



**SUNSHINE ORDINANCE TASK FORCE**  
**Complaint Committee**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**MINUTES**

**REMOTE MEETING**

**March 15, 2022**  
**5:30 PM**

**Remote Regular Meeting**

**Members:** Dean Schmidt (Chair), Laura Stein

**1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES**

Chair Schmidt called the meeting to order at 5:31 p.m. On the call of the roll Chair Schmidt and Member Stein were noted present. A quorum was present.

There were no agenda changes.

**2. Approval of the February 15, 2022, Complaint Committee meeting minutes.**

**Action:** Moved by Chair Schmidt, seconded by Member Stein, to approve the February 15, 2022, minutes with suggested changes.

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

None.

4. **File No. 22011:** Complaint filed by Andrew White against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.1, 67.21, 67.24(d), by failing to respond to a public records request in a timely and/or complete manner.

The Petitioner was not present for the hearing and did not notify the Administrator of their absence.

Lt. Lynn Reilly (Police Department) (Respondent), was present for the hearing.

**Action: Moved by Chair Schmidt, seconded by Member Stein, to table the matter and close the file.**

Public Comment:

Anonymous #3 noted the conversation regarding combining two cases belonging to this petitioner but that one agency may agree to supply the requested information and the other might not.

**The motion PASSED by the following vote:**

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

5. **File No. 21155:** Complaint filed by Anonymous (MUC) versus the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21 by failing to respond to a public records request in a timely and/or complete manner.

The Petitioner was not present for the hearing and did not notify the Administrator of their absence.

Lt. Lynn Reilly (Police Department) was present for the hearing.

**Action: Moved by Member Stein, seconded by Chair Schmidt, to table the matter and close the file.**

Public Comment:

Anonymous #3 stated that he informed Ms. Leger that he is not the complainant and that the City must treat every requestor independently and cannot make assumptions and noted on your agenda.

**The motion PASSED by the following vote:**

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

6. **File No. 22010:** Complaint filed by Ron Cicero against the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Ron Cicero (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Cicero stated that he is an independent documentary film maker requesting boxes of photos, video recordings and other evidence used to prosecute the Zebra case of 1976. Mr. Cicero stated that this information is cataloged at the Evans Street storage building. Mr. Cicero has been in communication with the Police Department since 2021 and Covid has complicated the issues and explained. Mr. Cicero stated he knows those files exist.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that the Police Department has been unable to produce the records due to staffing shortages and the Mayor recognized the shortage. Lt. Reilly stated that Officers Lobsinger and Luetta were unable to locate the documents and the Police apologizes for any inconvenience. Lt. Reilly noted that some of the records were transferred to the forensics building. Lt. Reilly noted that the request is voluminous, but she will make herself available and find out what division is housing those records.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

**Action: Moved by Member Stein, seconded by Chair Schmidt, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing with the recommendation to find violations of CPRA 6253(b) by failing to make records available and CPRA 6253(c) by failing to respond to the Petitioner about the status of the request.**

Public Comment:

Anonymous #3 agreed with Member Stein because after November 15, 2022, the Ordinance was enforced, there were Sunshine violations and the Police Department did not produce the requested records.

**The motion PASSED by the following vote:**

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

7. **File No. 22005:** Complaint filed by Marc Norton Against the Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Marc Norton (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Norton stated that on October 10, 2021, Mr. Norton made a request for documents related to Covid-19. Mr. Norton stated that after he filed a complaint, DPH provided documents and they immediately closed the case. Mr. Norton stated that the records received were 24-hour dailies and listed games, but did not receive information regarding Covid at the ball park. Mr. Norton later learned that DPH was withholding records. When he asked for a list of those records and the reasons for withholding them, DPH did not respond in a timely manner and closed the case.

Sophie Tran (Department of Public Health (DPH)) (Respondent), provided a summary of the department's position. Ms. Tran stated that she is the interim Custodian of Records. Ms. Tran acknowledged that they received Mr. Norton's request on October 10, 2021, and due to the reduction in staff and the Covid response, there were delinquent responses to records requests in the department. Ms. Tran stated that on January 2022, DPH began to address the backlog of record requests, including Mr. Norton's request. Ms. Tran stated that over 125 records were located and produced to Mr. Norton. Ms. Tran stated that some records that were withheld on advice of the City Attorney.

Alison Hawkes (Department of Public Health) stated that Mr. Norton continues to request records from DPH having to do with Covid, however those documents a list cannot be provided due to attorney/client privilege.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Member Stein asked the DPH representatives if they were aware of any DPH reports on COVID-19 infections at Oracle Park during the 2021 baseball season. Ms. Tran responded that she was not aware of any such reports."

**Action: Moved by Member Stein, seconded by Chair Schmidt, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing with the recommendation to find violations of CPRA 6253(b) by failing to provide the records in a complete and timely manner and CPRA 6253(c) for failing to respond to the status of the request; and Administrative Code, Sunshine Ordinance, Section 67.21(b) for failing to comply with the request within 10 days.**

Public Comment:

Anonymous #3 suggested adding a violation of 67.27 for failing to provide justification for withholding.

Member Stein amended their motion to include a violation of 67.27.

**Action: Moved by Member Stein, seconded by Chair Schmidt, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing with the recommendation to find violations of California Public Records Act (CPRA) 6253(b) for failing to provide the records in a complete and timely manner; CPRA 6253(c) for failing to respond to the status of the request; and Administrative Code, Sunshine Ordinance, Section 67.21(b) for failing to comply with the request within 10 days and 67.27 for failing to provide justification for withholding.**

**The motion PASSED by the following vote:**

Ayes: 2 - Stein, Schmidt

Noes: 0 - None

8. **File No. 20030:** Complaint filed by Anonymous (MUC) against The Office of the City Attorney, Dennis Herrera, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(c)(d), by failing to respond to provide assistance, failure to provide determinations and orders to comply in response to a Supervisor of Records petition and 67.34 willful violation.

Anonymous #3 (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous #3 stated that he filed a request with the Fine Arts Museum and then a request with the Supervisor of Records. Anonymous #3 stated that the Fine Arts Museums responded with records one year after the request. Anonymous #3 noted that the SOTF can determine that the City Attorney did not do the job of the Supervisor of Records. Anonymous #3 stated there is no reason that the records do not exist, and that the Supervisor of Records is required to issue an Order that there are no records. Anonymous #3 noted that those orders do not exist.

Jen Kwart (Office of the City Attorney) (Respondent), provided a summary of the department's position. Ms. Kwart stated that the petitioner provided background on how the complaint originated. On December 2, 2019, the Supervisor of Records responded to this complaint and many others submitted by the Petitioner. Ms. Kwart stated that there is no violation under 67.21(e) because the response was timely the City Attorney does not dispute that there was a violation under 67.21(c).

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

**Action:** Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing after requests to the Deputy City Attorney with regard to a recommendation to find violations of Administrative Code (Sunshine Ordinance) Section(s) 67.21(c) for failing to assist the requestor in locating their records; 67.21(d) for failing to inform the petitioner on whether the records exist and an explanation of the validity of rule of reason citation and 67.30(c) to find appropriate ways in which to implement this chapter.

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 2 - Schmidt, Stein

Noes: 0 - None

9. **Hearing: SOTF Determination of administrative status on Order of Determination (filed/active) as per Admin Code 67.21 and SOTF Complaint Procedure.**

Member Stein presented their suggested changes to the Complaint Procedures.

There were no actions taken.

Public Comment:

None.

10. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Complaint Committee.**

There were no announcements or actions taken.

Public Comment:

None.

11. **ADJOURNMENT**

There being no further business the meeting was adjourned at 8:22 p.m.

**APPROVED: 4/19/22  
Complaint Committee  
Sunshine Ordinance Task Force**

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.