by New California Media now know as New America Media; be a journalist from a racial/ethnic-minority-owned news organization. Appt 10/26/04 to fill unexpired term of P. Mehra. P Mehra appointed 5/9/03. R Contreras-Rosado resigned in 1/05	Rosalinda Contreras-Rosado Term ends 4/07 District 11
Seat 5	Submitted by the League of Women Voters. Appt 12/7/01; re-appointed 4/15/04	Heather Sterner Term ends 4/06 District 2
Seat 6	Experienced in consumer advocacy. Appt 5/3/02; re-appointed 4/15/02	Doug Comstock Term ends 4/06 District 5
Seat 7	Experienced in consumer advocacy. Appt 4/15/04	David Pilpel Term ends 4/06 District 4
Seat 8	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 6/2/05 to fill the unexpired term of Garrett Jenkins. G Jenkins re-appointed 4/15/04 and resigned 3/05	Bruce Wolfe Term ends 4/06 District 5
Seat 9	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 5/3/02; re-appointed 4/15/04, resigned 12/1/05	David Parker Term ends 4/06 District 7
Seat 10	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 6/2/05 to fill unexpired term of Alexandra Nickliss. A. Nickliss re-appointed 4/15/04, resigned 4/05	Nick Mueller Term ends 4/06 District 8
Seat 11	Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 5/25/01; re-appointed 5/9/03; re-appointed 6/2/05 Clerk of the Board or her designee (non-voting) Mayor or his designee (non-voting)	Marjorie A. Williams Term ends 4/07 District 10 Gloria Young Vacant



1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

Thank you for your interest in the implementation of the San Francisco Sunshine Ordinance.

The Sunshine Ordinance adopted by the citizens of the City & County of San Francisco declares that:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

The role of the Sunshine Ordinance Task Force is to advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement the Ordinance. The Task Force is responsible for developing appropriate goals to ensure the practical and timely implementation of the Ordinance and to report to the Board on practical or policy problems encountered in the administration of the Ordinance.

If you have encountered problems regarding compliance with the Ordinance, the Public Records Act or the Ralph M. Brown (Public Meetings) Act, we ask that you fill out the attached complaint form. Please deliver the form to Frank Darby, Administrator of the Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683.

We attempt to resolve complaints informally where possible, through the affected departments and the City Attorney's office. Matters that cannot be adequately resolved, or matters that involve substantial policy considerations, may be set for hearing at a Task Force meeting. The Task Force meets the fourth Tuesday of each month at 4:00 p.m. at City Hall, Room 408.

Notice: Personal information that you provide is subject to disclosure under the California Public Records Act and the Sunshine Ordinance, except when confidentiality is specifically requested. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
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SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission _____
Name of individual contacted at Department or Commission _____

_____ Alleged violation public records access
_____ Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section _____
(If known, please cite specific provision being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Do you wish a public hearing before the Sunshine Ordinance Task Force? _____ yes _____ no.

(Optional)¹
Your name _____ Address _____
_____ Date _____

Telephone _____ If anonymous, please let us know how to contact you.

Signature _____

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS CAN BE ANONYMOUS AS LONG AS THE COMPLAINANT PROVIDES A RELIABLE MEANS OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).



Filing a Complaint with the Sunshine Ordinance Task Force

1. You may fill out a Complaint Form, or you may send your own letter filing a formal complaint. The complaint is filed with the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Pl., Room 244, San Francisco CA 94102-4689. (Fax # 415 554 7854)
2. Once your complaint is received, the Complaint Committee of the Sunshine Ordinance Task Force reviews the complaint to determine if the Sunshine Ordinance Task Force has jurisdiction.
 - Jurisdiction is defined as those items the Task Force may address as outlined in the Sunshine Ordinance
3. Once the Complaint Committee completes its consideration, the complainant is notified of the Committee's decision.
4. If the Complaint Committee finds no jurisdiction over the alleged violations in the complaint, the complainant could request reconsideration before the full Task Force at its next scheduled meeting. Should the full Task Force find jurisdiction, a full hearing on the merits would be scheduled.
5. If the Complaint Committee finds the Task Force has jurisdiction, the complainant, respondent, and the Task Force Members are notified in writing of the jurisdiction decision, and the specific matters, which the Complaint Committee has found jurisdiction.
6. The complaint is then scheduled for a hearing before the next meeting of the Sunshine Ordinance Task Force.
7. If additional information is to be submitted from the complainant or respondent, the additional material must be submitted to the Sunshine Ordinance Task Force Administrator at least seven days before the scheduled hearing before the Task Force.
 - If the complainant submits any additional material after the seven day deadline, the complainant will be informed that
 - The Task Force may proceed without considering the new material, or
 - The complainant may waive the 45-day time line set and continue the hearing to the next Task Force meeting (the question to be the matter on which the Complaint Committee has granted jurisdiction), or
 - The complainant may withdraw the complaint and file a new complaint to be considered by the Complaint Committee, or
 - The complainant may proceed to hearing with their current complaint and file a new complaint and use the new information to support the freestanding separate complaint.
8. After the Task Force completes its public hearing, the Task Force would make an Order of Determination regarding the complaint.
9. For further information, contact the Sunshine Ordinance Task Force Administrator, Frank Darby at (415) 554 7724.

SUNSHINE ORDINANCE TASK FORCE

WEB SITE INFORMATION

In 2005 the Sunshine Ordinance Task Force web page received 405,404 hits. The web page consists of:

- Current agendas and minutes
- Meeting notices
- Past years' agendas and minutes
- Public records listing and retention schedule
- By-laws of the Task Force
- Other related documents and information

Information on:

- The Sunshine Ordinance
- Membership of the Task Force
- Committee structure of the Task Force
- Non-profit requirements (Administrative Code, Chapter 12L)
- Duties and responsibilities of the Task Force
- Complaint Procedures and Form
- Frequently asked questions