

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

August 3, 2009

Amended August 13, 2009

**DATE THE DECISION ISSUED**

July 28, 2009

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

**FACTS OF THE CASE**

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

**COMPLAINT FILED**

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

**HEARING ON THE COMPLAINT**

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

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

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

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

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

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

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

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

On the first motion to find a violation of sections 67.6(e) and 67.4 of the Ordinance for failure to provide notice of the meetings and for denying public attendance to the meetings:

Ayes: Cauthen, Washburn, Knoebber, Goldman, Williams, Knee

Excused: Craven-Green, Johnson, Chu

Recused: Chan

The motion passed.

On the second motion to find a violation of 67.21 of the Ordinance for failure to produce records related to the steering committee meetings:

Ayes: Cauthen, Washburn, Goldman

Noes: Knoebber, Williams, Knee

Excused: Craven-Green, Johnson, Chu

Recused: Chan

The motion failed.

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

A handwritten signature in black ink, appearing to read "Richard A. Knee". The signature is fluid and cursive, with the first name "Richard" being more prominent.

Richard Knee, Chair  
Sunshine Ordinance Task Force

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

This Order of Determination was adopted by the Sunshine Ordinance Task Force on M/D, 2008, by the following vote: ( / )

Ayes:

Noes:

Excused

Recused

Absent

Kristin Murphy Chu, Chair  
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney  
Kimo Crossman  
Paul Zarefsky, Deputy City Attorney  
City Attorney's Office