

Date: July 28, 2009

Item No. 8 & 9
File No. 09030

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Ann Grogan v Police Commission
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Completed by: Chris Rustom

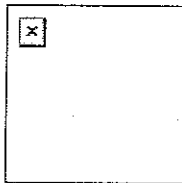
Date: July 16, 2009

***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.

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DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

MEMORANDUM

Memorandum amended on July 20, 2009

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

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

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. Ms Grogan also requested advance access to agendas, documents to be reviewed, draft or interim research reports, and minutes of that Steering Committee. Ms. Grogan, initially made her request to attend the above stated meeting with Kym Craven, the director of the Strategies Group and was told that Ms. Craven discussed the request with Peg Stevens, a City Controller 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.

COMPLAINANT FILES COMPLAINT

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

POLICE COMMISSION'S RESPONSE

On July 14, 2009, Lt. Joe Reilly, San Francisco Police Commission Secretary appeared and while he stated that the Task Force has subject matter jurisdiction over the allegations in the complaint, he questions whether the Police Commission should be the Respondent since the Police Commission has no oversight or control over the steering committee.

Memorandum

APPLICABLE STATUTORY SECTIONS:

1. Sunshine Ordinance, San Francisco Administrative Code Section 67.21 addresses general requests for public documents
2. Sunshine Ordinance, San Francisco Administrative Code Section 67.25 deals with Immediate Disclosure Requests.
3. Sunshine Ordinance, San Francisco Administrative Code Section. 67.26 deals with withholding kept to a minimum.
4. Sunshine Ordinance, San Francisco Administrative Code Section. 67.27 deals with justification for withholding.
5. Sunshine Ordinance Section 67.3 deals with the Definition of Meeting, Policy Body, Passive Meeting Body.
6. Sunshine Ordinance Section 67.4 deals with the Meeting requirements of Passive Meeting Bodies.
7. Sunshine Ordinance Section 67.6(e) deals with the Conduct of business by Passive Meeting Bodies.
8. California Public Records Act, Government Code Section 6253 deals with public records open to inspection, agency duties, and time limits.
9. California Public Records Act, Government Code Section 6255 deals with justification for withholding of records.

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

The parties agree to the following facts:

Memorandum

- Ann Grogan asked that members of the public be allowed to attend the steering committee's meetings with the Public Safety Strategies Group and be provided with the agenda and documents to be discussed at the meeting.
- The steering committee refused to open the meeting.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether the committee is a passive meeting body.
- Whether the committee is required to comply with the requirements of the Sunshine Ordinance and/or the State Brown Act and/or the Public Records Act.

2. QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

a.). none.

3. SUGGESTED LEGAL ANALYSIS

- Determine how the Committee was established.
- If a policy body or department did not establish the Committee, then it may not be a policy body or passive meeting body.
- If a department established the Committee, determine the relationship between the Committee and the department.
- If the Committee is not a policy body or passive meeting body, then the Committee need not comply with the Sunshine Ordinance.
- If the Committee is a policy body or passive meeting body, determine if there were any violations of the Sunshine Ordinance.

3. LEGAL ISSUES/ LEGAL DETERMINATIONS:

- Were sections of the Sunshine Ordinance (Section 67.21 or 67.25), Brown Act, and/or Public Records Act were violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?

Memorandum

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Memorandum

ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE) UNLESS OTHERWISE SPECIFIED

Section 67.21 addresses general requests for public documents.

This section provides:

- a.) Every person having custody of any public record or public information, as defined herein, ... shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.
- b.) A custodian of a public record shall as soon as possible and within **ten days** (emphasis added) following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.
- c.) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.
- ...
- k.) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act Government Code Section 6250 et seq.) In particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirement provided in this ordinance.

Memorandum

1.) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

Section 67.25 provides:

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 requestor 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

Memorandum

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.

Section 67.28 provides:

a.) No fee shall be charged for making public records available for review.

...

c.) For documents assembled and copied t the order of the requester, unless a special fee as been established pursuant to subdivision of (d) of this section, a fee not to exceed 10 cents a page may be charged, plus postage.

Section 67.3 provides the definition of a meeting and a policy body.

Whenever in this Article the following words or phrases are used, they shall have the following meanings:

...

(b) "**Meeting**" shall mean any of the following:

(1) A congregation of a majority of the members of a policy body at the same time and place;

(2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings, or

(3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

...

(d) "**Policy Body**" shall mean:

(1) The Board of Supervisors;

(2) Any other board or commission enumerated in the charter;

Memorandum

- (3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;
- (4) Any advisory board, commission, committee or body, created by the initiative of a policy body;
- (5) Any standing committee of a policy body irrespective of its composition.

Section 67.3(c) provides a definition of **passive meeting body**:

This section provides:

“Passive meeting body” shall mean:

- 1. Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head.

Section 67.4 deals with meeting notice requirements of Passive Meeting Bodies:

This sections provides:

All gathering of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur. Such gatherings need not be formally noticed, except on the City’s website whenever possible, although the time, place and nature of the gathering shall be disclosed upon inquiry by a member of the public and any agenda actually prepared for the gathering shall be accessible to such inquirers as a public record.

Section 67.6(e) deals with the conduct of business: time and place of meetings

This section provides:

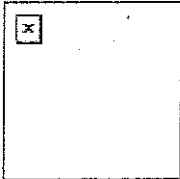
e) Meetings of passive meeting bodies as specified in Section 67.6(d)(4) of this article shall be preceded by notice delivered personally or by mail, e-mail, or facsimile as reasonably requested at least 72 hours before the time of such meeting to each person who has requested in writing, notice of such meeting. If the advisory body elects to hold regular meeting, it shall provide by bylaws, or whatever other rule is utilized by that advisory body for the conduct of its business, for the time and place for holding such regular meetings. In such case, no notice of regular meetings, other than posting of an agenda pursuant to Section 67.7 of this article in the place used by the policy body which it advises is required.

Memorandum

The California Public Records Act is located in the state Government Code Sections 6250 et seq. All statutory references, unless stated otherwise, are to the Government Code.

Section 6253 provides.

- a.) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the records after deletion of the portions that are exempted by law.
- b.) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.
- c.) Each agency, upon a request for a copy of records, shall within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefore....



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

July 6, 2009

Nick Goldman, Chair
Members of the Complaint Committee

Re: Ann Grogan v. The San Francisco Police Commission (09030)

Dear Chair Goldman and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Ann Grogan against the San Francisco Police Commission.

BACKGROUND

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. Ms. Grogan, initially made her request to attend the above stated meeting with Kym Craven, the director of the Strategies Group and was told that Ms. Craven discussed the request with Peg Stevens, a City Controller and a member of the Steering Committee. The alleged 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

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 thereby violating the public meetings laws.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force *does* have jurisdiction over the allegation. The allegations are covered under (67.4 and 67.5) of the Ordinance.

Letter to the Complaint Committee

Page 2

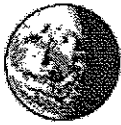
July 6, 2009

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.5 generally covers Public Meeting.

In this case, Ann Grogan alleges violations of the Public Meetings laws. The Task Force has jurisdiction based on the alleged violations. However, the Task Force will have to determine whether the Committee is required to have public meetings.



<complaints@sfgov.org>
06/08/2009 09:52 AM

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

Submitted on: 6/8/2009 9:52:29 AM

Department: Police Commission

Contacted: Theresa Sparks

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated:

Description: See attached

Hearing: Yes

Pre-Hearing: No

Date: June 1, 2009

Name: Ann Grogan

Address: 2912 Diamond Street, Suite 239

City: San Francisco

Zip: 94131

Phone: 587-3863

Email: inquiry@romantasy.com

Anonymous:

Confidentiality_Requested: Yes

Ann Grogan, J.D.

2912 Diamond Street, Suite 239

San Francisco, CA 94131

Member, Patrol Special Study Work Group

Member, Glen Park Patrol Special Safety Program

President, ROMANTASY Corsetry, (415) 587-3863, inquiry@romantasy.com

(Also sent via email of same date)

Ms. Sue Cauthen

Chairperson, Sunshine Ordinance Task Force

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102-4689

May 19, 2009

Re: Inquiry and/or Complaint under the Sunshine Ordinance
to Attend Meetings and Review Documents and Minutes of the Steering Committee of the
Patrol Special Program Assessment Project

Dear Chairperson Cauthen:

I am writing to submit an Inquiry and/or Complaint under the Sunshine Ordinance for your review, advice, and informal or formal resolution concerning the above public-access matter apparently covered by the Sunshine Ordinance and related Brown Act. I have also submitted in a May 15 email to Police Commissioner President Theresa Sparks, a similar request for her re-consideration of my original request, and I am hopeful of her positive response.

However, the first Steering Committee meeting I wish to attend which will involve review of draft or interim research reports or "deliverables," may be held within the next week or two, and continuing thereafter during the course of the research project. Thus, in order to obtain your guidance and preserve any possible right to a formal hearing as well as a prehearing conference should Ms. Sparks not reply in time, I would appreciate your expeditious review and determination.

Please don't hesitate to let me know if you require further information. I appreciate your consideration.

Respectfully submitted,


Ann Grogan

Attachments: Exhibit A - Project Appendices

Exhibit B - Email to Commissioner Sparks

INQUIRY AND/OR COMPLAINT UNDER THE SUNSHINE ORDINANCE
OF ANN GROGAN CONCERNING PUBLIC ACCESS TO MEETINGS
AND RELEVANT DOCUMENTS OF THE STEERING COMMITTEE
AS PART OF THE CURRENT "PATROL SPECIAL PROGRAM ASSESSMENT PROJECT"
Date: May 19, 2009

A. Facts

Upon information and belief, the following facts are set forth.

Ms. Kym Craven is director of the Public Safety Strategies Group, an independent contractor hired by the City to conduct a publicly-funded study of the Patrol Special Police Officer program, called the "Patrol Special Assessment Project" (hereafter "project" or "study"). The project is administered by the Police Commission which is the body formally charged with regulating the Patrol Special Police Officer program. A description summary of the project is submitted herewith as Exhibit A, which document was forwarded to me by Commander Sandra Tong of the SFPD, in advance of my personal appointment to and involvement with a project-related Work Group described below.

Several weeks ago I formally submitted a request to Ms. Craven to attend and observe meetings held by the project Steering Committee which is staffed by two members of the Police Commission, a member of the Board of Supervisors, two members of Police Department, and the City Controller. As seen on page 1 of Exhibit A, the Steering Committee is a formal party of the project. My request was denied.

In an excess of caution via email and snailmail on May 15, I reiterated my request to Police Commissioner Theresa Sparks, copy attached herewith as Exhibit B. In addition, I requested advance access to agendas, documents to be reviewed, draft or interim research reports, and minutes of the Steering Committee. Further, I wrote to request that a reasonable number of other interested members of the public be permitted to attend and observe those meetings. I am aware of at least one member of the public not affiliated with the research study, who is interested in attending.

As a client of the Patrol Special program, sometime in March, 2009 I was invited by Commander Sandra Tong of the SFPD, to join the Work Group. Commander Tong is tasked with supervision of the Patrol Special Police Officer program. The Work Group is composed of one citizen client of the Patrol Special program (the undersigned), one Patrol Special officer (Officer Sam Reyes), Commander Tong and her assistant, Lt. Lum, and the researchers.

The Work Group is not a formal party to the project as is the Steering Committee. The Work Group is nowhere mentioned in Exhibit A. In fact, the SFPD members did not attend the Work Group's last meeting held on May 8. Thus, the Work Group appears to be an afterthought, even if it provides a beneficial and appreciated opportunity for two non-City employees/non-elected officials to be occasionally or periodically informed.

Ms. Craven told me that she had discussed my request with Controller Peg Stevens, member of the Steering Committee, but that I (and apparently other members of the public) may not attend those meetings. As I understood it, the reasons are in essence because:

"The Steering Committee is a 'passive meeting body' and operates under the Municipal Code. It will or may be discussing confidential or sensitive matters such as personal bias, employee relations, and legal opinions that should not be made public. It is a time for guidance given to the Research Committee by the Steering Committee. Thus, the Sunshine Law is not applicable. In any event, anything non-confidential of importance will go from the researchers after the Steering Committee discussions, to the Work Group of which you are a member."

B. Claim

The Sunshine Ordinance is generally applicable herein and has been violated.

Furthermore, the Ordinance is applicable during the research study, and not after the fact when a final draft, or final research report has been issued, or when implementation procedures such as regulation or City Charter changes by the City have been proposed by the Police Commission based upon the project recommendations.

Finally, providing information from the researchers to the Work Group after the fact of the Steering Committee's deliberations does not comply with either the letter or the spirit of the Sunshine Ordinance or the underlying Ralph M. Brown Act (Govt Code Sec 54950 et. seq.), for the following reasons.

C. Reasoning

1. The research project involves expenditure of tax-payer dollars.

2. The Ordinance provides adequate means to protect confidential information that might be discussed by the Steering Committee who can close the meetings for discussion of confidential matters, or redact such material from documents it considers or issues.

3. The Steering Committee is apparently a passive body defined in the Sunshine Ordinance, Section 67.3(c). Even if it is a committee consisting solely of employees of the City as set forth in subsection (5), it is still covered by the Sunshine Ordinance because it is "reviewing, developing, modifying, or creating city policies or procedures relating to the ... public safety."

4. Access to deliberations and materials submitted to the Work Group after the fact of Steering Committee deliberations, does not comply with the Sunshine Ordinance for two reasons. First, substantially all major research and policy guidance, direction, and relevant input during the study appears to be coming from the Steering Committee and not the Work Group, and second, at least one other member of the public not a part of the Work Group, is interested in attending.

5. Ms. Craven explained at the first Work Group meeting held in April, and I observed at the subsequent May 8 meeting, that that Work Group is to be used primarily as a responsive sounding board for various ideas or directions the researchers propose. There is no assurance or evidence that any affirmative questions the Work Group members may raise, will be considered by the researchers or even communicated to the Steering Committee. There is evidence that at least one matter of substantial concern to clients may be overlooked, namely the regulation currently requiring Patrol Special Officers to provide the City with confidential financial information.

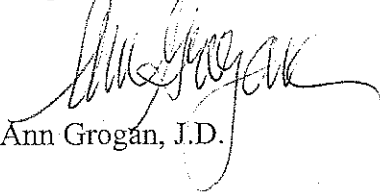
6. Both the letter and spirit of the Sunshine Ordinance would seem to require the Steering Committee's deliberations and documents to be open to the public. In view of the sometimes troubled history and relationship between the City and the Patrol Specials, including some continuing examples of possibly selective enforcement of the regulations governing the Patrol Special officers, and other debated and unresolved matters that many of us are hopeful the research study will address, it would seem particularly advisable to open these Steering Committee meetings and researcher's documents to public scrutiny. Openness and transparency would demonstrate that the entire process is above board. Openness and transparency would go a long way to reassure the public, and the Patrol Special officers as well, that there is no reason for suspicion that research results have been or will be pre-determined to the detriment of this valuable and much-needed auxiliary police officer public safety program.

D. Conclusion

For the above reasons, the Sunshine Ordinance appears to apply and to have been violated by refusal to allow the undersigned, and the public, access to the Steering Committee's non-confidential deliberations, meetings, and documents.

Thank you in advance for your consideration and expeditious reply.

Respectfully submitted,



Ann Grogan, J.D.

Appendix A - Scope of Work

This scope of work is a general guide to the work the City expects to be performed, and is not a complete listing of all services that may be required or desired.

I. PROJECT DEFINITIONS

<p>City – City and County of San Francisco; for this project, will consist of the San Francisco Police Department (“SFPD”) Controller’s Office and the San Francisco Police Commission (“SFPC”).</p>	<p>Contractor – Public Safety Strategies Group</p>
<p>City’s Team – The City and County of San Francisco’s Police Department (SFPD), and/or the Project Groups.</p> <p>SFPD Project Manager/Liaison – Commander Sandra Tong and Lieutenant Curtis Lum</p> <p>Project - Patrol Special Program Assessment</p> <p>Project Team – City’s Team and Contractor’s Team.</p>	<p>Contractor’s Team – Kym Craven, Contractor’s Project Manager Rick Bailey, Sr. Program Manager Alan Stuart, Program Manager Al Youngs, Sr. Program Manager Beth Coady, Research Associate David Latterman, Fall Line Analytics</p>
<p>Project Groups</p> <p>Steering Committee Chief Heather Fong, Chief of Police Deputy Chief Kevin Cashman, SFPD Bevan Dufty, Member, Board of Supervisors Thomas Mazzucco, Member, SFPC Theresa Sparks, President, SFPC Peg Stevenson, Controller’s Office</p> <p>Patrol Specials Liaison To be determined</p>	

II. PROJECT BACKGROUND, OBJECTIVES AND KEY QUESTIONS

Background

The City and County of San Francisco Police Department ("SFPD") historically has worked in conjunction with Patrol Special Officers, a private patrol organization governed by City Charter section 4.127. The Rules and Procedures for Patrol Special Officers and their Assistants defines them as private patrol operators, who contract to perform security duties of a private nature for private persons and businesses within geographical boundaries set forth by the San Francisco Police Commission. While a Patrol Special Officer is performing duties as a private patrol person, he or she is an independent operator and not an employee of the City and County of San Francisco.

A Patrol Special Officer is the "Beat Owner" of an assigned area in police district(s). A Patrol Special Officer can employ an Assistant Patrol Special Officer who is an employee of the Patrol Special Officer. Both types are allowed to patrol their assigned beats.

Objective

The objective of this Project is to provide a comprehensive assessment of the Patrol Special program including the organizational design, capacity, authority, capabilities and culture. The Project shall document the history of the Patrol Specials, identify best practices and comparative practices in special police officer utilization and deployment in other police agencies, evaluate the effectiveness of the current rules and procedures to the SFPD's operations and recommend organizational and programmatic improvement including defining the appropriate role and authority of Patrol Specials.

Key Questions

The following summarizes key areas for assessment. The specific questions for interviews and surveys shall be determined in collaboration with the Steering Committee.

A. Determine the Historical Role of the Patrol Special Officer Program

- What are the key events that have shaped the role of the Patrol Special Officer program and its interaction with the SFPD?

B. Evaluate Best Practices of Special Police Officer Programs in the United States.

- What are the best and comparative practices with special police officer utilization and deployment in other police agencies?

C. Assess the Current Operation of the Patrol Special Program.

- What is the current role and authority of the Patrol Special Officers and their assistants?
- How does the current role of the Patrol Specials fit with the mission, vision and values of the SFPD?
- How does the current role of the Patrol Specials fit with the needs of community stakeholders?
- What is the process for becoming a patrol special or assistant in terms of background checks and training?

- Is the current process of oversight, supervision and program administration effective?
- How are the uniforms and equipment regulated?

III. PROJECT ROLES AND RESPONSIBILITIES

A. Contractor's Team

Through its delivery of services and deliverables required under this Agreement, the Contractor shall be expected to demonstrate substantial knowledge of the SFPD, its stakeholders, operating conditions, and policy environment to successfully meet both the qualitative and quantitative needs of the Project. The Contractor's Project Manager shall manage the Contractor's Team to ensure that it completes all work and obligations described in this Agreement.

The City's Team, in its sole discretion, has the right to approve or disapprove Contractor's personnel, including subcontractor personnel, assigned to perform the services under this Agreement at any time throughout the term of this Agreement. The City shall have the right to interview and review the qualifications of any new personnel proposed by the Contractor. Any change to Contractor's personnel must be approved in writing by the City at least fourteen (14) days in advance of assignment of such personnel by the Contractor. Such approval by the City will not be unreasonably withheld.

The City hereby approves the use of the subconsultants named herein, as part of the Contractor's Team; provided, however, that notwithstanding anything to the contrary in this Agreement, the Contractor shall ultimately bear all responsibility and liability for the performance of all tasks, deliverables, and services under this Agreement. Any changes to Local Business Enterprise subconsultant arrangements must be discussed and approved in advance by the City's Human Rights Commission and the SFPD.

B. City's Team

The SFPD Project Manager/Liaison will provide oversight of the Project to ensure that the Contractor's Team is meeting staffing; timeline, budget, and work product targets and deliverables described in this Agreement and will approve contract payments. The SFPD Project Manager/Liaison will review and approve Contractor meeting agendas, monthly progress reports, and other work products and deliverables prior to Contractor's presentation to the Steering Committee, to other Project Groups, or to the public. The SFPD will handle all contract administration matters.

The Contractor's Team shall provide the SFPD Project Manager/Liaison with deliverables in accordance with the schedule of deliverables as provided in Appendix B. Once the presentation format is established, input from City will be limited to two rounds of feedback, edits, and revisions. The SFPD Project Manager/Liaison shall be responsible for forwarding feedback to the Contractor on behalf of the City. The SFPD Project Manager/Liaison will facilitate the Contractor's access to information and SFPD resources.

C. Steering Committee

The Steering Committee will be updated by the City's Team on the Contractor's project progress, review and approve the Contractor's major deliverables and other work products, and

provide high level direction. Changes to project scope, budget and timeline must be approved by the Steering Committee.

IV. PROJECT TASKS

The Contractor's Team shall complete the tasks below. More detailed information on deliverable due dates and payments is included in Appendix B to this Agreement. To expedite project progress, the Contractor's Team shall provide the City with a project schedule that delineates the initiation and completion of all project tasks.

Task 1 – Project Planning and Administration

The Contractor shall provide the City with the following project administration and stakeholder communications deliverables:

1. **Project Plan:** The Contractor's Team shall develop a Project Plan that includes staff roles and responsibilities, project schedule by task, a schedule for task completion, and a visual representation of project tasks and timing. The draft Project Plan shall be discussed at the Project Kick-off Meeting and shall be finalized by the Contractor following the Steering Committee's approval.
2. **Kick-off Meeting:** The Contractor's Team shall facilitate a "kick-off" meeting with the City's Team. The Contractor shall develop the draft agenda and other materials to ensure that all meeting objectives are met. Prior to the meeting, the Contractor's Team shall provide the City's Team with the draft agenda and draft Project Plan and incorporate the City's Team input. Meeting objectives shall include Contractor's review of the following:
 - a. Confirmation of the City's Project goals, tasks, deliverables, timeline, and roles and responsibilities of the Project participants (Project Plan)
 - b. Protocol for Project Communications
 - c. Identification of City resources that may be needed to complete the Project successfully, including data requests and assistance in obtaining information
 - d. Other topics as requested by the City's Team
3. **Meeting Schedule and Preparation:** The Contractor's Team shall coordinate with the SFPD Project Manager/Liaison to set up site visits and Steering Committee meeting schedule dates and times for the duration of the Project. For all meetings, Contractor shall prepare and provide agendas, meeting notices, meeting notes, and any other materials necessary to communicate messages, gather information or for any other purpose required by the City to provide effective meeting processes, outcomes, and documentation.
 - a. **Team Meetings:** The Contractor's Team shall meet with the City on a regularly scheduled basis to provide progress reports, troubleshoot Project implementation, and coordinate with the City's Team to include the SFPD Project Manager/Liaison, and other parties as specified by the SFPD Project Manager/Liaison. The Contractor's Project Manager or his/her designee shall attend all meetings in person, unless the City cancels a meeting which may result in the Contractor's Project Manager participating by telephone. Other team members may attend by phone as needed, unless they are responsible for the deliverable being presented. The Contractor's Team shall develop and distribute meeting agendas with input from SFPD Project Manager/Liaison. The Contractor shall also be responsible for recording and distribution of meeting minutes for all

meetings. The City participants will be coordinated by the SFPD Project Manager/Liaison. The Contractor's Team shall schedule additional meetings as required, or as requested by the City's Team.

- b. **Steering Committee Update Meetings:** The Contractor's Team shall meet with the Steering Committee on a regularly scheduled basis to provide progress reports on deliverables and other work products and to receive input and policy direction related to the Project. Prior to meetings, the Contractor's Team shall provide the City's Team with input to draft agendas. Contractor shall also be responsible for providing meeting materials at the request of the Controller's Project Manager.
4. **Project Summaries:** The Contractor's Team shall submit written status reports to the accompany all invoices to the SFPD Project Manager/Liaison summarizing Contractor's progress on task and/or deliverable completion in accordance with Appendices A and B.
5. **Telephone and E-mail Communication:** The Contractor shall be in communication as necessary with the SFPD Project Manager/Liaison, as determined by the SFPD Project Manager/Liaison.
6. **Communication Materials and Messaging:** The Contractor shall produce the materials used for communications, including materials provided at meetings or other venues. Materials produced by the Contractor shall include, but are not limited to, meeting invitations, announcements, agendas and minutes, PowerPoint presentations, handouts, visual displays, and other pertinent documents, including advertisements, press releases, and video or audio materials.

Task 1 Deliverables:

- 1.1 Draft Project Plan,
- 1.2 Project Kickoff Meeting
- 1.3 Final Project Plan
- 1.4 Team Meeting Schedule and Materials
- 1.5 Project Summaries (to accompany invoices)
- 1.6 Project Communications Materials and Messaging

Task 2 – Determine the Historical Role of the Patrol Special Program

The Contractor shall review the historical role of the Patrol Special Police Program and the relationship with the SFPD. The Contractor shall review documents, conduct interviews with Patrol Special Officers and their Assistants, citizens, merchants, and other parties with institutional knowledge of the Patrol Special Police Program. In addition, the Contractor shall interview members of the San Francisco Police Commission, SFPD and Police Union.

Results shall be summarized by the Contractor to the Steering Committee and incorporated into the Contractor's analysis in the Final Report.

The Final Report shall describe the historical role of the Patrol Special Police Program and the relationship with the SFPD.

Task 2 Deliverables:

- 2.1 Presentation to the Steering Committee.

Task 3 – Evaluate Best Practices of special police officer programs in the United States

The Contractor shall identify best practices and comparative practices in special police officer utilization and deployment in a minimum of three other police agencies. The Contractor shall compile results of this review as part of the Final Report for review and approval by the City's Team.

The Patrol Special Officers review shall include comparable jurisdictions and analysis of available literature. The Contractor shall develop the criteria for determining comparability and shall develop a draft list of jurisdictions meeting those criteria for review and approval by the City's Team. Should written material not be available, the Contractor shall conduct interviews with the principals and analysts from similar projects to obtain this information.

The Contractor's analysis shall include a review of professional literature to identify recent best practices for patrol special programs. The Contractor shall supplement the data collection process in support of the approach designed for this Project. Proceeding with the understanding that each community is unique in its characteristics and needs, the literature review shall be used as a guide for the evaluation strategy for the City. Results shall be summarized by the Contractor to the Steering Committee and incorporated into the Contractor's analysis in the Final Report.

Task 3 Deliverables:

3.1 Presentation to the Steering Committee.

Task 4 – Asses the current operation of the Patrol Special Program.

The Contractor shall collect and evaluate existing Patrol Special Officers Program data, including but not limited to the following:

1. Relevant written materials and historical documents related to passage of legislation, program design, training and program implementation.
2. Examination of the Patrol Special Program policies and implementation methods including but not limited to actual practices and staffing.
3. Interviews with key SFPD members, Patrol Special Officers and their Assistants, other City agency personnel, and community members.
4. Evaluation of the Patrol Special Program alignment with best practices and SFPD's mission, vision, and values.

The Contractor shall present the results of this review to the Steering Committee and compile the results as part of the Final Report.

Task 4 Deliverables:

4.1 Presentation to the Steering Committee.

Task 5 – Develop Recommendations

The Contractor shall in consultation with the City's Team develop recommendations based on best practices review and the needs of the City. The recommendations shall include alternative models of special police officer utilization and deployment.

The Contactor shall present the recommendations to the Steering Committee and compile as part of the Final Report.

Task 5 Deliverables:

- 5.1 Presentation to the Steering Committee.

Task 6. – Draft Final Report

The Contractor shall provide the City's Team with a draft final report compiling the information presented to the Steering Committee, drawing conclusions from the Contractor's analysis and including discussion of findings and revised recommendations developed in Task 2 to 5 above. The draft final report shall reflect the feedback received from the Steering Committee. Conclusions shall be supported by graphic format with tables, figures and spatial representations (maps) of the results as appropriate. The Contractor shall provide an outline of the draft final report to the City's Team in advance of the report drafting for City's Team input. Input from City will be limited to no more than two rounds of feedback, edits and revisions. The SFPD Project Manager/Liaison shall be responsible for forwarding feedback to the Contractor on behalf of the City.

Task 6 Deliverables:

- 6.1 The Contractor shall deliver a draft final report for Steering Committee review and approval.

Task 7 – Final Report

The Contractor's Team shall produce a comprehensive final written report within six months of the kickoff meeting and delivery of requested material to the Contractor's Team incorporating all analysis and recommendations from Tasks 2 – 5 above, and a presentation of findings to City officials as requested by City's Team and Steering Committee.

1. Final report shall draw conclusions from the analysis and include discussion of the results of Tasks 2 – 5 above. Conclusions shall be supported by graphic format with tables, figures and spatial representations (maps) of the results. Based upon conclusions drawn, recommendations shall be made to City leaders regarding the Patrol Special Program or alternative approaches.
2. Presentation of Findings in PowerPoint shall be prepared for presentation to City officials as requested by City's Team and Steering Committee.

Task 7 Deliverables:

- 7.1 Final Report and Presentation Materials
- 7.2 Presentation and briefings of Final Report to the San Francisco Police Commission and the San Francisco Board of Supervisors as needed.
- 7.3 Master Datafile (CD Rom of the project data)

Ann Grogan, J.D.
2912 Diamond Street, Suite 239
San Francisco, CA 94131

Member, Patrol Special Study Work Group
Member, Glen Park Patrol Special Safety Program
President, ROMANTASY Corsetry, (415) 587-3863, inquiry@romantasy.com

(Sent via email on same date)

Commissioner Theresa Sparks, President
SF Police Commission
Thomas J. Cahill Hall of Justice
850 Bryant St. Room 505
San Francisco, CA 94103
May 15, 2009

Re: Request under the Sunshine Law to Attend Meetings and Review Documents and Minutes of the Steering Committee of the Patrol Special Police Officer Research Study

Dear Commissioner Sparks:

As you know, Ms. Kym Craven is director of the Public Safety Strategies Group, an independent contractor conducting a City-funded study of the Patrol Special Police Officer Program ("study") administered by the Police Commission. Several weeks ago I formally submitted a request to Ms. Craven to attend meetings held by the Steering Committee which is the City body staffed by members of the Police Commission, Board of Supervisors, and Police Department, advising the researchers during the study. My request was denied.

In an excess of caution as well as to request your review, I am writing to reiterate my request under the Sunshine Law, Article II et seq., concerning public access to meetings. In addition, I am writing to request advance access to agendas, documents to be reviewed, draft or interim research reports, and minutes of that Steering Committee. Finally, I am writing to request that a reasonable number of other interested members of the public be permitted to attend and observe those meetings.

In view of the fact that the first Steering Committee meeting to review draft or interim research reports or "deliverables" may be held within the next week or two, I would appreciate your expeditious review and determination regarding my requests. In view of these same time constraints, I may or will be submitting my request for an impartial review and determination by the Sunshine Task Force.

Specifically, in response to my request Ms. Craven reported that she had discussed it with Controller Peg Stevens, member of the Steering Committee. The answer was that I (and apparently other members of the public) may not attend those meetings. The reasons are in essence because: *"The Steering Committee is a 'passive meeting body' and operates under the Municipal Code. It will or may be discussing confidential or sensitive matters such as personal bias, employee relations, and legal opinions that should not be made public. It is a time for guidance given to the Research Committee by the Steering*

Committee. Thus, the Sunshine Law is not applicable. In any event, anything non-confidential of importance will go from the researchers after the Steering Committee discussions, to the Work Group of which you are a member."

However, the Sunshine Law appears generally applicable because the study involves expenditure of taxpayer dollars. It provides adequate means to protect confidential information. Furthermore, it appears applicable during the research study and not after the fact when a final research report has been issued, or implementation procedures such as regulation or City Charter changes by the City have been proposed. Merely providing information from the researchers to the Work Group after the fact of the Steering Committee deliberations also would not seem to comply with either the letter or the spirit of the Sunshine Law or the underlying Ralph M. Brown Act (Govt Code Sec 54950 et. seq.), for the following reasons.

The Work Group is composed of one citizen client of the Patrol Special program, one Patrol Special officer, two management level SFPD employees, and the researchers. The Work Group is not a formal, anticipated element or party written into the research study as is the Steering Committee. The SFPD members did not attend the last meeting. Thus, it appears to be an afterthought, even if it provides a beneficial and appreciated opportunity for two of us non-City employees/non-elected officials to be informed.

Furthermore, it is not yet clear that the Work Group will be open to members of the public, although as of May 8 there is an outstanding request to Ms. Craven for same. In addition, as explained by Ms. Craven and observed at two prior Work Group meetings, that group is to be used primarily as a responsive sounding board for various ideas or directions the researchers propose. There is no assurance or evidence that any affirmative questions the Work Group members may raise, will be considered by them, or even communicated back to, the Steering Committee.

Thus, substantially all major research and policy guidance, direction, and relevant input during the study appears to be coming from the Steering Committee and not the Work Group.

In view of the sometimes troubled history and relationship between the City and the Patrol Specials, including continuing incidents of apparently arbitrary treatment of individual officers and other debated and unresolved matters that many of us are hopeful the research study will address, it would seem particularly advisable to open these Steering Committee meetings to public scrutiny. Openness and transparency would demonstrate that the entire process is above board. Openness and transparency would go a long way to reassure the public, and the Patrol Special officers as well, that there is no reason for suspicion that research results have been pre-determined to the detriment of this valuable and much-needed adjunct police officer public safety program.

Thank you in advance for your consideration and expeditious reply.

Respectfully submitted,

Ann Grogan

cc: Ms. Kym Craven
Officer Sam Reyes



Commission
SFPD/SFPD/SFGOV
06/15/2009 04:17 PM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc

Subject Sunshine Complaint Received: #09030_Ann Grogan v Police
Commission

Please note that this e-mail constitutes a reply to the above referenced complaint within 5 business days of its receipt by the Police Commission.

Please see the attached file.



SOTF Complaint 09030 response.doc

Lt. Joe Reilly, Secretary
San Francisco Police Commission
Thomas J. Cahill Hall of Justice, Room 505
850 Bryant Street
San Francisco, CA 94103
(415) 553-1667
(415) 553-1669 fax



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

June 15, 2009

Mr. Chris Rustom
SOTF
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94103

THERESA SPARKS
President

DR. JOE MARSHALL
Vice President

PETRA DEJESUS
Commissioner

YVONNE Y. LEE
Commissioner

THOMAS MAZZUCCO
Commissioner

DAVID ONEK
Commissioner

VINCENT PAN
Commissioner

Lieutenant Joe Reilly
Secretary

Re: Sunshine Complaint Received: #09030_Ann Grogan v Police Commission

Dear Mr. Rustom,

I am responding on behalf of the Police Commission to the above referenced complaint as received on June 9, 2009.

It is not clear that the Police Commission is the responsible body with respect to the existence of the committee referenced in the complaint.

Additionally, it is not clear what available public records (if any) complainant alleges to have been denied.

Therefore, the Commission is requesting a pre-hearing conference with the SOTF Complaint Committee. From your earlier correspondence, I have noted that this pre-hearing conference is scheduled for Tuesday, July 7, 2009, City Hall, Room 406 at 3:30 p.m.

Thank you for your attention to this matter. Please call if there are any questions.

Very truly yours
/s/

Lt. Joe Reilly, Secretary



The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

July 7, 2009

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

Re: **Sunshine Ordinance Task Force Complaint #09030**

Dear Mr. Rustom:

On behalf of the Police Commission, I am responding to Complaint #09030, submitted to the Sunshine Ordinance Task Force ("Task Force") by Ann Grogan, apparently alleging public records violations and/or public meeting violations by the Police Commission. The complaint consists of Ms. Grogan's email to the Task Force, as well as a letter from Ms. Grogan to Theresa Sparks, President of the Police Commission.

This response is submitted in connection with the pre-hearing meeting before the Task Force's Complaint Committee, scheduled for July 14, 2009 at 4:00 p.m. It is the understanding of the Police Commission that the limited purposes of that hearing are to verify jurisdiction and clarify questions about the complaint.

Background. Ms. Grogan's complaint centers on the activities of a "Steering Committee" created under a contract between the San Francisco Police Department ("SFPD") and the Public Safety Strategies Group ("PSSG"), a management consulting firm specializing in homeland security and public safety programs. The work under the contract is funded through the Controller's City Services Audit budget. Under the contract, PSSG is conducting an organizational study of the "Patrol Special Officers Program," which is administered by the SFPD and regulated by the Police Commission. See Attachment 1: Charter §4.127.¹

The contract established a five-person Steering Committee to review and approve PSSG's major deliverables and other work products and to provide "high level direction" to PSSG. See Attachment 2: Appendix A to contract, pp. 3-4 (contract obtained from Police Department).

¹This information provided in this response about the contract and the work of PSSG was obtained from personnel in the SFPD and the Controller's Office.

THERESA SPARKS
President

DR. JOE MARSHALL
Vice-President

PETRA DeJESUS
Commissioner

YVONNE Y. LEE
Commissioner

THOMAS P. MAZZUCCO
Commissioner

DAVID ONEK
Commissioner

VINCENT PAN
Commissioner

LIEUTENANT JOE REILLY
Secretary

Mr. Chris Rustom
Sunshine Ordinance Task Force
July 7, 2009
Page 2

Police Commission President Theresa Sparks and Commissioner Thomas Mazzucco are both members of the Steering Committee, along with Chief of Police Heather Fong, SFPD Deputy Chief Kevin Cashman, and Peg Stevenson from the Controller's Office. *See Attachment 2: Appendix A, p. 1.*

Under the contract, PSSG is responsible for scheduling Steering Committee meetings and preparing any materials related to those meetings. *See Attachment 2, Appendix A, Task 1, ¶3.* The Police Commission is not a party to the contract with PSSG. Neither the Commission nor the individual Commissioners serving on the Steering Committee have any responsibility for organizing or running Steering Committee meetings or for preparing, distributing, or maintaining any materials or records for or related to the Steering Committee.

Per her letter to Commission President Sparks, Ms. Grogan apparently initially asked PSSG Project Director Kym Craven for permission to attend the Steering Committee meetings. According to Ms. Grogan's letter, Ms. Craven denied that request, purportedly after consultation with Peg Stevenson of the Controller's Office. Ms. Grogan claims the request was denied for the following reason: "The Steering Committee is a passive meeting body and operates under the Municipal Code. It will or may be discussing confidential or sensitive matters such as personal bias, employee relations, and legal options that should not be made public. It is a time for guidance given to the Research Committee by the Steering Committee. Thus, the Sunshine Law is not applicable. In any event, anything non-confidential of importance will go from the researchers after the Steering Committee discussions, to the Work Group which you are a member." After that denial, Ms. Grogan then wrote to Commission President Sparks, requesting her assistance in facilitating access to Steering Committee meetings. She also asked for "advance access" to records presented or related to the Steering Committee. Soon after her letter to President Sparks, Ms. Grogan filed her complaint against the Police Commission with the Task Force.

Jurisdiction. The Police Commission does not contest jurisdiction of the Task Force. However, as described above, the Commission has limited involvement in the Steering Committee. That role is limited to having two members participate as Commission representatives on the five-member Steering Committee, which also includes representatives from the SFPD and the Controller's Office. The Commission as a body has no administrative or other control over the schedule, activities, or records of the Steering Committee or PSSG, nor do the individual Commissioners serving on that Committee. At most, as members of the Steering Committee, Commissioners Sparks and Mazzucco may at some point receive materials prepared and distributed by PSSG. However, to date neither Commissioner has received any records from PSSG related to the Steering Committee.

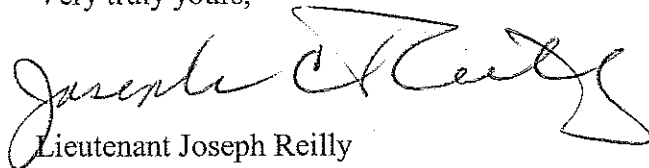
Mr. Chris Rustom
Sunshine Ordinance Task Force
July 7, 2009
Page 3

Based on its limited role and responsibility related to the Steering Committee, the Police Commission does not believe it is the appropriate respondent with respect to this particular complaint.

Nature of the Complaint. In her email to the Task Force, Ms. Grogan indicates that her complaint involves "public records" violations, but not "public meeting" violations. In her letter to Commission President Sparks, however, Ms. Grogan appears to present a request that President Sparks facilitate Ms. Grogan's attendance at the Steering Committee meetings. Due to the conflict between the issues raised in her complaint and the letter, the Police Commission seeks clarification from Ms. Grogan and the Task Force on the specific issues presented by the complaint.

The Commission looks forward to gaining clarity on these issues at the pre-hearing meeting on July 14th.

Very truly yours,



Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/ret

Attachment 1: Charter § 4.127

SEC. 4.127. POLICE DEPARTMENT.

The Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County.

The Chief of Police may appoint and remove at pleasure special police officers.

The Chief of Police shall have all powers which are now or that may be conferred upon a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority.

DISTRICT POLICE STATIONS. The Police Department shall maintain and operate district police stations. The Police Commission, subject to the approval by the Board of Supervisors, may establish additional district stations, abandon or relocate any district station, or consolidate any two or more district stations.

OFFICE OF CITIZEN COMPLAINTS. The Mayor shall appoint a nominee of the Police Commission as the director of the Office of Citizen Complaints, subject to confirmation by the Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days, the appointment shall be deemed approved. In the event the office is vacant, until the mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim director who shall serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil service requirements of this Charter. The director shall never have been a uniformed member or employee of the department. The director of the Office of Citizen Complaints shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal or discipline of employees of the Office of Citizen Complaints.

The Police Commission shall have the power and duty to organize, reorganize and manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter, the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1, 1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this section is not met for more than 30 consecutive days, the director shall have the power to hire, and the city Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have previously served as a uniformed member of the department. Subject to rule of the Police Commission, the director of the Office of Citizen Complaints may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of Supervisors or by contract approved by the Board of Supervisors.

Complaints of police misconduct or allegations that a member of the Police Department has not properly performed a duty shall be promptly, fairly and impartially investigated by staff of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all complaints of police misconduct, or that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department. The Office of Citizen Complaints shall use its best efforts to conclude investigations of such complaints and, if sustained, transmit the sustained complaint to the Police Department within nine (9) months of receipt thereof by the Office of Citizen Complaints. If the Office of Citizen Complaints is unable to conclude its investigation within such nine-month period, the director of the Office of Citizen Complaints, within such nine-month period, shall

San Francisco Charter

inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter. The Office of Citizen Complaints shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The director of the Office of Citizen Complaints, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and either (i) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and confer with the director on the matter, or (iii) other exigent circumstances necessitate that the director verify and file charges to preserve the ability of the Police Commission to impose punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the Office of Citizen Complaints shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

The Office of Citizen Complaints shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services. The Office of Citizen Complaints shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

In carrying out its objectives the Office of Citizen Complaints shall receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County which shall promptly produce all records requested by the Office of Citizen Complaints except for records the disclosure of which to the Office of Citizen Complaints is prohibited by law. The director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police Department to carry out the responsibilities of the Office of Citizen Complaints.

BUDGET. Monetary awards and settlements disbursed by the City and County as a result of police action or inaction shall be taken exclusively from a specific appropriation listed as a separate line item in the Police Department budget for that purpose.

POLICE STAFFING. The police force of the City and County shall at all times consist of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure may be adjusted

San Francisco Charter

pursuant to Section 16.123.

All officers and employees of the City and County are directed to take all acts necessary to implement the provisions of this section. The Board of Supervisors is empowered to adopt ordinances necessary to effectuate the purpose of this section including but not limited to ordinances regulating the scheduling of police training cases.

Further, the Commission shall initiate an annual review to civilianize as many positions as possible to maximize police presence in the communities and submit that report to the Board of Supervisors annually for review and approval.

The number of full duty sworn officers in the Police Department dedicated to neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years, and all new full duty sworn officers authorized for the Police Department shall also be dedicated to neighborhood community policing, patrol and investigations.

PATROL SPECIAL POLICE OFFICERS. The Commission may appoint patrol special police officers and for cause may suspend or dismiss patrol special police officers after a hearing on charges duly filed with the Commission and after a fair and impartial trial. Patrol special police officers shall be regulated by the Police Commission, which may establish requirements for and procedures to govern the position, including the power of the Chief of Police to suspend a patrol special police officer pending a hearing on charges. Each patrol special police officer shall be at the time of appointment not less than 21 years of age and must possess such physical qualifications as may be required by the Commission.

Patrol special police officers may be designated by the Commission as the owners of a certain beat or territory which may be established or rescinded by the Commission. Patrol special police officers designated as the owners of a certain beat or territory or the legal heirs or representatives of the owners may dispose of their interest in the beat or territory to a person of good moral character, approved by the Police Commission and eligible for appointment as a patrol special police officer.

Commission designation of beats or territories shall not affect the ability of private security companies to provide on-site security services on the inside or at the entrance of any property located in the City and County. (Amended November 2003; March 2004)

Attachment 2: Appendix A to contract, pp. 3-4

III. PROJECT ROLES AND RESPONSIBILITIES

A. Contractor's Team

Through its delivery of services and deliverables required under this Agreement, the Contractor shall be expected to demonstrate substantial knowledge of the SFPD, its stakeholders, operating conditions, and policy environment to successfully meet both the qualitative and quantitative needs of the Project. The Contractor's Project Manager shall manage the Contractor's Team to ensure that it completes all work and obligations described in this Agreement.

The City's Team, in its sole discretion, has the right to approve or disapprove Contractor's personnel, including subcontractor personnel, assigned to perform the services under this Agreement at any time throughout the term of this Agreement. The City shall have the right to interview and review the qualifications of any new personnel proposed by the Contractor. Any change to Contractor's personnel must be approved in writing by the City at least fourteen (14) days in advance of assignment of such personnel by the Contractor. Such approval by the City will not be unreasonably withheld.

The City hereby approves the use of the subconsultants named herein, as part of the Contractor's Team; provided, however, that notwithstanding anything to the contrary in this Agreement, the Contractor shall ultimately bear all responsibility and liability for the performance of all tasks, deliverables, and services under this Agreement. Any changes to Local Business Enterprise subconsultant arrangements must be discussed and approved in advance by the City's Human Rights Commission and the SFPD.

B. City's Team

The SFPD Project Manager/Liaison will provide oversight of the Project to ensure that the Contractor's Team is meeting staffing; timeline, budget, and work product targets and deliverables described in this Agreement and will approve contract payments. The SFPD Project Manager/Liaison will review and approve Contractor meeting agendas, monthly progress reports, and other work products and deliverables prior to Contractor's presentation to the Steering Committee, to other Project Groups, or to the public. The SFPD will handle all contract administration matters.

The Contractor's Team shall provide the SFPD Project Manager/Liaison with deliverables in accordance with the schedule of deliverables as provided in Appendix B. Once the presentation format is established, input from City will be limited to two rounds of feedback, edits, and revisions. The SFPD Project Manager/Liaison shall be responsible for forwarding feedback to the Contractor on behalf of the City. The SFPD Project Manager/Liaison will facilitate the Contractor's access to information and SFPD resources.

C. Steering Committee

The Steering Committee will be updated by the City's Team on the Contractor's project progress, review and approve the Contractor's major deliverables and other work products, and provide high level direction. Changes to project scope, budget and timeline must be approved by the Steering Committee.

IV. PROJECT TASKS

The Contractor's Team shall complete the tasks below. More detailed information on deliverable due dates and payments is included in Appendix B to this Agreement. To expedite project progress, the

Contractor's Team shall provide the City with a project schedule that delineates the initiation and completion of all project tasks.

Task 1 – Project Planning and Administration

The Contractor shall provide the City with the following project administration and stakeholder communications deliverables:

1. **Project Plan:** The Contractor's Team shall develop a Project Plan that includes staff roles and responsibilities, project schedule by task, a schedule for task completion, and a visual representation of project tasks and timing. The draft Project Plan shall be discussed at the Project Kick-off Meeting and shall be finalized by the Contractor following the Steering Committee's approval.
2. **Kick-off Meeting:** The Contractor's Team shall facilitate a "kick-off" meeting with the City's Team. The Contractor shall develop the draft agenda and other materials to ensure that all meeting objectives are met. Prior to the meeting, the Contractor's Team shall provide the City's Team with the draft agenda and draft Project Plan and incorporate the City's Team input. Meeting objectives shall include Contractor's review of the following:
 - a. Confirmation of the City's Project goals, tasks, deliverables, timeline, and roles and responsibilities of the Project participants (Project Plan)
 - b. Protocol for Project Communications
 - c. Identification of City resources that may be needed to complete the Project successfully, including data requests and assistance in obtaining information
 - d. Other topics as requested by the City's Team
3. SFPD Project Manager/Liaison to set up site visits and Steering Committee meeting schedule dates and times for the duration of the Project. For all meetings, Contractor shall prepare and provide agendas, meeting notices, meeting notes, and any other materials necessary to communicate messages, gather information or for any other purpose required by the City to provide effective meeting processes, outcomes, and documentation.
 - a. **Team Meetings:** The Contractor's Team shall meet with the City on a regularly scheduled basis to provide progress reports, troubleshoot Project implementation, and coordinate with the City's Team to include the SFPD Project Manager/Liaison, and other parties as specified by the SFPD Project Manager/Liaison. The Contractor's Project Manager or his/her designee shall attend all meetings in person, unless the City cancels a meeting which may result in the Contractor's Project Manager participating by telephone. Other team members may attend by phone as needed, unless they are responsible for the deliverable being presented. The Contractor's Team shall develop and distribute meeting agendas with input from SFPD Project Manager/Liaison. The Contractor shall also be responsible for recording and distribution of meeting minutes for all meetings. The City participants will be coordinated by the SFPD Project Manager/Liaison. The Contractor's Team shall schedule additional meetings as required, or as requested by the City's Team.
 - b. **Steering Committee Update Meetings:** The Contractor's Team shall meet with the Steering Committee on a regularly scheduled basis to provide progress reports on deliverables and other work products and to receive input and policy direction

Attachment 2: Appendix A to contract, p. 1.

Appendix A
Services to be provided by Contractor

1. Scope of Work

This scope of work is a general guide to the work the City expects to be performed, and is not a complete listing of all services that may be required or desired.

I. PROJECT DEFINITIONS

<p>City – City and County of San Francisco; for this project, will consist of the San Francisco Police Department (“SFPD”) Controller’s Office and the San Francisco Police Commission (“SFPC”).</p>	<p>Contractor – Public Safety Strategies Group</p>
<p>City’s Team – The City and County of San Francisco’s Police Department (SFPD), and/or the Project Groups.</p> <p>SFPD Project Manager/Liaison – Commander Sandra Tong and Lieutenant Curtis Lum</p> <p>Project - Patrol Special Program Assessment</p> <p>Project Team – City’s Team and Contractor’s Team.</p>	<p>Contractor’s Team – Kym Craven, Contractor’s Project Manager Rick Bailey, Sr. Program Manager Alan Stuart, Program Manager Al Youngs, Sr. Program Manager Beth Coady, Research Associate David Latterman, Fall Line Analytics</p>
<p>Project Groups</p> <p>Steering Committee Chief Heather Fong, Chief of Police Deputy Chief Kevin Cashman, SFPD Thomas Mazzucco, Member, SFPC Theresa Sparks, President, SFPC Peg Stevenson, Controller’s Office</p> <p>Patrol Specials Liaison To be determined</p>	

II. PROJECT BACKGROUND, OBJECTIVES AND KEY QUESTIONS

Background

The City and County of San Francisco Police Department (“SFPD”) historically has worked in conjunction with Patrol Special Officers, a private patrol organization governed by City Charter section 4.127. The Rules and Procedures for Patrol Special Officers and their Assistants defines them as private patrol operators, who contract to perform security duties of a private nature for private persons and businesses within geographical boundaries set forth by the San Francisco Police Commission. While a

SOTF/SOTF/SFGOV
06/23/2009 10:57 AM

To Joseph Reilly/SFPD/SFGOV@SFGOV
cc
bcc
Subject Re: DCA Instructional Letter: #09030_Ann Grogan vs Police
Commission

Lt. Reilly,

This is to clarify that the pre-hearing before the Complaint Committee is on July 14, and any document regarding the pre-hearing is to be submitted by 3:30 p.m. on July 7. Sorry for the confusion.

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

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307
Joseph Reilly/SFPD/SFGOV

Joseph Reilly/SFPD/SFGOV
06/22/2009 05:08 PM

To SOTF/SOTF/SFGOV@SFGOV
cc
Subject Re: DCA Instructional Letter: #09030_Ann Grogan vs Police
Commission

Dear SOTF

I have noted that the pre-hearing conference regarding the above referenced complaint is set for July 14 as indicated below.

However, in a June 16 e-mail to the complainant that forwards the Department's initial response, the pre-hearing conference is set for July 7.

Would you please inform us which date is correct.

Thank you for your assistance.

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



SOTF/BOS/SFGOV

Sent by: SOTF

06/19/09 09:37

To inquiry@romantasy.com, Commission
SFPD/SFPD/SFGOV@SFGOV, Joseph
Reilly/SFPD/SFGOV@SFGOV, Daniel J
Mahoney/SFPD/SFGOV@SFGOV, sfpd.online@sfgov.org
cc

Subject DCA Instructional Letter: #09030_Ann Grogan vs Police
Commission

Attached is a copy of the Deputy City Attorney's Instructional Letter to the Task Force.

As a reminder the above titled complaint is scheduled for a pre-hearing conference with the
Complaint Committee of the SOTF on:

When: Tuesday, July 14, 2009

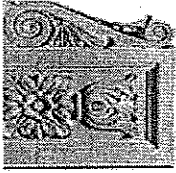
Where: City Hall, Room 406

Time: 4:00 PM



09030_CA Instructional.DOC

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



Chris Rustom /BOS/SFGOV
07/17/2009 08:55 AM

To sotf@sfgov.org
cc
bcc
Subject Fw: SOTF Hearing Complaint 09030

----- Forwarded by Chris Rustom/BOS/SFGOV on 07/17/2009 08:57 AM -----

Joseph Reilly /SFPD/SFGOV
07/15/2009 09:45 AM

To Chris Rustom/BOS/SFGOV@SFGOV
cc Daniel J Mahoney/SFPD/SFGOV@SFGOV
Subject SOTF Hearing Complaint 09030

Dear Mr. Rustom

I appeared at the Complaint Committee meeting, yesterday, July 14, 2009, as scheduled. The Chair made a reference to this complaint (09030) being scheduled again for the SOTF meeting in two weeks.

However, I will be on vacation during the last two weeks in July.

Therefore, I will request that this matter be put over to the first SOTF meeting in August.

Thank you for your attention to this request.

Regards,

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



Ann Grogan
<inquiry@romantasy.com>
07/15/2009 05:23 PM

To SOTF <sotf@sfgov.org>
cc
bcc
Subject Re: Fw: Police Commission Submittal for July 14 prehearing
conference, Complaint 09030

Hello Chris,

I do NOT AGREE to any continuance.

The Steering Committee which I request to attend, will meet only during the month of August, after which the entire Study will be complete and the Steering Committee will never again meet.

Obviously, the Police Commission and the Police Department know this fact very, very well. They are attempting to avoid their responsibility of appearing and answering what might be a valid complaint regarding their violation of the Sunshine Ordinance.

Please proceed on July 28 without further delay. Please confirm.

Thank you.

Ann Grogan

SOTF wrote:

- > Ms. Ann Grogan,
- >
- > The respondent in the above mentioned case is requesting a continuance. If
- > you agree, the matter will be heard by the Task Force on August 25, 2009.
- >
- > 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
- >
- > Complete a SOTF Customer Satisfaction Survey by clicking the link below.
- > http://www.sfgov.org/site/sunshine_form.asp?id=34307
- >
- >
- >

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