

Date: Oct. 26, 2010

Item No. 7
File No. 10030

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Michael Wright v HSA**
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Completed by: Chris Rustom

Date: Oct. 21, 2010

***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

JANA CLARK
Deputy City Attorney

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**MEMORANDUM
PRIVILEGED AND CONFIDENTIAL**

TO: Sunshine Ordinance Task Force
FROM: Jana Clark
Deputy City Attorney
DATE: July 22, 2010
RE: *Michael Wright v. San Francisco Human Services Agency (10030)*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Michael Wright ("Complainant") alleges that on May 17, 2010, San Francisco Human Services Agency ("HSA"), Housing and Homelessness Division, Director Joyce D. Crum, denied him access to the Shelter and Resource Center Directors' Monthly Meeting at 77 Otis Street in violation of "section 67.15 etc." of the Ordinance.

COMPLAINANT FILES COMPLAINT:

On June 4, 2010, Complainant files a complaint against HSA alleging that he was denied access to a public meeting in violation of the Ordinance, but specifies only section 67.15 (Public Testimony) of the Ordinance.

JURISDICTION:

On June 21, 2010, in HSA's response, Pamela Tebo of the Office of the Executive Director of HSA states that the Shelter and Resource Center Directors' Meeting is not a passive meeting body and that, therefore, the Sunshine Ordinance does not apply. Whether or not the Task Force has jurisdiction over the complaint depends on whether or not the Directors' meeting is a passive meeting body or a policy body as defined by the Sunshine Ordinance.

Section 67.3(c) provides that a "passive meeting body" includes advisory committees created at the initiative of a department head and any group that meets to advise a department head on any fiscal, economic, or policy issue.

Section 67.3(d) defines "policy body" to include: "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."

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 DATE: July 22, 2010
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 RE: Michael Wright v. San Francisco Human Services Agency (10030)

APPLICABLE STATUTORY SECTION(S):

Section 67.3 of the Ordinance defines "policy body" and "passive meeting body." Section 67.4 governs the conduct of meetings of "passive meeting bodies." Section 67.5 governs the conduct of meetings of policy bodies.

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED

FACTUAL ISSUES

A. Uncontested Facts:

On May 17, 2010, Complainant was denied access to the Shelter and Resource Center Directors' monthly meeting.

B. Contested facts/ Facts in dispute:

None

The Task Force must determine the following facts:

- Whether the Shelter and Resource Center Directors' group is a Passive Meeting Body?
- Whether the Shelter and Resource Center Directors' group is a Policy Body?
- Whether the Shelter and Resource Center Directors' monthly meetings are Passive Meetings required to be open to the public?
- Whether the Shelter and Resource Center Directors' monthly meetings are meetings of a Policy Body and therefore required to be open to the public?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

What entity created the Shelter and Resource Center Directors' group?

Is the Shelter and Resource Center Directors' group an advisory body created by the initiative of a policy body?

Is the Shelter and Resource Center Directors' group a group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues?

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DATE: July 22, 2010
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RE: *Michael Wright v. San Francisco Human Services Agency (10030)*

Is the Shelter and Resource Center Directors' group a committee that consists solely of employees of the City and County of San Francisco whose task it is to review, develop, modify, or create City policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Were sections of the Sunshine Ordinance, Brown Act, and/or California Constitution Article I, Section three violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?

SUGGESTED ANALYSIS

- Determine whether Shelter and Resource Center Directors' group is a passive meeting body.
- If so, analyze whether the Shelter and Resource Center Directors' group complied with the requirements of Section 67.4.
- Determine whether the Shelter and Resource Center Directors' group is a "Policy Body"?
- If so, did the Shelter and Resource Center Directors' group comply with the requirements for public access to their meeting (Section 67.5) and for public testimony (67.15) before such a body?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

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TO: Sunshine Ordinance Task Force
 DATE: July 22, 2010
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 RE: Michael Wright v. San Francisco Human Services Agency (10030)

San Francisco Sunshine Ordinance

67.3 DEFINITIONS.

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

(a)

"City" shall mean the City and County of San Francisco.

(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.

(4)

"Meeting" shall not include any of the following:

(A)

Individual contacts or conversations between a member of a policy body and another person that do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members;

(B)

The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City; or

(C)

The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.

(C-1)*

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The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

(D)

Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.

(c)

"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;

(2)

Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues;

(3)

Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.

(4)

"Passive meeting body" shall not include a committee that consists solely of employees of the City and County of San Francisco created by the initiative of a member of a policy body, the Mayor, or a department head;

(5)

Notwithstanding the provisions of paragraph (4) above, "Passive meeting body" shall include a committee that consists solely of employees of the City and County of San Francisco when such committee is reviewing, developing, modifying, or creating City policies or procedures relating to the public health, safety, or welfare or relating to services for the homeless;

(d)

"Policy Body" shall mean:

(1)

The Board of Supervisors;

(2)

Any other board or commission enumerated in the Charter;

(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.

(6)

"Policy Body" shall not include a committee which consists solely of employees of the City and County of San Francisco, unless such committee was established by Charter or by ordinance or resolution of the Board of Supervisors.

(7)

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DATE: July 22, 2010
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RE: *Michael Wright v. San Francisco Human Services Agency (10030)*

Any advisory board, commission, committee, or council created by a federal, State, or local grant whose members are appointed by City officials, employees or agents.

SEC. 67.4. - PASSIVE MEETINGS.

(a)

All gatherings of passive meeting bodies shall be accessible to individuals upon inquiry and to the extent possible consistent with the facilities in which they occur.

(1)

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.

(2)

Such gatherings need not be conducted in any particular space for the accommodation of members of the public, although members of the public shall be permitted to observe on a space available basis consistent with legal and practical restrictions on occupancy.

(3)

Such gatherings of a business nature need not provide opportunities for comment by members of the public, although the person presiding may, in his or her discretion, entertain such questions or comments from spectators as may be relevant to the business of the gathering.

(4)

Such gatherings of a social or ceremonial nature need not provide refreshments to spectators.

(5)

Gatherings subject to this subsection include the following: advisory committees or other multimember bodies created in writing or by the initiative of, or otherwise primarily formed or existing to serve as a non-governmental advisor to, a member of a policy body, the Mayor, the City Administrator, a department head, or any elective officer, and social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited. This subsection shall not apply to a committee which consists solely of employees of the City and County of San Francisco.

(6)

Gatherings defined in subdivision (5) may hold closed sessions under circumstances allowed by this Article.

(b)

To the extent not inconsistent with State or federal law, a policy body shall include in any contract with an entity that owns, operates or manages any property in which the City has or will have an ownership interest, including a mortgage, and on which the entity performs a government function related to the furtherance of health, safety or welfare, a requirement that any meeting of the governing board of the entity to address any matter relating to the property or its government related activities on the property, or performance under the contract or grant, be conducted as provided in Subdivision (a) of this section. Records made available to the governing board relating to such matters shall be likewise available to the public, at a cost not to exceed the actual cost up to 10 cents per page, or at a higher actual cost as demonstrated in writing to such governing board.

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TO: Sunshine Ordinance Task Force
DATE: July 22, 2010
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SEC. 67.5 - MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT.

All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this Article. In case of inconsistent requirements under the Brown Act and this Article, the requirement which would result in greater or more expedited public access shall apply.

THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.
- 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
- 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
- 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

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TO: Sunshine Ordinance Task Force
DATE: July 22, 2010
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RE: *Michael Wright v. San Francisco Human Services Agency (10030)*

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

SOTF/SOTF/SFGOV
10/18/2010 01:23 PM

To Trent Rhorer/DHS/CCSF@CCSF, Joyce
Crum/DHS/CCSF@CCSF, Pamela Tebo/DHS/CCSF@CCSF
cc
bcc director@cohsf.org
Subject #10030_Michael Wright vs Human Services Agency

Dear Mr. Rhorer:

The Sunshine Ordinance Task Force requests your presence at its regular meeting Tuesday, October 26, 2010, to discuss your refusal to instruct the Human Services Agency to send a knowledgeable representative to hearings by the Task Force and the Task Force's Compliance and Amendments Committee on the complaint (File No. 10030) that Michael Wright has brought against the HSA.

In your letter to the Task Force dated September 27, 2010, you made some statements with which the Task Force takes issue:

1. The Housing and Homeless Division Shelter and Resource Center Directors' Group "does not meet the legal requirements of a passive meeting body or policy body subject to Brown Act or Sunshine Ordinance jurisdiction and therefore the Sunshine Laws do not apply." Considering the Group's nature and composition, and its role in shaping City policy, the Task Force believes that the Group is indeed a passive-meeting body and must therefore abide by the Sunshine Ordinance provisions governing the conduct of such bodies.

Moreover, the Task Force believes you have overstepped your authority by declaring whether the Group is a passive-meeting body. Such decisions are the province of the Task Force and the City Attorney's Office; and neither in your September 27 letter nor in any of the supplementary material provided therewith did you cite a City Attorney's opinion as the basis for your declaration. If such an opinion exists, please provide a copy thereof to the Task Force by Wednesday, October 20, 2010, so it can be included in the information packet for the October 26 meeting.

2. "[T]he courts granted a restraining order against Michael Wright protecting Human Services Agency staff Joyce Crum and Briana Moore ... I will not jeopardize employee safety by sending Ms. Crum, Ms. Moore or any staff to this (September 28, 2010, Task Force) meeting." The Task Force appreciates your having provided a copy of the restraining order; it has proven extremely helpful. And we laud your concern for the safety of your employees. However:

(a) Ms. Moore is the only employee specifically identified as "protected" in the restraining order. Furthermore the restraining order makes provision for instances in which Mr. Wright and "protected employees" might appear at the same public meeting, to wit: "Defendant Michael Wright shall stay at least three yards away from the protected employee, Briana Moore, and all other protected employees, when at any public meeting held within the City and County of San Francisco, CA." The meeting rooms in which the Task Force and its committees conduct business are sufficiently spacious to enable that three-yard separation.

(b) The City/County can assign security personnel to be present at meetings and other occurrences on City/County property when there is perceived risk to personnel and/or public safety. The Task Force thus finds to lack merit your refusal to instruct the HSA to send a knowledgeable representative to the above-mentioned hearings.

Respondents' cooperation is essential to ensuring a full and fair hearing on complaints that come before the Task Force. It is in that spirit that we have summoned the HSA's participation in the Task Force and committee proceedings involving Mr. Wright's complaint, and that we request your appearance at our October 26 regular meeting.

Please address any questions or comments to the Task Force via our Administrator, Chris Rustom -- phone (415) 554-7724 or e-mail sotf@sfgov.org. Thank you for your kind attention.

Sincerely,
Richard A. Knee
Sunshine Ordinance Task Force Chair



Gavin Newsom, Mayor

September 28, 2010.

Chris Rustom
Sunshine Task Force
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Item #6: Michael Wright v Human Services Agency; Case No. 10030

Dear Chris,

Attached please find the following documents:

- 1) A written response dated 9/27/10 from Executive Director, Trent Rhorer, to the above referenced item scheduled to be heard at today's Sunshine Ordinance Task Force Regular Meeting.
- 2) A copy of the restraining order against Michael Wright issued by Superior Court protecting two H.S.A. staff.
- 3) A copy of the task force's Order of Determination dated September 7, 2010.
- 4) Trent Rhorer, Executive Director, written response dated 9/14/10 to Mr. Wright's complaint and to the task force's Order of Determination.
- 5) A copy of the email I sent to you and the task force on 6/21/10, which is the department's original response to complaint #10030.

As you can see, we have responded to the task force regarding Mr. Wright's complaint. If you have any questions, please contact me.

Sincerely,

Pamela Tebo

Attachments

cc: Sunshine Task Force Committee Members

BY AK

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 SEP 28 AM 11:06

City and County of San Francisco



Gavin Newsom, Mayor

Human Services Agency

Department of Human Services
Department of Aging and Adult Services

Trent Rhorer, Executive Director

September 27, 2010

Sunshine Task Force
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Item #6: Michael Wright v Human Services Agency (Case No. 10030)

Dear Sunshine Task Force Committee Members:

In lieu of attending the Sunshine Ordinance Task Force regular meeting on 9/28/10 regarding the above referenced complaint, the Human Services Agency will reply in writing.

As you know, the group that met on May 17, 2010 is not a public meeting and does not meet the legal requirements of a passive meeting body or policy body subject to Brown Act or Sunshine Ordinance jurisdiction therefore the Sunshine Laws do not apply. Further, the courts granted a restraining order against Michael Wright protecting Human Service Agency staff Joyce Crum and Briana Moore and they will not attend the Sunshine Task Force Hearing.

As a result of the task force's previous erroneous conclusions in this case (Order of Determination dated 9/7/10), Mr. Wright believed he had a right to attend a meeting where he violated a superior court restraining order, and it appeared he believed that the task force's incorrect findings trumped a superior court order protecting HSA employees. Police were called and a police report was taken.

The staff who are most knowledgeable about this claim, Joyce Crum and Briana Moore, are those employees protected by court order. Again I reiterate to the task force that I will not jeopardize employee safety by sending Ms. Crum, Ms. Moore or any staff to this meeting.

If the task force wants specific information from our department, Human Services Agency will respond to reasonable requests for information in writing.

Sincerely,

A handwritten signature in black ink, appearing to read "Trent Rhorer".

Trent Rhorer
Executive Director

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): DENNIS J. HERRERA, State Bar # 139669 DANIEL A. ZAHEER, State Bar # 237118 Deputy City Attorney 1390 Market St., Sixth Floor San Francisco, CA 94102 TELEPHONE NO.: _____ FAX NO. (Optional): (415) 554-3837 E-MAIL ADDRESS (Optional): daniel.zaheer@sfgov.org ATTORNEY FOR (Name): City and County of San Francisco	FOR COURT USE ONLY <p style="text-align: center;">ENDORSED FILED</p> <p style="text-align: center;">San Francisco County Superior Court</p> <p style="text-align: center;">MAR 12 2010</p> <p style="text-align: center;">CLERK OF THE COURT BY <u>KEVIN R. DOUGHERTY</u> Deputy Clerk</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: _____ CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: _____	
PLAINTIFF: City and County of San Francisco DEFENDANT: Michael Wright EMPLOYEE: Briana Moore	
ORDER AFTER HEARING ON PETITION OF EMPLOYER FOR INJUNCTION PROHIBITING VIOLENCE OR THREATS OF VIOLENCE AGAINST EMPLOYEE (CLETS)	CASE NUMBER: CCH-10-570490

1. THIS ORDER SHALL EXPIRE AT MIDNIGHT ON (date): MARCH 13, 2013
 IF NO DATE IS PRESENT, THIS ORDER EXPIRES THREE YEARS FROM THE DATE OF ISSUANCE.

2. This proceeding came on for hearing as follows:

Date: March 12, 2010	Time: 9:00 a.m.	Dept: 218	Room: 218
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3. Judge (name): WILLIAM R. GARGANO Temporary judge

4. a. Plaintiff present Commissioner Attorney present (name): Daniel A. Zaheer
 b. Defendant present Attorney present (name): _____

THE COURT FINDS

5. a. The defendant is (name): Michael Wright

Sex: <input checked="" type="checkbox"/> M <input type="checkbox"/> F	HT: 6'1"	Wt: Unk	Hair color: Gr	Eye color: Brn	Race: Blk	Age: 53	Date of birth: 12/29/56
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b. The protected employee is (name): Briana Moore

Sex: <input type="checkbox"/> M <input checked="" type="checkbox"/> F	Date of birth: 6/7/52
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c. Protected family or household members who reside with employee are:

(1) (Name): _____
 Sex: M F Date of birth: _____

(2) (Name): _____
 Sex: M F Date of birth: _____

(3) (Name): _____
 Sex: M F Date of birth: _____

Continued on Attachment 5c.

PLAINTIFF (Name): City and County of San Francisco	CASE NUMBER CCH-10-570490
DEFENDANT (Name): Michael Wright EMPLOYEE (Name): Briana Moore	

THE COURT ORDERS

6. PERSONAL CONDUCT ORDERS

Defendant is prohibited from further violence or threats of violence against the employee listed in item 5b and the protected persons listed in item 5c. Specifically, defendant

- a. shall not assault, batter, or stalk the employee and other protected persons
- b. shall not follow or stalk the employee and other protected persons to or from the place of work
- c. shall not follow the employee and other protected persons during hours of employment
- d. shall not telephone or send correspondence to the employee and other protected persons by any means including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail
- e. shall not take any action to obtain the address or location of the employee or any of the employee's family members or caretakers
- f. shall not enter the workplace of the employee and other protected persons
- g. other (specify):

7. STAY AWAY ORDERS

a. Defendant is ordered to stay at least (specify): 50 yards away from the following persons and places (the addresses of the places are optional and may be kept confidential):

- (1) Employee and other protected persons named in item 5c.
- (2) Residence of employee and other protected persons (address optional):
- (3) Place of work of employee and other protected persons (address optional): 77 Otis St., San Francisco, CA
- (4) School or place of child care of children of employee or other protected persons (address optional): 94203
- (5) Vehicles of employee and other protected persons.
- (6) Other (specify): DEFENDANT MICHAEL WRIGHT SHALL STAY AT LEAST

THREE YARDS AWAY FROM THE PROTECTED EMPLOYEE, BRIANA MOORE, AND ALL OTHER PROTECTED EMPLOYEES, WHEN AT ANY PUBLIC MEETING HELD WITHIN THE CITY AND COUNTY OF SAN FRANCISCO, CA.

b. Contacts relating to pickup and delivery of children under a court order or a court-approved stipulation of the parties arrived at during mediation are permitted, unless a criminal protective or other restraining order prohibits such contacts.

PLAINTIFF (Name): City and County of San Francisco DEFENDANT (Name): Michael Wright EMPLOYEE (Name): Briana Moore	CASE NUMBER: CCH-10-570490
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8. MANDATORY FIREARM RELINQUISHMENT ORDER

The restrained person must surrender to local law enforcement or sell to a licensed gun dealer any firearms in, or subject to, his or her immediate possession or control within 24 hours of being served with this order.

If the restrained person owns, possesses, or controls any firearms, he or she must file a receipt with the court showing compliance with this order within 48 hours of receiving this order. (Form WV-145 is available for this purpose.)

9. OTHER ORDERS (specify):

Continued on Attachment 9.

10. DELIVER TO LAW ENFORCEMENT

By the close of business on the date of this order, a copy of this order and any proof of service shall be given to the law enforcement agencies listed below as follows:

- a. Plaintiff shall deliver.
- b. Plaintiff's attorney shall deliver.

Law enforcement agency
 San Francisco Police Department
 San Francisco Sheriff's Department

Address
 850 Bryant St., Room 575, San Francisco, CA 94103
 1 Dr. Carlton B. Goodlett Pl., Room 456, SF, CA 94102

LEGAL DIVISION
 SAN FRANCISCO POLICE DEPT.
 850 BRYANT ST. ROOM 575
 SAN FRANCISCO, CA 94103

Date: 3-11-10

William R. Gargano
 JUDICIAL OFFICER
WILLIAM R. GARGANO
 Commissioner

INSTRUCTIONS FOR LAW ENFORCEMENT

This order is effective when made. It is enforceable anywhere in all 50 states, the District of Columbia, all tribal lands, and all U.S. territories and shall be enforced as if it were an order of that jurisdiction by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). Violations of this restraining order are subject to criminal penalties.

NOTICE REGARDING FIREARMS

Any person subject to a restraining order is prohibited from owning, possessing, purchasing or attempting to purchase, receiving or attempting to receive, or otherwise obtaining a firearm. Such conduct is subject to a \$1,000 fine and imprisonment. The person must surrender to local law enforcement or sell to a licensed gun dealer any firearm in or subject to his or her immediate possession or control in accordance with item 8 above.

**SUNSHINE ORDINANCE
TASK FORCE**



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

ORDER OF DETERMINATION
September 7, 2010

DATE THE DECISION ISSUED
August 28, 2010

MICHAEL WRIGHT v HUMAN SERVICES AGENCY (CASE NO. 10030)

FACTS OF THE CASE

Michael Wright ("Complainant") alleges that on May 17, 2010, San Francisco Human Services Agency ("HSA"), Housing and Homelessness Division, Director Joyce D. Crum ("Respondent") denied him access to the Shelter and Resource Center Directors' Monthly Meeting at 77 Otis Street.

COMPLAINT FILED

On June 4, 2010, Complainant filed a complaint against HSA alleging that he was denied access to a public meeting in violation of the Sunshine Ordinance, but specified only Section 67.15 (Public Testimony) of the Ordinance.

HEARING ON THE COMPLAINT

On August 28, Mr. Wright presented his claim to the Sunshine Ordinance Task Force. The Respondent agency was not represented and no one in the audience spoke or presented facts and evidence in support of the Respondent.

The Complainant said the monthly meeting held at 1:00 p.m. was attended by representatives of shelter providers and contractors, staff from the HSA and the Department of Public Health, and Shelter and Resource Center's directors. He said the gathering of such high-level representatives to discuss homeless system policies requires the meeting to be open and conducted in a public setting. He said the agenda included discussion items on the shelter extension policy, the medical marijuana policy, and plans to close a shelter. The meetings were not advertised and notification was by email to participants. At the Stakeholders meeting at 2:30 p.m., items from the Directors' agenda were carried over but because a majority of the participants in the first meeting had left, the public was denied a full role in helping shape public policy. He claimed that the two-agenda meeting was created because a provider had requested time to speak on issues outside the presence of non-shelter providers. He said this has led to decisions being made before the public gets involved. Representatives of the Coalition on Homelessness have requested that all items be placed on an open-meeting agenda. But, he said, HSA has said it has the right to hold private meetings.

ORDER OF DETERMINATION

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the agency violated the Ordinance.

DECISION AND ORDER OF DETERMINATION

The Sunshine Ordinance Task Force finds that the San Francisco Human Services Agency Housing and Homeless Division Shelter and Resource Center Directors' group is a passive meeting body under Section 67.3(c)(5) of the Ordinance and that the San Francisco Human Services Agency violated Section 67.4(a). The agency is instructed to send a knowledgeable representative to the September 14, 2010, Compliance and Amendments Committee hearing and to show the Committee a written policy specifying how the agency will abide by Section 67.4(a) of the Sunshine Ordinance.

The Task Force further determines that Pamela Tebo of the Human Services Agency is to be reported to the Ethics Commission for willfully violating Section 67.21(e) by failing to send a knowledgeable representative to the Task Force hearing on this matter.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on August 28, 2010, by the following vote: (Wolfe / Snyder)

Ayes: Snyder, Cauthen, Manneh, Washburn, Wolfe, Chan, Johnson, Knee

Excused: Knoebber, Williams



Richard A. Knee, Chair
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1*
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney; Jana Clark, Deputy City Attorney
Michael Wright, Complainant
Pamela Tebo, Joyce D. Crum, Respondents

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.

City and County of San Francisco



Gavin Newsom, Mayor

Human Services Agency

Department of Human Services
Department of Aging and Adult Services

Trent Rhorer, Executive Director

September 14, 2010

Sunshine Task Force
Complaint Committee
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: Michael Wright v Human Services Agency (Case No. 10030)

Dear Sunshine Task Force Complaint Committee Members:

In response to the above complaint, on June 21, 2010 Pamela Tebo of my staff emailed the following reply to the Sunshine Task Force and Chris Rustom:

"In lieu of attending the Sunshine Task Force Hearing, the Human Services Agency will reply to complaint #10030 in writing. Please note, this group (who met on May 17, 2010) is not a passive meeting body so the Sunshine Laws do not apply. In addition, the courts granted a restraining order against Michael Wright protecting Human Service Agency staff Joyce Crum and Briana Moore therefore they will not attend the Sunshine Task Force Hearing."

As explained in the June 21, 2010 email, there are very real safety concerns. The courts granted a restraining order protecting two Human Services Agency employees from Michael Wright after he threatened to do them great bodily harm. The Human Services Agency will not send its employees to a meeting where their safety may be placed at risk. This clear obligation to keep employees safe trumps the Sunshine Ordinance and I will not send any employee to a meeting where his or her safety may be jeopardized.

As to the merits of the claim, the group that met on May 17, 2010 does not meet the legal requirements of a passive meeting body or policy body subject to Brown Act or Sunshine Ordinance jurisdiction. This interpretation of this group has been vetted through the City Attorney's Office and they support that conclusion.

Thank you for your cooperation and taking into consideration the safety of City Employees.

Sincerely,

ORIGINAL SIGNED BY TRENT RHORER

Trent Rhorer
Executive Director

cc: Jerry Threet, Jana Clark, Pamela Tebo, Joyce Crum

Pamela Tebo/DHS/CCSF
06/21/2010 09:13 AM

To SOTF/SOTF/SFGOV@SFGOV, Chris
Rustom/BOS/SFGOV@SFGOV
cc
bcc

Subject Re: Sunshine Complaint Received: 10030_Michael Wright vs
SF Human Services Agency

In lieu of attending the Sunshine Task Force Hearing, the Human Services Agency will reply to complaint #10030 in writing. Please note, this group (who met on May 17, 2010) is not a passive meeting body so the Sunshine Laws do not apply. In addition, the courts granted a restraining order against Michael Wright protecting Human Service Agency staff Joyce Crum and Briana Moore therefore they will not attend the Sunshine Task Force Hearing.

Thank you,

Pamela Tebo
Office of the Executive Director
SF Human Services Agency
P.O. Box 7988
San Francisco, CA 94120
(415) 557-6540 - Phone
(415) 431-9270 - Fax
SOTF/SOTF/SFGOV@SFGOV

SOTF/SOTF/SFGOV@SFGO
V

06/07/2010 04:33 PM

To Trent Rhorer/DHS/CCSF@CCSF, Pamela
Tebo/DHS/CCSF@CCSF, Anthony
Soriano/DPH/SFGOV@SFGOV, Joyce
Crum/DHS/CCSF@CCSF, Scott Walton/DHS/CCSF@CCSF,
James Buick/DHS/CCSF@CCSF, Bernhard
Gunther/DHS/CCSF@CCSF
cc

Subject Sunshine Complaint Received: 10030_Michael Wright vs SF
Human Services Agency

This e-mail is to confirm that the attached complaint and support documents has been received. The Department is required to submit a response to the charges to the Task Force within five business days of receipt of this notice. Please refer to complaint number #10030 when submitting any new information and/or supporting documents pertaining to this complaint.

If the Department contests jurisdiction or if the parties request a prehearing conference a hearing will be scheduled with the Complaint Committee of the Sunshine Ordinance Task Force who will determine whether the Task Force has jurisdiction over this matter, and/or to focus the complaint or to otherwise assist the parties to the complaint.

Date: Tuesday, July 13, 2010
Location: City Hall, Room 406

Time: 3:30 P.M.

If the Department does not contest jurisdiction or if the parties don't request a prehearing conference a hearing will be scheduled with the full Sunshine Ordinance Task Force who will hear the merits of the complaint and issue a determination.

Date: Tuesday, July 27, 2010

Location: City Hall, Room 408

Time: 4:00 P.M.

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Any support documents to be considered by committee members, prior to the meeting, must be submitted by 4:00 P.M. Tuesday, July 20, 2010.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.



1_Complaint Procedures_4-28-09_Final.pdf 10030.pdf 10030_Supporting Docs.pdf

Chris Rustom
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