

**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
November 22, 2016**

DATE ISSUED
November 2, 2016

CASE TITLE – Magick Altman v. Police Commission (File No. 16062)

FACTS OF THE CASE

On July 12, 2016, Magick Altman (Complainant) filed the following complaint:

File No. 16062: Complaint filed by Magick Altman against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.9 and California Government Code 54954.3, by failing to make supporting documents available 72 hours prior to the Police Commission's June 22, 2016, meeting (Use of Force Policy).

HEARING ON THE COMPLAINT

On September 12, 2016, the Compliance and Amendments Committee heard the matter.

Magick Altman (Complainant) provided a summary of the complaint and requested the Committee to find violations. Ms. Altman stated that the amendments to the draft Use of Force Policy were significant that the public should have been provided adequate time to review the document prior to commenting on it. David Oliver spoke in support of the Complainant. Sgt. Rachael Kilshaw, Police Commission (Respondent), provided a summary of the department's position. Sgt. Kilshaw stated that the Police Commission staff received the draft Use of Force Policy one and one half hours prior to the meeting and brought printed copies to the Police Commission Meeting for distribution to the commissioners and members of the public. In addition, Sgt. Kilshaw stated that the amendments to the Draft Use of Force Policy were technical in nature and no new concepts or policies were introduced. Sgt. Kilshaw clarified that the document in question is still pending further review by various bodies. There were no speakers in support of the Respondent. A question and answer period followed. The Complaint and the Respondent were provided the opportunity for rebuttals.

Upon review of the testimony and the documents the Committee believes that the Police Commission staff received the draft Use of Force Policy document in

question on June 22, 2016, sometime between 3:00 p.m. and 4:00 p.m., approximately 1½ to 2½ hours prior to the meeting and should have attempted to post the document online as soon as it became available. *(Note: Sgt. Kilshaw stated that the draft Use of Force Policy was not finalized and ready for distribution until 3:48 p.m.)*

On November 2, 2016, the Sunshine Ordinance Task Force (Task Force) heard the matter.

Magick Altman (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Ms. Altman stated that the Police Commission did not provide sufficient notice on the agenda and that the Draft Use of Force Policy was significantly changed at the last moment. Jackie Barshack and Adrian Fong spoke in support of the Complainant. Sgt. Rachael Kilshaw, Police Commission (Respondent), provided a summary of the department's position. Sgt. Kilshaw stated that there is no timeframe set in the Sunshine Ordinance for posting supporting documents online and that the amendment made to the Draft Use of Force Policy was not considered 'significant'. Sgt. Kilshaw stated that the document in question was posted as soon as they were able to accomplish the task. 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 found that a violation of Administrative Code (Sunshine Ordinance), Section(s) 67.7 (b) and 67.9 (a), occurred.

ORDER OF DETERMINATION

On November 2, 2016, the Task Force found that the Police Commission violated Administrative Code (Sunshine Ordinance), Section(s) 67.7 (b) and 67.9 (a), by failing to reference to "explanatory documents" that have been provided to the policy body in connection with an agenda item and failing to post the explanatory documents adjacent to the agenda and by failing to post supporting documents online as soon as they became available.

**The motion to find violation of Administrative Code, Section 67.7 (b)
PASSED by the following vote:**

Ayes: 10 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer,
Hinze, Hyland, Wolfe
Noes: 0 - None
Absent: 1 - Chopra

**The motion to find violation of Administrative Code, Section 67.9 (a)
PASSED by the following vote:**

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Hinze,
Hyland, Wolfe

Noes: 1 - Fischer

Absent: 1 - Chopra

A handwritten signature in blue ink, appearing to read 'B. Wolfe', enclosed within a hand-drawn oval.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Nicholas Colla, Deputy City Attorney
Magick Altman (Complainant)
Sgt. Rachel Kilshaw, Police Commission (Respondent)