

**SUNSHINE ORDINANCE  
TASK FORCE**



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

**ORDER OF DETERMINATION  
March 28, 2020**

**DATE DECISION ISSUED**  
February 5, 2020

**CASE TITLE – Shane Anderies V Public Defenders Office (File No. 19114)**

**FACTS OF THE CASE**

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

**File No. 19114:** Complaint filed by Shane Anderies against Tyler Vu and the Public Defender’s Office for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.24, 67.25, 67.26, 67.27 and 67.29 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

**HEARING ON THE COMPLAINT**

On November 26, 2019, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that his office sent a public records request to the Public Defender’s Office asking for 18 specific categories of documents. Mr. Anderies stated that 66 days later he received responses only to five of those items and six highly redacted emails making the response untimely. Mr. Anderies stated that there was no response to the remaining 13 items because the Public Defender’s Office cited privilege and attorney work product.

Tyler Vu, Information Manager, (Public Defender’s Office) (Respondent), provided a summary of the department’s position. Mr. Vu stated that though the Public Defender’s Office is a public entity, they represent private individuals. Mr. Vu stated that in *Coronado Police Officers Assn. v. Steven J. Carrol, as Public Defender, et al.* stating that though the Public Defender’s Office is public in nature, they regard the private individuals they defend the same as if that person were being represented by a private law firm and that those records are privileged. Mr. Vu stated that it is the position of the Public Defender’s Office that the items collected by the PD’s office were done so in the course of representing private individuals for use of those private clients later. Mr. Vu stated that the issues in *Coronado* address the same as those before the Committee in that those issues concern private individuals and are not disclosable. Mr. Vu stated that they

did release records to the Petitioner that they believed were public in nature, however the records requested do not exist.

Action: Moved by Member Wolfe, seconded by Member Hinze, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.

On February 5, 2020, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Shane Anderies (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Anderies stated that the response was not timely, noted that specific justification was not provided for redactions or withholdings, and noted that calendar entries were not included. Mr. Anderies comments on the Respondents arguments and stated that allegations against public officials are public records.

Tyler Vu, Public Defenders Office (Respondent), provided a summary of the department's position. Mr. Vu cited *Coronado Police Officers Assn. v. Steven J. Carrol, as Public Defender, et al*, and provided an explanation as to why certain information gathered for the purpose of defending individual clients is considered private. Mr. Vu stated that the Public Defender's Office is unique in that it is a public entity but its function is private. Mr. Vu noted that records of misconduct of attorney's is not tracked by the department.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Tyler Vu and the public Defender's Office violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a request for public records in a timely manner.

#### DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Vice Chair J. Wolf, seconded by Member Martin, moved to find that Tyler Vu and the Public Defender's Office violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a request for public records in a timely manner.

In addition, it was moved that the matter be referred to the Compliance and Amendments Committee to determine if the existing records that were withheld are public or private and requested the Respondent to provide additional information and citations to justify their position that records assembled and retained for the purpose of assisting in the defense of existing and future clients is "a private function not relating to the conduct of the public's business" and are therefore not public records subject to disclosure.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, LaHood, J. Wolf, Martin, Yankee, B. Wolfe  
Noes: 0 - None  
Absent: 2 - Hinze, Tesfai

A handwritten signature in blue ink, appearing to be 'BW', enclosed within a circular scribble.

Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Shane Anderies (Petitioner/Complainant)  
Tyler Vu, Public Defenders Office (Respondent)