

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER of DETERMINATION
October 28, 2015**

DATE RECOMMENDATION ISSUED
October 7, 2015

CASE TITLE – Jason Grant Garza v. Department of Public Health, Police Department, Sheriff’s Department, and Department of Emergency Management (File No. 15096)

FACTS OF THE CASE

On June 12, 2015, Jason Grant Garza (Complainant) made a complaint alleging that the Department of Public Health, Police Department, Sheriff’s Department, and Department of Emergency Management violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to a public records request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On September 15, 2015, Mr. Garza appeared before the Complaint Committee and presented his claim.

Nancy Sarieh, Department of Public Health (DPH), stated that DPH does not have any records responsive to the request. However, Ms. Sarieh acknowledged that due to a misunderstanding and assumption that the Sheriff’s Department would provide a response directly to Mr. Garza, DPH’s response was not timely. Ms. Sarieh stated that DPH’s response to Mr. Garza was not provided until August 4, 2015.

Lt. Chris Woon, Police Department (SFPD), acknowledged that the SFPD’s response provided to Mr. Garza on June 12, 2015 was late. He stated that the request was misdirected to Chief Greg Suhr’s junk mail folder but was processed as soon as it was found. He also stated that in an effort to prevent this from occurring in the future, SFPD now reviews its junk mail folders for misdirected emails and is working with their technology department to develop a way to prevent misdirected emails.

Mark Nicco, Sheriff’s Department (SFSD), stated that the SFSD requested an extension of time to respond to the request in a timely manner on June 9, 2015. He stated that the responsive documents were located in at a different location and that additional time was required. He stated that the responsive documents were provided to Mr. Garza on June 12, 2015. Mr. Nicco stated that the SFSDs department responded to the records request in a timely and complete manner.

Robert Smuts, Department of Emergency Management (DEM), stated that it is DEM's policy to provide certain records via hardcopy due to the nature of the records. He stated that DEM mailed the responsive records to Mr. Garza in a timely manner. However, Mr. Smuts acknowledged that it would have been prudent to notify Mr. Garza of DEM's policy and that the requested documents were mailed in a timely manner on June 10, 2015.

On October 7, 2015, the SOTF reviewed the recommendation of the Complaint Committee.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF finds that a violation of Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25(a), occurred.

DECISION AND ORDER OF DETERMINATION

The Sunshine Ordinance Task Force accepts the recommendation of the Complaint Committee and finds that the Department of Public Health, Police Department, Department of Emergency Management violated the following Sections of Administrative Code (Sunshine Ordinance):

1. Department of Public Health violated Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25(a), for failure to assist the requester and failure to respond to a timely manner;
2. Police Department violated Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure to respond in a timely manner;
3. Department of Emergency Management violated Administrative Code (Sunshine Ordinance), Section 67.21(c) for failure to assist the requester; and

The Sunshine Ordinance Task Force did not find that the Sheriff's Department violated Administrative Code (Sunshine Ordinance), Chapter 67.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 7, 2015, by the following vote:

Ayes: 8 - Rumold, Eldon, Wolf, Pilpel, Haines, Fischer, Hinze, Hyland

Noes: 0 - None

Absent: 3 - Chopra, Hepner, Washburn

A handwritten signature in blue ink that reads "Allyson M. Washburn". The signature is written in a cursive style with a large initial 'A'.

Allyson Washburn, Chair
Sunshine Ordinance Task Force

- c. Jason Grant Garza, Complainant
 - Nancy Sarieh, Department of Public Health
 - Barbara Garcia, Department of Public Health
 - Lt. Chris Woon, Police Department
 - Chief Greg Suhr, Police Department
 - Mark Nicco, Sheriff's Department
 - Sheriff Ross Mirkarimi, Sheriff's Department
 - Robert Smuts, Department of Emergency Management
 - Anne Kronenberg, Department of Emergency Management
 - Jerry Threet, Deputy City Attorney