

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
September 15, 2016**

DATE ISSUED
August 3, 2016

**CASE TITLE – Joel Ekno v. Officer Candy Hilder and the Police Department
(File No. 16053)**

FACTS OF THE CASE

On June 3, 2016, Joel Ekno (Complainant) filed the following complaint:

File No. 16053: Complaint filed by Joel Ekno against Officer Candy Hilder and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On August 3, 2016, the Sunshine Ordinance Task Force (Task Force) heard the matter.

Mr. Ekno provided an overview of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Sgt. Maria Hermina Ciriaco, Legal Division, Police Department (Respondent), provided a summary of the department's position. Sgt. Ciriaco stated that Officer Anderson (Star #835) accepted the incident report from Mr. Enko and that Officer Candy Hilder, Special Victims Unit, Missing Persons, processed and denied the request for a copy of the incident report. Sgt. Ciriaco stated that the record request was denied pursuant to California Government Code, Section 6254 (f), in order to protect the victim of a crime and to avoid the disclosure of protected medical information included in the report. However, Sgt. Ciriaco could not provide an explanation as to reason for the delay in responding to the request for records. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Task Force finds that a violation of Administrative Code (Sunshine Ordinance), Sections 67.21 (a), (b), (c), and e, occurred.

DECISION AND ORDER OF DETERMINATION

The Sunshine Ordinance Task Force finds that Officer Candy Hilder and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21 (a), (b), (c) and (e), by failing to provide public records without unreasonable delay; failing to provide public records within 10 days or 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; failing to assist a requester in identifying the existence, form and nature of any records or information maintain or assist a requester in directing a request to the proper office or staff person; and failing to send an authorized representative of the custodian of the public record able to explain the basis for the decision to withhold the records requested.

The motion PASSED by the following vote:

Ayes: 8 - Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, B. Wolfe
Noes: 0 - None
Absent: 1 - Chopra
Excused 1 - Hyland

Chair Wolfe referred the matter to the Compliance and Amendments Committee and requested that Officer Anderson (Star #835), Officer Candy Hilder, and Lt. Kathryn Waaland attend the meeting to explain why the requested records cannot be provided and/or provide the requested records (Police Report No. 160094640). If applicable, it should be taken into consideration that the requester originally submitted the incident report and may have certain privileges in the matter. In addition, please provide information regarding the month long delay in responding to the records request (Records requested on February 8, 2016, and February 25, 2016. Denial of request for records not provided until March 29, 2016).

Bruce Wolfe, Chair
Sunshine Ordinance Task Force



- c. Nicholas Colla, Deputy City Attorney
- Joel Ekno, Complainant
- Lt. Kathryn Waaland, Police Department, Respondent
- Officer Anderson (Star #835), Police Department, Respondent
- Officer Candy Hilder, Police Department, Respondent
- Sgt. Maria Hermina Ciriaco, Police Department, Respondent