

Date: Jan. 5, 2010

Item No. 23 & 24

File No. 09082

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Raymond Banks against Department of Public Health**
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Completed by: Chris Rustom

Date: Dec. 30, 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.



<complaints@sfgov.org>
12/17/2009 09:40 AM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

To:sotf@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Public Health
CONTACTED:Maria Martinez
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:No
MEETING_DATE:
SECTIONS_VIOLATED:
DESCRIPTION:SFDPH has not produced the San Francisco Share Mandate Policy in a timely
fashion
HEARING:Yes
PRE-HEARING:No
DATE:11/16/2009
NAME:Raymond Banks
ADDRESS:
CITY:
ZIP:
PHONE:
CONTACT_EMAIL:
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:Yes



melvin banks
<[REDACTED]@gmail.com>
11/16/2009 10:21 AM

To: SOTF <sotf@sfgov.org>
cc: mitch.katz@sfdph.org, barbara.garcia@sfdph.org, "Byers, Jeff (CDPH-OOA-HCB)" <Jeff.Byers@cdph.ca.gov>, "Roland, Michelle (CDPH-OOA)"
bcc:
Subject: SFDPH Has VIOLATED 67.21(b) of the SUNSHINE ORDINANCE

Dear SOTF,

On October 30, 2009, I requested from Maria Martinez, Deputy Director and Privacy Officer Community Programs, SF Department of Public Health, a copy of the San Francisco Share Mandate Policy. [See 1strequest4information] On November 5, 2009, I received another email from her claiming that she has requested the information but has not received it. [See requested information] I believe that the SFDPH has violated 67.21 (b) of the Sunshine Ordinance because SFDPH has not produced the San Francisco Share Mandate Policy in a timely fashion. Therefore, I wish to file a new complaint with SOTF. If you have any further questions, please contact me via email. Thank you.

Sincerely,



Raymond Banks 1strequest4information.htm requested information.htm

Maria X Martinez <Maria.X.Martinez@sfdph.org>
ccBill Blum <Bill.Blum@sfdph.org>,
Celinda Cantu <Celinda.Cantu@sfdph.org>,
Michelle Long <Michelle.Long@sfdph.org>,
mitch.katz@sfdph.org,
Marguerite Heyward <Marguerite.Heyward@sfdph.org>,
hilda.jones@sfdph.org
dateFri, Oct 30, 2009 at 2:20 PM
subjectSF Local Share Mandate Form is step backwards
mailed-gmail.com
by

[hide details](#) Oct 30

Dear Ms. Martinez

Please send a complete copy of the Local Share Mandate Policy. As per our conversation yesterday, you stated that the privacy board meetings are not open to the public. Can you provide the reason members of the public are prohibited from attending privacy board meetings?

Raymond Banks

Bill Blum <Bill.Blum@sfdph.org>
tomelvin banks <[REDACTED]@gmail.com>
ccbarbara.garcia@sfdph.org,
Bill Blum <Bill.Blum@sfdph.org>,
Celinda Cantu <Celinda.Cantu@sfdph.org>,
DMorgan@hrsa.gov,
"Cook, Gary (HRSA)" <gcook@hrsa.gov>,
"Byers, Jeff (CDPH-OOA-HCB)" <Jeff.Byers@cdph.ca.gov>,
Marguerite Heyward <Marguerite.Heyward@sfdph.org>,
Maria X Martinez <Maria.X.Martinez@sfdph.org>,
Michelle Long <Michelle.Long@sfdph.org>,
"Roland, Michelle (CDPH-OOA)" <Michelle.Roland@cdph.ca.gov>,
mitch.katz@sfdph.org,
SOTF <soff@sfgov.org>,
susan.sabatier@cdph.ca.gov,
eileen.shields@sfdph.org
dateTue, Nov 24, 2009 at 10:22 AM

subjectRe: It has taken almost a month for you to state that you do not have such a policy.
an explanation?

[hide details](#)

Hi Raymond,

You have made a number of requests over the last month- all of which I have attempted and largely succeeded to expedite for you (a request for the previous Reggie Policy, a copy of an agenda of a provider meeting).

As you know we are now a very small staff and many of us were on vacation during this period.

Per my notes your request for a local policy was made after you began working with Maria Martinez, the DPH privacy officer on 11/02/09. She forwarded the request to me the day before I left on vacation (11/03/09). It was not possible to track down this information before my departure. Upon my return on November 16,2009, I resumed investigation of the issue.

As you may be aware the State Office of AIDS staff is furloughed on Fridays and is in significant transition. Additionally, the person in charge of ARIES at SOA was not available to talk with me until yesterday.

In the absence of the staff person here at HHS who directs the ARIES program (Celinda Cantu), it was necessary to research to see if such a policy existed.

I will take this opportunity to correct a statement on a previous voicemail communication that you left for me . I did not initiate nor oversee the policy shift to the ARIES share mandate. This transition happened prior to my appointment as Director of HIV Health Services. Additionally, I did not supervise the Reggie/ARIES project in my previous role as Assistant Director. Hence it was necessary to research this issue to adequately understand and then respond to your concerns.

Have a good Thanksgiving.

Bill Blum
Interim Director, HIV Health Services
San Francisco Department of Public Health
Phone: (415) 554-9000
Fax: (415) 431-7547



melvin banks
<[REDACTED]@gmail.com>
11/17/2009 10:17 AM

To DMorgan@hrsa.gov
cc "Cook, Gary (HRSA)" <gcook@hrsa.gov>, SOTF
<sotf@sfgov.org>, barbara.garcia@sfdph.org, Bill Blum
<Bill.Blum@sfdph.org>, Michelle Long
bcc

Subject Formal Complaint Against the Grantee: San Francisco
Department of Public Health

Dear Mr. Doug Morgan,

I wish to lodge a formal complaint with HRSA against the San Francisco Department of Public Health. I believe that the SFDPH violates consumers of Ryan White CARE Services rights to confidentiality and privacy when they are required and mandated to share information in the ARIES tracking system as a condition for receiving CARE services. After reading the Ryan White CARE Act, I could not find in the law any reference to the claim that services are contingent upon sharing information within any reporting system. Therefore, I request that your agency review the actions and policies by the SFDPH in order to determine whether or not they comply with Federal Law. When I filed a grievance against the SFDPH with the Sunshine Ordinance Task Force, I carbon copied you the documents in question. If I need to fill out any forms or provide more supporting material, please email or call me at 415-[REDACTED]. I will also follow up with a phone call. I look forward to your response. Thank you.

Sincerely,
Raymond Banks


Bill Blum/DPH/SFGOV

11/16/2009 02:19 PM

To melvin banks <[REDACTED]@gmail.com>

cc annaheathsf@gmail.com, barbara.garcia@sfdph.org, Bill Blum <Bill.Blum@sfdph.org>, Celinda Cantu <Celinda.Cantu@sfdph.org>, DMorgan@hrs.gov, "Byers,

bcc

Subject Re: SFDPH Has VIOLATED 67.21(b) of the SUNSHINE ORDINANCE 

Hi Raymond,

By way of explaining the delay in your information requests - As I believe Maria mentioned to you Celinda, She and I have been/are on on vacations that have been planned for significant amounts of time.

Please note that Maria X. Martinez (the SFDPH Privacy Officer) will be back on 11/19/09 and Celinda Cantu (The Reggie/ARIES program manager) will return on 12/01/09. This is my second day back in the office as you will probably have surmised from my out-going automatic message reply.

I will be sending you electronically the local nonshare policies and procedures that we have in the very near future.

Bill Blum
Interim Director, HIV Health Services
San Francisco Department of Public Health
Phone: (415) 554-9000
Fax: (415) 431-7547


Bill Blum/DPH/SFGOV

11/16/2009 03:05 PM

To Bill Blum/DPH/SFGOV@SFGOV

cc melvin banks <[REDACTED]@gmail.com>, annaheathsf@gmail.com, barbara.garcia@sfdph.org, Bill Blum <Bill.Blum@sfdph.org>, Celinda Cantu

bcc

Subject Re: SFDPH Has VIOLATED 67.21(b) of the SUNSHINE ORDINANCE 

Hi Raymond,

Attached is the local policy on nonshare clients as pertains to Reggie clients.

There is not a policy on nonshare for ARIES clients. However, SF DPH requested and was instructed on the procedure for instituting a mandatory share policy as part of the conversion process to ARIES by the State Office of AIDS. SF and a number of other CA local health jurisdictions do have a share mandate.



SharePolicy2006.doc

Bill Blum
Interim Director, HIV Health Services
San Francisco Department of Public Health
Phone: (415) 554-9000
Fax: (415) 431-7547

CONFIDENTIALITY NOTICE

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Bill Blum/DPH/SFGOV

Title: Client Consent and's Share/Non-share Status		Policy #:
Category: Share Status		
Associated Policies: De-Share (change Reggie record from Share or PIN Share to Non-share) PIN-Share Client Identifiers Release of Information (Helpline) Client Refusal to Participate in Reggie (<u>where is this policy</u>)		Attachments: <u>Share Consent Form</u> <u>Share/Non-Share Consent Form</u> <u>Non-Share Consent Form</u>
		Drafted on (date): 7/12/06
Approved by:		
_____ for HIV Health Services on (date): _____		
_____ for Contracts on (date): _____		
_____ for Cola on (date): _____		
_____ for Project Reggie on (date): _____		
		Adopted on (date): _____
		Revised on (date): _____

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Context:

As part of the Reggie registration process, clients are registered with a Share, PIN Share, or Non-Share status in Reggie. In the past, the client was given a choice among these three options. The use of the non-share option is now restricted to special cases as described below.

These share statuses in Reggie function are defined as follows:

- Share:** Client's records are shared across Reggie agencies from which the client seeks services. The active substance abuse and active psychiatric illness questions are not shared across agencies.
- PIN Share:** Same as a regular share, with one exception. Client's records are shared across Reggie agencies. When a client is first registered at an agency, the agency must enter the client's PIN into the system to gain access to the client's record.
- Non-Share:** Client information is not shared across agencies, other than the client's Identifiers. Client re-registers and provides all eligibility documentation at every agency from which s/he seeks services. However, the separate Non-Share records are linked internally, and all agencies see the same set of client identifiers (name, date of birth, gender).

In the past, the client was given a choice among these three options. The use of the non-share option is now restricted to the criteria described below.

Clients indicate their choice of share status by completing and signing the Share/Non-Share Consent Form. Agencies indicate that the Share/Non-Share Consent Form has been signed by entering into Reggie the date on which the form was signed. Agencies assign a share status to a Reggie record by selecting the client's chosen share status and saving the record.

Policy

General Use of Non-Share Status

Beginning July 1, 2006 all clients registered in Reggie are required to have share or PIN share status unless they meeting one of the following criteria, in which case they should be registered as non-shares: All clients registered in Reggie must be given a share status of "share" or "PIN share" unless they fall into one of the following categories, in which case they must be registered with a share status of "non-share."

- o Incapable of Consenting: Have a documented inability to give consent (ex- Crisis mode, intoxicated, etc.)
- o Be receiving services as an HIV-affected client only.
- o Be receiving services as an HIV-negative client

2. Only agencies from which the client receives services will have access to the client's record.
 1. Client is incapable of giving consent. This condition must be documented by the agency.
 2. HIV-Affected: Client is receiving services as an HIV-affected client only.
 3. HIV-Negative: Client is receiving services as an HIV-negative client.

Consenting

1. Before registering a client in Reggie, the agency must obtain a signed consent form unless the client is incapable of giving consent, in which case the condition must be documented in the client's chart. The client should sign the Share Consent Form unless they are HIV-affected or HIV-negative, in which case they should sign the Non-share Consent Form.
2. If a client refuses to sign the consent form, the client can not be registered in Reggie and the services provided to the client can not be billed to CARE funding.
3. All Share/Non-share Consent Forms ever signed by the client should be retained in the client chart record. When a client changes his/her share status, any previous Share/Non-share Consent Forms should be kept on file.

Information about active substance abuse and active psychiatric illness is not shared across agencies, even for Share or PIN-Share clients.

Share Status in New Records

1. Agencies must ensure that a client is fully informed about his/her rights before s/he signs the consent form.
2. Clients must be shown the List of Participating Agencies before signing the Share/Non-Share form.
3. Clients are presented with the Share consent form only, unless they meet one of the criteria above for being a non-share.
4. In the Reggie application, agencies may not enter a date in the Date Share Consent Form Signed or Date Non-share Consent Form Signed field unless the signed Share/Non-Share Consent Form is physically on file at the agency. The name of the agency entering the Date Share Consent Form Signed or Date Non-share Consent Form Signed is saved and displayed in the client record. The agency entering the Date Share Consent Form Signed or Date Non-share Consent Form Signed may be asked to produce the original form in order to verify the client's choice of share status.
5. If a client chooses a PIN Share status, the actual PIN code is entered into Reggie and noted on the Share/Non-Share Consent Form, and nowhere else.

Changing Share Status in Existing Records Changing Share Status

1. A non-share client can change status to share by signing a Share Consent Form at any time.
 - o A share client cannot change status to non-share.
2. This could be an existing non-share client being re-consented, a client who was previously unable to give consent who is now able to, or an HIV-affected or HIV-negative client who is now HIV-positive and receiving HIV services. A share client should can not be changed to non-share.
2. In the Reggie application, agencies may not update the date in the Date Share Consent Form Signed or Date Non-share Consent Form Signed field unless the signed Share/Non-Share Consent Form is physically on file at the agency. The name of the agency updating the Date Share Consent Form Signed or Date Non-share Consent Form Signed will be saved by the system and displayed in the client record. The agency updating the Date Share Consent Form

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- Signed or Date Non-share Consent Form Signed may be asked to produce the original form in order to verify the client's choice of share status.
- All Share/Non-share Consent Forms ever signed by the client should be retained in the client record. When a client changes his/her share status, any previous Share/Non-share Consent Forms should be kept on file.
 - In Reggie, the Date Share Consent Form Signed or Date Non-share Consent Form Signed must be within 7 days of the system date ("today's date") in order for a share status change to be processed.
 - Agency staff should review the client's Reggie record with the client after a change of share status. See item 2 under Specific Types of Share Status Changes below.
 - Share status changes in Reggie may only be performed by the following Reggie user types: Program Manager, Power User, System Administrator.
 - If a Non-share client registered at more than one agency is changed to a Share/PIN Share, the separate records are merged using an algorithm that retains the most accurate and complete data. During the merge process, data from one agency will take precedence over the data from the others, so information may be "overwritten." Agency staff should review the client's Reggie record with the client after a change of share status.

Consent to Share Expiration and Renewal of Consent

- The consent given on both the Share Consent Form and the Non-share Consent Form expires three years after the date on which it was signed. Agencies should obtain a new consent from the client at the first opportunity when the form has expired or is within 3 months of expiration.
- All clients registered in Reggie should have a signed consent form that is current, except for clients who are incapable of giving consent.
- Non-share clients who met one of the above criteria should have their share status reviewed annually to ensure that they still meet the criteria.

The consent given on both the Share Consent Form and the Non-share Consent Form expires three years after the date on which it was signed. Agencies should obtain a new consent from the client at the first opportunity when the form has expired or is within 3 months of expiration.

- Non-share clients who do not meet the above criteria for non-share status but have signed a Non-share Consent Form prior to this policy going into effect have a one-year grace period ending June 30, 2007 during which they must sign a Share Consent Form and have their status changed to "share." To continue receiving CARE-funded services after June 30, 2007, the client must sign a Share Consent Form and have their status changed to "share."

- The consent given when a client signs the Share/Non-Share Consent Form expires after 3 years. The date of expiration is based on the date entered in the Date Share/Non-Share Form Signed field.
- Reggie users will receive notification messages before a record's consent expires. These notifications will begin 180 days before the consent is due to expire, and will appear anytime the record is opened. Users who see this notification message should make every reasonable effort to notify the client, collect a new Share/Non-Share Consent Form indicating either a renewal or change of share status, and enter this information into Reggie as described in 3 and 4 below.
- Before consent expiration, Share clients should renew their present consent by signing a new Share Consent Form. Non-share clients who no longer meet the above criteria for being a non-share should sign a new Share Consent Form and have their status changed to Share. Non-share clients who are HIV-Affected or HIV-negative should sign a new Non-share Consent Form. Clients who continue to be (permanently?) incapable of giving consent do not need to sign a consent form and should be left as non-shares. (is there a time frame we are giving that allows a client to stay as a non-share?) Agencies renew a Reggie record's share status by updating Date Share Consent Form Signed or Date Non-share Consent Form Signed and saving the record.

Questions to resolve:

Updated 6/30/06

Page 3 of 4

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1. What is the policy for expiration of consent? For existing non-shares, will it expire sooner (e.g., in 12 months?) Currently the system assumes a 3-year expiration and gives a warning if it's within 180 days. Would we need to change this?
2. What should an agency do if a client refuses to sign a Share Consent Form? Doesn't the client still have the option to be a non-share?
3. The policy suggests that clients will be shares by default, even if they don't sign a consent form. Currently, the system will not allow you to register a share without a consent form. Should we change the system to allow this, or tell agencies that they must obtain the consent before registering the client. It's very late to be making such changes.
4. Should we restrict or eliminate the de-share menu option? Yes

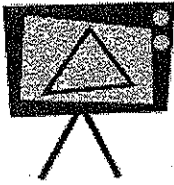
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Eileen Shields/DPH/SFGOV

12/29/2009 01:37 PM

To SOTF/SOTF/SFGOV@SFGOV

cc

bcc

Subject Re: Sunshine Complaint Received: #09082_Raymond Banks
v Public Health

Dear SOTF:

Regarding Complaint #09082, and its amendment of 12/28, Raymond Banks vs Public Health, the Department of Public Health acknowledges that we did not provide Mr. Banks with the records he requested within the 10-day Sunshine requirements.

Mr. Banks' request was not only a complicated one to respond to for this Department, but while he was awaiting our response, he had previously made and continued to file other related requests, all of which were responded to in a timely and professional manner.

In retrospect, this Department should have invoked the additional 14-day extension, as provided in section §6253 c: Consult with another component of the agency or with another agency that has a substantial interest in the response to the request. Had we done this, Mr. Banks' request would have been due in its entirety on November 23. As it stands, Mr. Banks' request was fully filled by close of business on this date, November 23.

Because we do not dispute our error in responding to Mr. Banks' request and because this Department has been highly responsive to his continuing series of public records requests, at this time, we respectfully submit this information in lieu of sending a representative to this hearing and thank the Task Force for their consideration of the extenuating and comprehensive efforts this Department took in responding to Mr. Banks' Complaint #09082 and its amendments.

Be assured that we have taken additional measures to address this complaint, including a thorough review of our Sunshine Ordinance requirements and responsibilities with all those involved.

Eileen Shields
Public Information Officer
San Francisco Department of Public Health

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