

Date: June 14, 2011

Item No. 2  
File No. 11035

**SUNSHINE ORDINANCE TASK FORCE**  
**COMPLAINT COMMITTEE**  
**AGENDA PACKET CONTENTS LIST\***

- Marlon Crump against the Police Commission**
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Completed by: Chris Rustom

Date: June 9, 2011

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA  
City Attorney

JERRY THREET  
Deputy City Attorney

Direct Dial: (415) 554-3914  
Email: jerry.threet@sfgov.org

## MEMORANDUM

TO: Sunshine Ordinance Task Force  
FROM: Jerry Threet  
Deputy City Attorney  
DATE: June 9, 2011  
RE: *Complaint 11035: Marlon Crump v. Police Commission*

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### Background

Complainant Marlon Crump ("Complainant") alleges that, on March 23, 2011, the San Francisco Police Commission (the "Commission") violated the Ordinance in some less than fully specified manner.

### Complaint

On April 27, 2011, Complainant filed this complaint against the Commission, specifically stating therein that the Commission violated sections 67.15(d) and 67.25 of the Ordinance.

### Discussion and Analysis of Jurisdiction

The Commission is a policy body under the Ordinance and therefore the Task Force generally has jurisdiction to hear an alleged violation of public meetings laws. Because Complainant arguably alleges a violation of his rights under section 67.15(d) to provide public testimony without it being abridged, it appears that the Task Force has jurisdiction to hear this complaint.



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BOARD OF SUPERVISORS  
SAN FRANCISCO

2011 APR 27 PM 3:35

BY AK

SUNSHINE ORDINANCE TASK FORCE

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

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission San Francisco Police Commission

Name of individual contacted at Department or Commission against Joe Marshall  
Vice president

Alleged violation public records access  
 Alleged violation of public meeting. Date of meeting March 23rd, 2011 at 5:30

Sunshine Ordinance Section 67.15 (d) and 67.25 Immediacy of Response  
(If known, please cite specific provision(s) being violated) (possible)

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

On March 23rd, 2011, I presented an opening address of a letter concerning a kid who was traumatized by members of the S.F.P.D. Joe Marshall asked me following my public comment, a rather insensitive question "Did he file a complaint?" On April 6th, I criticized him for it. Marshall attempted to recant, during my public comment.

Do you want a public hearing before the Sunshine Ordinance Task Force?  yes  no  
Do you also want a pre-hearing conference before the Complaint Committee?  yes  no

(Optional)<sup>1</sup>  
Name Marlon Crump, POOR Magazine, P.N.M. Address 27 91 16th St, #411

Telephone No. (415) 948-5534 E-Mail Address marloncrump@yahoo.com

Date 4/27/11 Marlon Crump  
Signature

I request confidentiality of my personal information.  yes  no

<sup>1</sup> NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. 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).



# The Police Commission

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CITY AND COUNTY OF SAN FRANCISCO

May 23, 2011

Mr. Chris Rustom  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

THOMAS MAZZUCCO  
President

DR. JOE MARSHALL  
Vice President

PETRA DEJESUS  
Commissioner

ANGELA CHAN  
Commissioner

JAMES HAMMER  
Commissioner

CAROL KINGSLEY  
Commissioner

R. JAMES SLAUGHTER  
Commissioner

Lieutenant Timothy Falvey  
Secretary

**Re: Sunshine Ordinance Task Force Complaint #11035 (Marlon Crump vs. SF Police Commission)**

Dear Mr. Rustom,

On behalf of the San Francisco Police Commission, I am writing in response to Complaint #11035 (see copy attached), filed with the Sunshine Ordinance Task Force ("Task Force") by Mr. Marlon Crump against Dr. Joseph Marshall, Vice-President of the Police Commission. Based upon my review of the complaint, I do not believe there are any violations of the Sunshine Ordinance and therefore contest the jurisdiction of the Task Force.

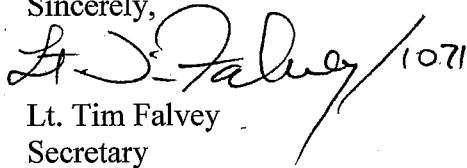
In his own handwriting on his complaint form, Mr. Crump writes, "Marshall attempted to recant, during my public comment", and alleges that this is a violation of §67.15(d) of the Sunshine Ordinance. Mr. Crump does not complain that Dr. Marshall abridged or prohibited public criticism, but rather that he "attempted to recant". I have reviewed the applicable section and find that "recant" does not appear (see copy of §67.15(d) of the Sunshine Ordinance, attached). Therefore, this section does not apply. I find no mention of a prohibition of recanting anywhere in the Sunshine Ordinance. (It should be noted that when reviewed, Dr. Marshall's statement only clarifies his previous comment in order to assist Mr. Crump and does not recant anything.) After Dr. Marshall's statement, Mr. Crump says, "But I'm done with that. Thank you for having me speak that testimony."  
([http://sanfrancisco.granicus.com/mediaplayer.php?view\\_id=21&clip\\_id=11908](http://sanfrancisco.granicus.com/mediaplayer.php?view_id=21&clip_id=11908), Agenda Item #2, from 00:10:22 through 00:10:27). Based upon his own statement, Mr. Crump was not abridged or prohibited from making his criticisms. There is no violation of §67.15(d) of the Sunshine Ordinance and therefore no jurisdiction.

As to the second Sunshine Ordinance section allegedly violated, § 67.25 *Immediacy of Response*, there is no violation of this section as the Sunshine Ordinance

does not apply here. Mr. Crump never made any written request in this instance for information described in any category of non-exempt public information. Since he made no request for information, the section is unequivocally non-applicable (see copy of §67.25 of the Sunshine Ordinance, attached). Therefore, as this section of the Sunshine Ordinance is not even applicable, the Task Force clearly does not have any violation over which to have jurisdiction.

Based upon the above, I am requesting that the Sunshine Ordinance Task Force summarily dismiss this matter as being out of their jurisdiction due to the lack of any violations.

Sincerely,



Lt. Tim Falvey  
Secretary  
Police Commission

**SEC. 67.15. PUBLIC TESTIMONY.**

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

**SEC. 67.25. IMMEDIACY OF RESPONSE.**

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.

(c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

(d) Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this article. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)