

Date: Nov 12, 2009

Item No. 2  
File No. 09030

**SUNSHINE ORDINANCE TASK FORCE**  
Education, Outreach and Training Committee  
AGENDA PACKET CONTENTS LIST\*

- Ann Grogan v Police Commission**
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Completed by: Chris Rustom

Date: Nov. 9, 2009

**\*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.



**SUNSHINE ORDINANCE  
TASK FORCE**



**City Hall**  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
Fax No. 415) 554-7854  
TDD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION**

August 3, 2009

Amended August 13, 2009

**DATE THE DECISION ISSUED**

July 28, 2009

*ANN GROGAN v. THE SAN FRANCISCO POLICE COMMISSION (09030)*

**FACTS OF THE CASE**

On May 15, 2009, Complainant Ann Grogan wrote Police Commission President Theresa Sparks and requested that members of the public be allowed to attend a meeting with a Police Steering Committee and the Public Safety Strategies Group, an independent contractor conducting a City funded study of the Patrol Special Police Officer Program administered by the Police Commission. Ann Grogan, initially made her request to attend the above stated meeting with Kym Craven, the director of the Strategies Group and was told that Kym Craven discussed the request with Peg Stevenson, a City Controller representative and a member of the Steering Committee. The answer was that the public could not attend because the Committee was a passive meeting body and would be discussing confidential or sensitive matters such as personal bias, employee relations, and legal opinions that should not be made public.

**COMPLAINT FILED**

On June 8, 2009, Ann Grogan filed a complaint with the Task Force against the Police Commission alleging that the Commission failed to open the Steering Committee's meetings with the Public Safety Strategies Group to the public.

**HEARING ON THE COMPLAINT**

On July 28, 2009, Complainant Ann Grogan appeared before the Task Force and presented her claim. Respondent Agency was represented by Lt. Joe Reilly, secretary of the Police Commission.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the presentations made by both parties the Task Force found that the Police Commission was the respondent agency even though it had only two members who serve

on the five-member committee. Proof of responsibility was established by a copy of an email that Police Commissioner Theresa Sparks had sent to Patrol Special Jane Warner that said the commission is responsible for the study's administrative matters.

This email was submitted as evidence during the hearing. In addition, Ann Grogan's request to attend the committee's meetings that was sent to Lt. Lum, the Police Department's liaison officer to the Patrol Special, was rerouted to Commissioner Sparks. The Task Force saw this as additional evidence that the Police Commission is the responsive department.

The Task Force also found that the Steering Committee was a passive meeting body and that if the contract holder, a non City employee can attend, so can members of the public. The Task Force ruled that no one has blanket authority to deny members of the public access to a meeting because confidential and or sensitive matters would be discussed. The items, even if it has to be discussed behind closed doors, have to be properly described on the agenda. The public then has the right to attend the opening of that meeting and asked to leave when closed-door matters are to be discussed.

### **DECISION AND ORDER OF DETERMINATION**

The Task Force entertained motions to find that the agency violated Section 67.21 for failure to produce records related to the Steering Committee meetings, Section 67.6 ( e ) for failure to notice the meetings and Section 67.4 for denying attendance to the meetings. The Task Force combined Sections 67.6 ( e ) and 67.4 and voted separately on the Section 67.21.

The following Order of Determination was adopted by the Sunshine Ordinance Task Force on July 28, 2009, by the following vote: ( Cauthen / Goldman )

On the first motion to find a violation of sections 67.6(e) and 67.4 of the Ordinance for failure to provide notice of the meetings and for denying public attendance to the meetings:  
Ayes: Cauthen, Washburn, Knoebber, Goldman, Williams, Knee  
Excused: Craven-Green, Johnson, Chu  
Recused: Chan

The motion passed.

On the second motion to find a violation of 67.21 of the Ordinance for failure to produce records related to the steering committee meetings:  
Ayes: Cauthen, Washburn, Goldman  
Noes: Knoebber, Williams, Knee  
Excused: Craven-Green, Johnson, Chu  
Recused: Chan

The motion failed.

The agency shall appear before the Education, Outreach and Training Committee on September 10, 2009, to discuss the matter.



Richard Knee, Chair  
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney  
Ann Grogan, complainant  
Lt. Joe Reilly, respondent

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To: anngrogan@gmail.com, inquiry@romantacy.com

cc:

Date: 09/11/2009 04:42:37 PM MST

Subject: Fw: Future meetings of the PSSG steering committee

Ms. Ann Grogan,

This office is in receipt of the attached email.

Chris Rustom  
Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689  
SOTF@SFGov.org  
OFC: (415) 554-7724  
FAX: (415) 554-7854

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Chris  
Rustom/BOS/SFGOV

09/11/2009 04:16  
PM

sotf@sfgov.org

To

cc

Subject  
Fw: Future meetings of the PSSG  
steering committee

----- Forwarded by Chris Rustom/BOS/SFGOV on 09/11/2009 04:17 PM -----

Joseph  
Reilly/SFPD/SFGOV

09/11/2009 12:38  
PM

Chris Rustom/BOS/SFGOV@SFGOV

To

cc

Subject

Fw: Future meetings of the PSSG  
steering committee

Dear Mr. Rustom

I was copied on the e-mail attached below.

Ms Grogan was informed that she would be contacted at such time as the Steering Committee schedules another meeting, however, at this time there are none are scheduled according to the e-mail.

I did deliver a copy of the SOTF Order of Determination to the Controller's Office. They are on notice that the Steering Committee was found to be a passive meeting body and therefore the passive meeting rules apply.

In the future, meetings of the Steering Committee will be conducted according to the Passive Meeting rules under the Sunshine Ordinance when I am notified that a meeting will occur. The issue of when the Steering Committee holds meetings is not a function of the Police Commission Office nor do i believe a matter properly before the SOTF.

Lt. Joe Reilly  
Secretary, SF Police Commission  
850 Bryant St., Rm. 505  
San Francisco, CA 94103  
(415) 553-1667  
(415) 553-1669 fax

----- Forwarded by Joseph Reilly/SFPD/SFGOV on 09/10/09 16:49 -----

Curtis  
Lum/SFPD/SFGOV

08/07/09 12:26

anngrogan@gmail.com,  
inquiry@romantacy.com

To

sotf@sfgov.org

cc

Subject

Future meetings of the PSSG  
steering committee

Dear Ms. Grogan --

On behalf of Commander Tong, who is unavailable today, I am replying to the email that you sent on July 28th to Kym Craven of Public Safety Strategies Group regarding your interest in attending future meetings of the PSSG Steering Committee. At this time, the Steering Committee does not have any meetings planned or scheduled. If that changes and a meeting is scheduled, we will be back in touch with you. Thank you for your continued interest and involvement in public safety issues.

Regards,

Lt. Lum  
Lieutenant Curtis Lum #2128  
OIC, Youth Service Unit  
Program Administrator, Patrol Special  
1 Sgt. John V. Young Lane  
San Francisco, CA. 94112  
Work (415) 404-4041  
Fax (415) 404-4043





Ann Grogan  
<anngrogan@gmail.com>

10/20/2009 12:30 PM

Please respond to  
inquiry@romantasy.com

To SOTF <sotf@sfgov.org>

cc

bcc

Subject Re: Fw: SOTF Complaint #09030--reply from complainant  
Ann Grogan for the record

Hello,

I am in receipt of this letter from Lt. Reilly.

Unfortunately, I did not receive any notice of an Oct. 10 hearing and thus, did not appear. Please do not take that as disrespect or disinterest, and note for my record that my email was not functioning. I was unaware of that fact from Sept. 29 until about Oct. 15 when I repaired the general email problem.

Kindly keep me posted. Thank you.

Ann Grogan

SOTF wrote:

> Ms. Grogan,

>

> Member Cauthen has asked me to forward Lt. Reilly's letter to you.

>

> Chris Rustom

> Sunshine Ordinance Task Force

> 1 Dr. Carlton B. Goodlett Place

> City Hall, Room 244

> San Francisco, CA 94102-4689

> SOTF@SFGov.org

> OFC: (415) 554-7724

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> ----- Forwarded by SOTF/SOTF/SFGOV on 10/19/2009 03:50 PM -----

>

> Chris

> Rustom/BOS/SFGOV

>

> 10/08/2009 12:52

sotf@sfgov.org

To

>

PM

cc

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Fw: SOTF Complaint #09030

Subject

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>

Commission

