

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

June 6, 2011

**DATE THE DECISION ISSUED**

May 24, 2011

*FRANK McDOWELL v. SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY  
(CASE NO. 11034)*

**FACTS OF THE CASE**

Frank McDowell ("Complainant") alleges that the Municipal Transportation Agency ("MTA") has not adequately responded to his March 16, 2011, public records request for "matrix on all discipline as a result from Drive-cam."

**COMPLAINT FILED**

On April 19, 2011, Complainant filed this complaint against MTA.

**HEARING ON THE COMPLAINT**

On May 24, 2011, Mr. McDowell presented his case to the Task Force. David Hill, Deputy Director of Transit Management for the MTA, responded to the complaint.

Mr. McDowell told the Task Force that he is an MTA coach operator in TWU Local 258. He said the MTA installed camcorders in the coaches under the guise of training but has been using it as a disciplinary tool. He said the rule book states that third party actions cannot be used against an employee. Furthermore, he said there is no guidance on how to respond to the accusations and the union is not involved in the operation of the cameras. Mr. McDowell said he specifically needed the breakdown on discipline stemming from camcorder recordings by racial, ethnic and type of discipline. He said the charts provided by the MTA covered the trial period when the cameras were first attached and nothing after that. He also said the response to his request was untimely because he sent his request on March 16 and the MTA responded on May 6. He said the documents that were produced were not the ones that he requested. Mr. Hill acknowledged that the request was received on March 16. He said Mr. McDowell made another request on April 27. He said it was given to Acting Superintendant Cheryl Turner and was responded to on May 6. Mr. Hill said the MTA has provided what responsive documents it has.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the evidence presented, the Task Force finds that the MTA failed to respond to the request within the time period required by the Sunshine Ordinance.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Sunshine Ordinance Section 67.21(b) by not responding to a request in a timely manner. The agency shall appear before the Education, Outreach and Training Committee on July 14, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 24, 2011, by the following vote: (Wolfe/Cauthen)

Ayes: Snyder, Cauthen, Manneh, Costa, Wolfe, Chan, Johnson, Knee

Excused: Washburn, Knoebber

Absent: West



Richard A. Knee, Chair  
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1\*  
Sunshine Ordinance Task Force

c: Frank McDowell, Complainant  
David Hill, Respondent  
Jerry Threet, Deputy City Attorney

\*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.