

Date: April 22, 2008

Item No. 7a  
File No. 08018

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Complaint by: Crossman vs SOTF-A**
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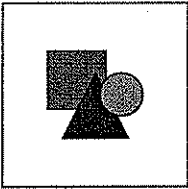
Completed by: Frank Darby

Date: April 16, 2008

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



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## MEMORANDUM

APRIL 15, 2008

*KIMO CROSSMAN v SUNSHINE TASK FORCE ADMINISTRATOR AND  
THE CLERK OF THE BOARD OF SUPERVISORS (08018)*

### COMPLAINT

#### THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On February 25, 2008, the Sunshine Posse sent an Immediate Disclosure Request to the Clerk of the Board of Supervisors and the SOTF Administrator for all e-mails sent to or from the SOTF account or paper only documents sent to or from SOTF from January 1, 2008 to January 25, 2008. On February 1, 2008, the Sunshine Posse sent another request extending the period from January 26, 2008 to February 1, 2008. The Sunshine Posse wanted the documents that were paper or other medium to be scanned and electronically sent to them.

The Agency responded by providing approximately 40 separate e-mails containing over 300 compiled e-mails that were responsive to the request. In addition the Agency made copies of other documents in their existing format, as per the policy direction of the Board of Supervisors.

#### COMPLAINANT FILES COMPLAINT:

On March 20, 2008, Kimo Crossman on behalf of the Sunshine Posse filed a complaint with the Sunshine Ordinance Task Force, alleging that the Clerk of the Board of Supervisors and Frank Darby, Administrator of the SOTF violated the Sunshine Ordinance Sections 67.21-1 and 67.29-2 by refusing to post on the City Website the requested documents.

#### RESPONDENT AGENCY RESPONDS:

On April 3, 2008, the Agency responded to the complaint by stating that it notified the Sunshine Posse that the items that were copied in their existing format and not in electronic format was available for pick up once payment for the cost of the medium was paid. The agency stated that Kimo Crossman at the last full Task Force meeting stated that the Sunshine Posse did not want the documents in forms other than electronic format and that it would refuse to accept them. The Agency states that the documents are still available for pickup.

#### JURISDICTION:

Based on the allegations of the complaint and the sections of the Ordinance stated below, the Task Force has jurisdiction to hear this matter. In addition the parties in this case do not contest jurisdiction.

**Memorandum**

**APPLICABLE STATUTORY SECTIONS:**

1. Sunshine Ordinance, San Francisco Administrative Code Section 67.1 addresses Findings and Purpose.
2. Sunshine Ordinance, San Francisco Administrative Code Section 67.21 addresses general requests for public documents including records in electronic format.
3. Sunshine Ordinance, San Francisco Administrative Code Section 67.21-1 addresses the policy regarding the use and purchase of computer systems.
4. Sunshine Ordinance, San Francisco Administrative Code Section. 67.26 deals with withholding kept to a minimum.
5. Sunshine Ordinance, San Francisco Administrative Code Section. 67.27 deals with justification for withholding.
6. Sunshine Ordinance, San Francisco Administrative Code Section 67.29-2 deals with Internet Access/World Wide Web Minimum Standards.
7. California Public Records Act, Government Code Section 6253.9 deal with information in an electronic format.
8. California Public Records Act, Government Code Section 6253 deals with public records open to inspection; agency duties and time limits. California Public Records Act, Government Code Section 6255 deals with justification for withholding of records.
9. California Constitution, Article I, Section 3 addresses Assembly, petition, open meetings.

**APPLICABLE CASE LAW:**

none

**ISSUES TO BE DETERMINED**

**A. Uncontested Facts:**

The parties agree to the following facts:

**Memorandum**

- The Sunshine Posse submitted a public records request to SOTF Administrator Darby for various records including e-mail records.
- The Agency provided records that were in electronic format and copied records in other formats.
- The Agency notified the Sunshine Posse of the records availability.
- **B. Contested facts/ Facts in dispute:**

The Task Force must determine what facts are true.

**i. Relevant facts in dispute:**

Whether the Agency is required under the Ordinance to scan paper documents or other documents on discs and to convert it into electronic format for transmittal as e-mail or as a facsimile transmission?

**QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS;**

none.

**LEGAL ISSUES/LEGAL DETERMINATIONS;**

- Were sections of the Sunshine Ordinance (Section 67.21), Brown Act, Public Records Act, and/or California Constitution Article I, Section three violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?

**CONCLUSION**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE;

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

**Memorandum****ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE) UNLESS OTHERWISE SPECIFIED**

## Section 67.1 addresses Findings and Purpose

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

**Memorandum**

Section 67.21 addresses general requests for public documents.

This section provides:

a.) Every person having custody of any public record or public information, as defined herein, ... shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

b.) A custodian of a public record shall as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall 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 under express provisions of this ordinance.

c.) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

...

k.) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act Government Code Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirement provided in this ordinance.

l.) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for

**Memorandum**

information or to release information where the release of that information would violate a licensing agreement or copyright law.

Section 67.21-1 addresses the City's policy regarding the use and purchase of computer systems.

This section provides:

- a) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to member of the public under this section. To the extent that it is technologically and economically feasible, department that use computer systems to collect and store public records shall program and design the systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.
- b) Department purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records;
  - 1) Implementing a system in which exempt information is segregated or filed separately from otherwise disclosable information.
  - 2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.
  - 3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.

Section 67.26 provides:

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

**Memorandum**

Section 67.27 provides:

Any withholding of information shall be justified in writing, as follows:

- a.) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
- b.) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act of elsewhere.
- c.) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- d.) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

Section 67.29-2 provides:

**Internet Access/World Wide Web Minimum Standards.**

Each department of the City and County of San Francisco shall maintain on at World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through its World Wide Web site, as much information and as many documents as possible concerning its activities. At a minimum, within six months after enactment of this provision, each department shall post on its World Wide Web site all meeting notices required under this ordinance, agendas and the minutes of all previous meetings of its policy bodies for the last three years. Notices and agendas shall be posted no later than the time that the department otherwise distributes this information to the public, allowing reasonable time for posting. Minutes of meetings shall be posted as soon as possible, but in any event within 48 hours after they have been approved. Each department shall make reasonable efforts to ensure that its World Wide Web site is regularly reviewed for timeliness, and updated on at least a weekly basis. The City and County shall also make available on its World Wide Web site, or on a comparable, readily accessible location on the Internet, a current copy of the City Charter and all City Codes.



**Memorandum**

The California Constitution as Amended by Proposition 59 in 2004 provides for openness in government.

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
  - 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
  - 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
  - 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
  - 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.
  - 6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

The California Public Records Act is located in the state Government Code Sections 6250 et seq. All statutory references, unless stated otherwise, are to the Government Code.

Section 6253 provides.

**Memorandum**

- a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the records after deletion of the portions that are exempted by law.
- b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.
- c) Each agency, upon a request for a copy of records, shall within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefore....

Section 6253.9 provides:

- a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:
  - (1) The agency shall make the information available in any electronic format in which it holds the information.
  - (2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in any electronic format.
- b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:
  - (1) In order to comply with the provisions of subdivision a.), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

**Memorandum**

- (2) The request would require data compilation, extraction, or programming to produce the record.
- c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.
- d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.
- e. Nothing in this section shall be construed to permit an agency to make information available only in electronic format.
- f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.
- g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

Section 6255 provides:

- a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.
- b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.



<complaints@sfgov.org>

To <soft@sfgov.org>

03/20/2008 11:18 AM

cc

bcc

Subject Sunshine Complaint

Submitted on: 3/20/2008 11:18:11 AM

Department: Clerk of the Board/SOTF Administrator

Contacted: SOTF Administrator

Public\_Records\_Violation: Yes

Public\_Meeting\_Violation: No

Meeting\_Date:

Section(s)\_Violated: 67.21-1, 67.29-2,

Description: I Kimo Crossman am filing this complaint for the Sunshine Posse. We requested all the Paper documents sent to and from or otherwise created by SOTF for January 2008 be either:

- 1) scanned to PDF and emailed or
- 2) scanned and posted on SOTF website or
- 3) scanned and Faxed

Any of these can be completed/delivered same day and at no cost to the Requestor! Under 67.21-1, only the cost of media can be charged and there is no media here so there is ZERO cost to the Requestor.

Attached is a copy of instructions showing how to use two of the large high-speed automatic document feeder all-in-one copy/fax/scan machines in the Clerk of the Board office (which all COB staff were trained to use in December 2007). These directions show the machines can Scan-to-Email and Frank Darby has clarified in further emails that they can also Scan-to-Fax, If someone can Scan-to-Email they may take the images and post them on the web. Additionally there also many standalone Fax machines in the Clerk's office.

As shown in the email message below, the Administrator with Angela Callvilo's awareness (she has been notified of this problem and has previously refused to change her UNWRITTEN office policy of not scanning/Faxing more than about TEN pages) insisted on prepay of ten cents a page to make PAPER ONLY COPIES he refused to use any of the other methods.

In the past, Prepayment has not been required. Suddenly it was in this case, it was for only \$7. Prepayment creates an additional hardship because this means that a check has to be written for the exact amount, (the city does not accept electronic payment with credit card on the telephone or by paypal online), then the check must be hand delivered during business hours requiring someone to leave work costing lost wages during work hours and pay for parking or public transit or taxi Or mail the check, costing postage, an envelope, time to address it and adding a week delay between the time the check is written and the copy process can began.

After the paper copies are made, then there is an additional cost and delay to the Requestor if the paper copies are to be mailed to the Requestor - again requiring another check be mailed and the delay for it to arrive and be processed and then delay to mail back the package. Or the requestor needs to leave work during business hours causing lost wages again and paying for parking, public transit or taxi once again to finally obtain the paper copies. It appears that the Clerk of the Board and Staff which in the City charter are required to "liberally assist the public in its right to know" are using their UNWRITTEN POLICY to not Fax or Scan more than Ten pages to harass those members of the Public who take an active interest in the functioning of their government. This is also a discriminatory policy for those who are not financially able to afford transportation as well as copies/postage for their research and discourages the disabled who have much more significant problems going across town for errands.

If this is not corrected, we will be in touch with the disabled community and the less financially successful members of our city to make them aware of this

punitive approach by the COB.

Ms. Calvillo disingenuously claims that the limit of Ten pages is because her staff have to stand over the machine and feed and watch the pages as they are scanned even though these high quality machines (new as of December 2007) have sophisticated automatic document feeders. She also claims that therefore staff cannot assist the additional public might arrive at the front desk. Besides this being unbelievable that the document feeder is so unreliable, nonetheless, under 67.26 responding to public records requests is part of the job duties of every city employee - that means if there is only one staff member in the whole office allegedly standing over a copy machine monitoring the processing of the Fax/Scan and another member of the arrives Public requiring service and the staff person can't pause the machine Scan process (often one can, though an active Fax would not allow this unless it was a delayed fax i.e. scan first then fax) - then that new person must wait = take a number - it is not a justification to charge the Requestor and refuse to provide the records in a much more usable electronic format at a significantly greater speed at NO COST.

And let's not even talk about the trees that are being killed unnecessarily here!

Hearing: Yes

Date:

Name: Kimo Crossman

Address:

City:

Zip:

Phone:

Email: kimo@webnetic.net

Anonymous:

-----  
---  
User Data

Client IP (REMOTE\_ADDR) : 172.31.2.45  
Client IP via Proxy (HTTP\_X\_FORWARDED\_FOR) :



"Kimo Crossman"  
<kimo@webnetic.net>

03/16/2008 10:55 PM

Please respond to  
<kimo@webnetic.net>

To <sotf@sfgov.org>, <home@prosf.org>, "Allen Grossman"  
<grossman356@mac.com>, "Peter Warfield"  
<libraryusers2004@yahoo.com>, <chaffej@pacbell.net>, "h.  
cc <Angela.Calvillo@sfgov.org>, "Ernest Llorente"  
<Ernest.Llorente@sfgov.org>,  
<pmonette-shaw@earthlink.net>, "Islais Wharf"  
bcc  
Subject SOTF Complaint Admin/Calvillo refusal to scan,  
discriminates against poor, disabled & interested Public

Submitted on: 3/16/08

Department: Clerk of the Board/SOTF Administrator

Contacted: SOTF Administrator

Public\_Records\_Violation: Yes

Public\_Meeting\_Violation: No

Meeting\_Date:

Section(s)\_Violated: Board motion M06-134 (not format requested),  
67.21-1 ( .10 prepay per page cost was required when it should have be  
free and put online if for free), 67.29-2 (Put as many documents on  
department site as possible)

Description:

I Kimo Crossman am filing this complaint for the Sunshine Posse. We  
requested all the Paper documents sent to and from or otherwise created  
by SOTF for January 2008 be either:

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Requestor! Under 67.21-1, only the cost of media can be charged and  
there is no media here so there is ZERO cost to the Requestor.

Attached is a copy of instructions showing how to use two of the large high-speed automatic document feeder all-in-one copy/fax/scan machines in the Clerk of the Board office (which all COB staff were trained to use in December 2007). These directions show the machines can Scan-to-Email and Frank Darby has clarified in further emails that they can also Scan-to-Fax, If someone can Scan-to-Email they may take the images and post them on the web. Additionally there also many standalone Fax machines in the Clerk's office.

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It appears that the Clerk of the Board and Staff which in the City charter are required to "*liberally assist the public in its right to know*" are using their UNWRITTEN POLICY to not Fax or Scan more than Ten pages to harass those members of the Public who take an active interest in the functioning

of their government. This is also a discriminatory policy for those who are not financially able to afford transportation as well as copies/postage for their research and discourages the disabled who have much more significant problems going across town for errands.

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Besides this being unbelievable that the document feeder is so unreliable, nonetheless, under 67.26 responding to public records requests is part of the job duties of every city employee - that means if there is only one staff member in the whole office allegedly standing over a copy machine monitoring the processing of the Fax/Scan and another member of the arrives Public requiring service and the staff person can't pause the machine Scan process (often one can, though an active Fax would not allow this unless it was a delayed fax i.e. scan first then fax) - then that new person must wait = take a number - it is not a justification to charge the Requestor and refuse to provide the records in a much more usable electronic format at a significantly greater speed at NO COST.

And let's not even talk about the trees that are being killed unnecessarily here!

The Board motion M06-134 unanimously approved states that the Clerk shall provide public records in the format requested by the requestor (attached) there is no requirement that the records initially be electronic.

Under 67.21-1, It is city policy to reduce the cost, and ensure convenient, efficient and economic public access to records and make them easily accessible over the Internet, this is not limited to electronic records



SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS.

(a) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.

(b) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.

(3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.

Under 67.29-1 It is City policy for each department is encouraged to put as many documents (not limited to initially electronic ones) as possible online.

SEC. 67.29-2. INTERNET ACCESS/WORLD WIDE WEB MINIMUM STANDARDS.

Each department of the City and County of San Francisco shall maintain on a World Wide Web site, or on a comparable, readily accessible location on the Internet, information that it is required to make publicly available. Each department is encouraged to make publicly available through its World Wide Web site, as much information and as many documents as possible.

concerning its activities .

67.26 [T]he work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee , and no fee shall be charged to the requester to cover the personnel costs of responding to a records request .

----- Forwarded message -----

From: **SOTF** <[sotf@sfgov.org](mailto:sotf@sfgov.org)>  
Date: Wed, Feb 6, 2008 at 4:25 PM  
Subject: SOTF Response to 1/25/08 IDR  
To: [Sunshine.posse@gmail.com](mailto:Sunshine.posse@gmail.com)

February 6, 2008

Sunshine Posse  
[Sunshine.posse@gmail.com](mailto:Sunshine.posse@gmail.com)

Re: IDR for SOTF Matters

Dear Sir or Madam:

This letter completes the SOTF's response to the Immediate Disclosure Request dated January 25, 2008, and submitted by "[sunshine.posse@gmail.com](mailto:sunshine.posse@gmail.com)" with the subject line "Immediate Disclosure Request-Original Documents for SOTF matters for Free online Archive" (Requests). On, January 28, 2008, via e-mail to you, we invoked a 10-day extension of time to respond to the Request, making our response due by February 7, 2008.

As we understand it, the Request seeks the following:

1. For all meetings in January, to be e-mailed the meeting agenda, handwritten notes from the meeting and other paper only documents, draft minutes if they have been prepared, digital audio if it was recorded and all the documents in their original format: e-mails, PowerPoint, Word, memos from Llorente and other documents collated for the meeting packet.
2. All e-mails sent to and from the SOTF account, e-mails sent to staff that pertain to SOTF matters, and paper only documents sent to or

from SOTF from January 1st to January 25th.

3. Visitor log information of people who interact with SOTF by phone or in person whether this is recorded on paper or online.
4. All draft minutes when they have been created.
5. Voice-mails left at the SOTF.

After conducting a diligent search in the locations where responsive records would likely be found, we respond to the Requests as follows:

1. Response to Request 1, above:
  - a.) Attached to and/or following this e-mail are: 1) meeting agendas and packets for the January 8th, 9th, and 22nd meetings of the full Task Force and the Compliance and Amendments committee ("January Meetings"); including all electronic documents associated with those meetings and 2) draft and approved meeting minutes.
  - b.) We do not create or maintain handwritten meeting notes in any electronic format, nor do Public Records laws or our records management policies obligate us to do so. **Copiers of handwritten notes will be made available for pickup in the Office of the Clerk of the Board, room 244, upon receipt of payment of copying cost of \$7.40 (74 pages at 10 cents/page. Additional cost would be added for postage if mailed). Please let us know if you wish to prepay for copies of the handwritten paper notes and have them mailed.**
  - c.) Digital audio recordings for the January 8th and 22nd meetings of the Task Force are available. Due to the size of the digital recordings (462mb) our e-mail system does not have the capability to transmit these files. The recordings will be available on CD for pick up in the Office of the Clerk of the Board, room 244 upon receipt of payment of \$1. Please let us know if you wish to prepay for the audio recordings on CD.
2. Response to Request 2, above: We have located approximately 250 e-mails responsive to your requests. Pursuant to State and Local law, we are in the process of reviewing these records and redacting the personal e-mail addresses, home phone numbers and addresses, if any, from these records (See Cal. Gov. Code §§ 6250, 6254(c), 6254 (k), Cal. Const., Art. I, § 1, and San Francisco Administrative Code § 67.1(g)). This may require that we print out e-mail records, which require redaction. When possible, redacted e-mails will be forwarded via e-mail with the word "Redacted" used to replace information that has been redacted. Non redacted e-mails will be forwarded to you on a rolling basis. **We will notify you when the e-mail records that require redaction and/or other correspondence that exist only in**

**paper are available for pickup, in the office of the Clerk of the Board.**

3. Response to Request 3, above: We have no records responsive to this request.
4. Response to Request 4, above: We have no records responsive to this request.
5. Response to Request 5, above: We have no records responsive to this request.

**Records will be provided via paper** and e-mail on a rolling basis, as they become available. Please let us know whether you wish to inspect or to prepay for copies of the non-electronic responsive records indicated above.

Below are minutes for the January 8, and 22, 2008 meetings of the full Task Force, and the January 9, 2008, Compliance and Amendments Committee meeting.

(See attached file: SOTF Minutes 1-8-08.doc)(See attached file: SOTF Minutes 1-22-08.doc)(See attached file: CAC\_Minutes 1-9-08.doc)

If you have questions you can contact Chris Rustom or me at (415) 554-7724.

Frank Darby, Administrator  
Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102-4689  
[SOTF@SFGov.org](mailto:SOTF@SFGov.org)  
OFC: (415) 554-7724  
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.  
[http://www.sfgov.org/site/sunshine\\_form.asp?id=34307](http://www.sfgov.org/site/sunshine_form.asp?id=34307)



m06-0134.pdf



IMG\_0002.pdf

FILE NO. 061418

MOTION NO. *M06-134*

1 [Providing policy direction to the Office of the Clerk of the Board of Supervisors regarding  
2 public access to its records.]

3 **Motion providing policy direction to the Office of the Clerk of the Board of Supervisors**  
4 **regarding public access to its records.**

5  
6 WHEREAS, The Office of the Clerk of the Board provides public access to records of  
7 the Board of Supervisors/Clerk of the Board in a timely manner; and

8 WHEREAS, The Office of the Clerk of the Board has provided records upon request to  
9 members of the public since June 2000 in Portable Document Format (PDF); and

10 WHEREAS, The City Attorney's Office has orally advised City departments that in  
11 response to a public records request for an electronic copy of a record, a City department may  
12 provide the record to the requester in PDF; and

13 WHEREAS, The Office of the Clerk of the Board has relied on the City Attorney's  
14 advice; and

15 WHEREAS, Two complaints were filed with the Sunshine Ordinance Task Force  
16 regarding the alleged failure of the Office of the Clerk of the Board to provide a public record  
17 in the original Word Format and failure to provide written justification for withholding; now,  
18 therefore, be it

19 MOVED, That it shall be the policy of the Board of Supervisors that the Office of the  
20 Clerk of the Board provides public access to records in ~~PDF~~ the format requested by the  
21 requestor.



City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Tails  
Motion

File Number: 061418

Date Passed: December 5, 2006


Motion providing policy direction to the Office of the Clerk of the Board of Supervisors regarding public access to its records.

December 5, 2006 Board of Supervisors — APPROVED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Elsbernd, Jew, Maxwell, McGoldrick,  
Mirkarimi, Peskin, Sandoval  
Excused: 1 - Dufty

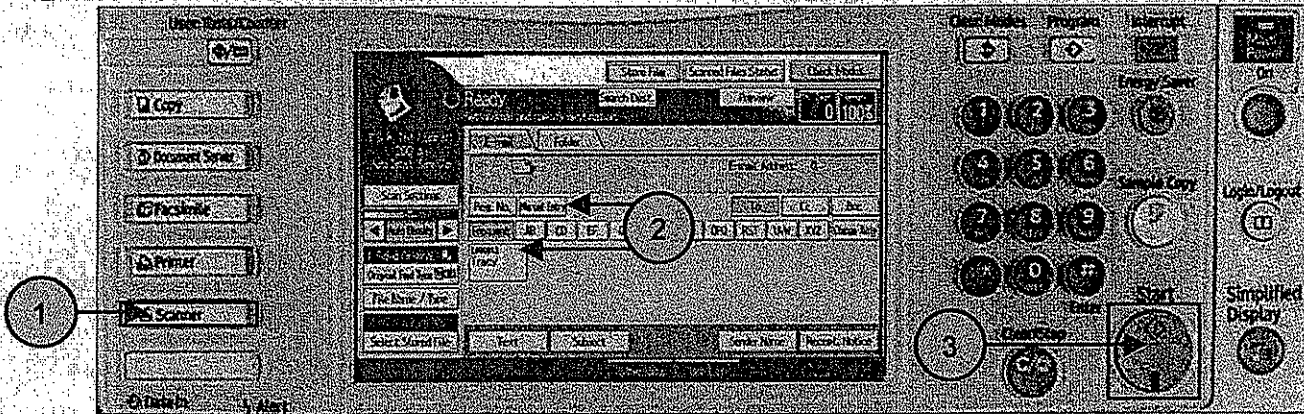
File No. 061418

I hereby certify that the foregoing Motion was APPROVED on December 5, 2006 by the Board of Supervisors of the City and County of San Francisco.

  
Gloria L. Young  
Clerk of the Board

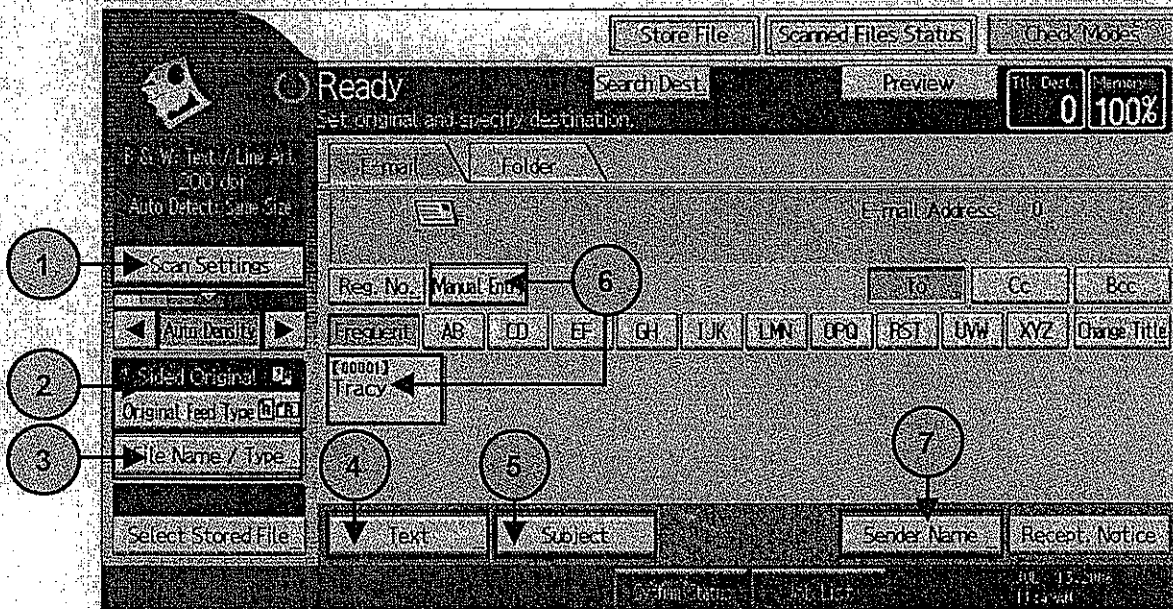
## Scan to E-Mail

### Basic Scan Procedure



1. Place original(s) face up in the Auto Document Feeder (ADF) or face down on the platen glass.
1. Select **[Scanner]** from the left side of the control panel.
2. Select a pre-programmed destination or **[Manual Entry]** to enter an e-mail address.
3. Press the green **[Start]** button. When using the platen glass, press **[#]** after scanning the last original.

### Additional Scan Features



1. **[Scan Settings]** changes the default Text selection. Choose from available B/W or Color settings.
2. **[Original Feed Type]** allows for scanning 2-sided originals and Batch scanning.
3. **[File Name/Type]** is used to assign a file name and the change the file type. When choosing **[Single Page TIFF/JPEG]** or **[Single Page PDF]**, each page of the scan will be received as a separate attachment. When choosing **[Multi-Page TIFF]** or **[Multi-Page PDF]**, all scanned documents will be received as one file.
4. **[Text]** is used to add a message to the body of the e-mail.
5. **[Subject]** is used to attach a subject to the e-mail.
6. Select destinations from pre-programmed one-touch keys, or select **[Manual Entry]** to enter an e-mail address not programmed. Multiple destinations may be selected.
7. Some MFDs may require each scan to attach a sender's name. If so, select **[Sender Name]** and choose from the available one-touch destinations shown.



"Kimo Crossman"  
<kimo@webnetic.net>

03/17/2008 04:14 PM

Please respond to  
<kimo@webnetic.net>

To <sotf@sfgov.org>

cc

bcc

Subject FW: Payment requirements have often been used as a barrier to access...need for improved S.O. Provisions....Re: SOTF Complaint Admin/Calvillo refusal to scan, discriminates against poor, disabled & interested Public

History: This message has been replied to.

SOTF Admin, please make this submission from Mr. Warfield part of my meeting packet.

**From:** Library Users Association [mailto:libraryusers2004@yahoo.com]

**Sent:** Monday, March 17, 2008 2:55 PM

**To:** kimo@webnetic.net

**Cc:** sotf@sfgov.org; home@prosf.org; 'Allen Grossman'; 'Peter Warfield'; chaffej@pacbell.net; 'h. brown'

**Subject:** Payment requirements have often been used as a barrier to access...need for improved S.O. Provisions....Re: SOTF Complaint Admin/Calvillo refusal to scan, discriminates against poor, disabled & interested Public

Dear Kimo and others interested in Sunshine:

The Sunshine Ordinance's payment standards for copies have been used to obstruct information provision in a whole range of ways, regardless of whether used by city agencies intentionally or not.

This is an area that is ripe for revision of the Ordinance. I would suggest ample provision for free copies, which would save the City and requesters a great deal, including time in counting pages, calculating costs, and processing payments.

First, there is often the question of HOW MUCH to charge. You may recall it is usually one cent or ten cents, unless another charge has been properly established. Library Users Association won a case against the Clerk's office last year at SOTF because the Clerk insisted on charging ten cents per page instead of one cent for SOTF agenda packets.

Second, there have been obstructions as to where/when/how to pay. We have experienced all of the following:

1. You must pay in advance (or not).
2. a. You must provide exact change (or not).  
2. b. The office that provides change is now closed. Come back tomorrow.
3. We cannot handle a twenty-dollar bill (or we can).
4. We cannot tell you how much to pay until we weigh the copies -- after we make them in a day or more -- and determine the cost of postage.
5. You must come in to the office (or mail a check) to pay for the copies you want us to mail to you (!)



6. We cannot accept 80 cents in exact change for eight copies because we cannot properly provide a receipt until tomorrow, as it is close to closing time (40 minutes hence).

7. We cannot accept prepayment for requested documents until we know the exact cost, which depends on exact number of pages (yet to be counted) and/or weight for postage (see item 4 above). And we also cannot accept an estimated overpayment.

SF Public Library has done all of the above, 1-7, in prior years.

8. We will charge you \$35. for a 350-page agenda packet because over here in this other section of the ordinance it says and means we may do so (Clerk did this until SOTF ruled last year they must charge no more than \$3.50, i.e. one cent per agenda-packet page).

9. We will cut off your ongoing subscription to agenda packets if (a) your total outstanding is \$75 (Clerk did this) or (b) if your total is much less but you have not paid in two months (Clerk also did this).

10. We will charge you 10 cents per page for past agenda packets or parts thereof. (Clerk has also done this, despite our win at SOTF).

11. We know you are in a hurry, but wait while we provide you with a receipt (and it is time-consuming whether done manually or on a computer).

We have also unfortunately experienced refusals to use technology available in the office, e.g. fax, to transmit documents -- and support your effort to enforce the provisions of the Sunshine Ordinance, with the assistance of the SOTF, by filing this complaint.

Peter Warfield  
Library Users Association



SOTF/SOTF/SFGOV  
04/03/2008 01:48 PM

To SOTF/SOTF/SFGOV@SFGOV  
cc kimo@webnetic.net, Angela Calvillo/BOS/SFGOV@SFGOV  
bcc  
Subject Re: Sunshine Complaint Received: #08018\_Kimo Crossman vs COB & SOTF-A

This e-mail is the Department's response to the above titled complaint.

The Department is not contesting that the Task Force has jurisdiction over this matter. However, the complaint is without merit.

On February 25, 2008, the Sunshine Posse sent the Department an IDR requesting, among other things, "all emails sent to or from the SOTF account or paper only documents sent to or from SOTF from Jan 1st - Jan 25th." On February 1, 2008, the Sunshine Posse sent another request extending the period from Jan 26th - 2/1."

The Department responded by providing approximately 40 separate e-mails (limited to size) containing over 300 compiled e-mails that were responsive to the request. In addition, the department made copies of other documents, in their existing format, as per the policy direction of the Board of Supervisors and notified the requester of their availability and cost. Mr. Crossman testified during the March 25, 2008, Task Force meeting that they 'don't want the paper documents and didn't request them' and refused to accept them. The Sunshine Posse requested that the documents be scanned and e-mailed to them.

As was indicated during the March 25, 2008, Task Force meeting the following records are still available for pick up in the Office of the Clerk of the Board:

- CD containing audio recordings of SOTF meetings for January 8, 2008, and January 22, 2008 (cost = \$1)
- 42 pages of meeting notes for the January 8, 2008, special SOTF meeting. (cost = \$4.20)
- 11 pages of meeting notes for the January 9, 2008, Compliance and Amendments Committee meeting. (cost = \$1.11)
- 21 pages of meeting notes for the January 22, 2008, SOTF meeting. (cost = \$2.10)
- 4 pages Orders of Determinations (cost = \$.40)
- 1 page of a completed potential complaint form (cost = \$.10)

The total cost for the above mention records is \$8.90.

As per the policy direction of the Board of Supervisors the office made records available in their existing format.

Frank Darby, Administrator  
Sunshine Ordinance Task Force  
1 Dr. Carlton B. Goodlett Place  
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"Kimo Crossman"  
<kimo@webnetic.net>  
04/03/2008 05:08 PM

To "SOTF" <sotf@sfgov.org>  
"Angela Calvillo" <Angela.Calvillo@sfgov.org>,  
cc <libraryusers2004@yahoo.com>, "Allen Grossman"  
<grossman356@mac.com>, <home@prosf.org>, "Islais"  
bcc  
Subject RE: Sunshine Complaint Received: #08018\_Kimo Crossman  
vs COB & SOTF-A -

Please include this in the file.

The Clerk's office claims that documents below were made and payment is now required. First, the request for the paper records to be scanned and provided at no cost has still not been done. Also the Clerk's office required in their response PREPAYMENT before paper and electronic copies were to be made. I never made those payments or requested copies made in this format so I am at a loss as to why I am now being told that I OWE the Clerk money for these illegal copies. This shows again the games and harrasment can occur when copies are charged when is it not needed.

-----Original Message-----  
From: SOTF [mailto:sotf@sfgov.org]

