

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
October 31, 2018

DATE DECISION ISSUED
October 3, 2018

CASE TITLE –Patrick Roddie v. Department of Public Health (File No. 18024)

FACTS OF THE CASE

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

Complaint filed by Patrick Roddie against the Department of Public Health 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 May 15, 2018, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Patrick Roddie (Petitioner/Complainant) provided a summary of his complaint and requested that the SOTF find violations. Mr. Roddie stated that he is investigating how many people died on days where there was spraying in San Francisco. Mr. Roddie stated that the Department of Public Health (DPH) has been stalling since August. Mr. Roddie stated that the Department of Public Health should have responded to his request or invoked HIPPA laws to deny the request immediately. Mr. Roddie noted that he never received a response to his second request for public records sent to the Department of Public Health and the Office of the Medical Examiner. Erika Campos, Chief Deputy Registrar Officer of Vital Records (Department of Public Health) and Christopher Wirowek (Office of the Medical Examiner) (Respondents) provided a summary of the departments' position. Ms. Campos provided an explanation regarding how the city processes death registration. Ms. Campos stated that various bodies such as the Medical Examiner, hospitals and funeral homes enter information regarding deaths into an electronic database. Ms. Campos stated that the information entered by the various bodies into the database is reviewed by the Office of Vital Records prior to transmittal to the California Department of Public Health. Ms. Campos stated that all counties in California have signed participation agreements with the state which establish requirements and limitations for all counties regarding the registering of deaths and maintenance of

related records. Ms. Campos stated that the participation agreement and California Health and Safety Code, Sections 102230 and 102231, prevents DPH from providing the requested records but further stated that they referred Mr. Roddie to the California Department of Public Health who is authorize to provide the requested records.

In response to Chair Cannata's questions, Ms. Campos stated that DPH reviews death information entered into a database by various parties (hospitals, Medical Examiner, funeral homes) prior to transmitting the information to the California Department of Public Health. Ms. Campos stated that DPH can retrieve information from the database to create death certificates but are restricted from creating reports pursuant to the participation agreement and the California Health and Safety Code.

Mr. Wirowek stated that the Office of the Medical Examiner works within the confines of the State system and the requested records must be retrieved from the state. Mr. Wirowek stated that the Office of the Medical Examiner only maintains records for which they have processed which is a small part of the total deaths in San Francisco. Mr. Wirowek stated that the Office of the Medical Examiner moved and that the request for records was not received. Mr. Wirowek agreed to provide the Office of the Medical Examiner's records regarding death from approximately 2013 to 2016.

The Committee opined that the question for the SOTF to determine is whether or not the Sunshine Ordinance supersedes the California Health and Safety Code as the state law prohibits the City and County of San Francisco from disclosing the records in question but the Sunshine Ordinance has language that contradicts the state code. The Committee requested that the SOTF City Attorney representative provide information to advise the SOTF as to which take precedence – the California Health and Safety Code or the Sunshine Ordinance.

The Compliance and Amendments Committee referred the matter to the SOTF for hearing with a recommendation to find a violation Administrative Code, Section 67.21, by failing to respond to a public records request in a timely manner and failure to provide further assistance.

The Committee referred the matter to the SOTF. On October 3, 2018, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Patrick Roddie (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Roddie stated that he continues to try and obtain death records from Laguna Honda Hospital and San Francisco General Hospital and has been unsuccessful.

Linda Acosta, Department of Public Health (DPH) (Respondent), provided a summary of the Department's position. Ms. Acosta said that DPH provided Mr. Roddie death records by month from May 2002 through February 2018, the number of deaths from Laguna Hospital and San Francisco General Hospital. Ms. Acosta stated that DPH has provided all responsive records in their possession.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section 67.21.

DECISION AND ORDER OF DETERMINATIONS

Member Cannata, seconded by Member Hinze, moved to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely manner.

The motion PASSED by the following vote:

Ayes: 7 - Cannata, Hinze, J. Wolf, Cate, Tesfai, LaHood, B. Wolfe

Noes: 0 - None

Absent: 2 - Hyland, Chopra



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Patrick Roddie (Petitioner/Complainant)
Linda Acosta, Department of Public Health (Respondent)