



**SUNSHINE ORDINANCE TASK FORCE**  
**Complaint Committee**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**MINUTES**

**REMOTE MEETING**

**July 19, 2022**  
**5:30 PM**

**Remote Regular Meeting**

**Members:** Dean Schmidt (Chair), Laura Stein and Bruce Wolfe

**1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES**

Chair Schmidt called the meeting to order at 5:41 p.m. On the call of the roll Chair Schmidt and Members Stein and Wolfe were noted present. A quorum was present.

The Committee discussed the Agenda. The SOTF Administrator stated that the Petitioner in Item 4, Matter No. 22058 requested that Matter be removed from the Agenda because they received their requested records. Member Wolfe requested that the matter be dismissed without prejudice.

**Action: Moved by Member Stein, seconded by Member Wolfe to dismiss/table File No. 22058 without prejudice in accordance with Item 7B of the Complaint Procedures.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Wolfe, Schmidt, Stein  
Noes: 0 - None

2. **Approval of the June 21, 2022, Complaint Committee meeting minutes.**

**Action: Moved by Member Wolfe, seconded by Chair Schmidt to approve the June 21, 2022, meeting minutes.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Wolfe, Schmidt, Stein

Noes: 0 - None

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

Anonymoose #3 stated that the SOTF is at the point that his rulings are being used by other members and urges the Committee to listen to the tape as it may not be correctly cited.

4. **File No. 22058:** Complaint filed Manush Mirzada and Karl Kramer against General Manager Phil Ginsburg and the Recreation and Parks Department for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Please see Item 1 for the disposition of this case.

5. **File No. 22024:** Complaint filed by Sergei Severinov against the Office of the City Attorney in their capacity as the Supervisor of Records for allegedly violating Administrator Code (Sunshine Ordinance), Section(s) 67.21(d), by failing to provide a determination as to whether the record requested is public in a timely manner.

The Petitioner was notified of the hearing but did not advise the SOTF Administrator that they would not be present.

Jen Kwart, City Attorney's Office, was present for the hearing.

**Action: Moved by Member Wolfe, seconded by Member Stein, to dismiss the matter without prejudice under complaint procedures 7B, and notify the Petitioner of this decision.**

## Public Comment:

Anonymous #3 stated that in this case the respondent cites a ruling in his first and second complaint where you all found the only complaint he lost, but did find jurisdiction, but not for the reason discussed.

**The motion PASSED by the following vote:**

Ayes: 3 - Wolfe, Schmidt, Stein

Noes: 0 - None

6. **File No. 20080:** Complaint filed by Anonymous (ARE) against Jeff Kositsky for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 failing to respond to a records request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents.

Anonymous (ARE) (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous (ARE) stated that on June 4, 2020, he emailed Jeff Kositsky for a variety of his text messages. On July 1, 2020, Anonymous (ARE) filed a complaint on the basis of California Public Records Act 6254(c) because he did not receive his requested records timely.

Victor Lim (Department of Emergency Management) (Respondent), provided a summary of the department's position. Mr. Lim stated that regarding the timeliness issue, the Mayor had suspended deadlines. Mr. Lim stated that his department did try to follow up with staff, however they were all deployed to the Moscone Center due to the pandemic. Mr. Lim noted that he was still serving as custodian at that time but was inundated with different matters related to the Covid Response.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

**Action: Moved by Member Stein, seconded by Member Wolfe, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing with the recommendation that the SOTF find a violation of 6253(c) and that the record shall be made complete.**

## Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Stein, Wolfe, Schmidt

Noes: 0 - None

7. **File No. 20081:** Complaint filed by Anonymous (ARE) against Ben Rosenfield and the Controller's Office for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 failing to respond to a records request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents.

Anonymous (ARE)(Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he received some tips about various corruptions allegations and the Controller's Office provided a general denial not disclosing which records existed, which didn't and did not use lawful exemptions. Anonymous stated that the Controller's Office did not cite specific exemptions and did not tell which requests were being denied and which were not. Anonymous also noted that the Controller's Office made a general denial argument not citing specific law.

Claire Stone (Controller's Office) (Respondent), provided a summary of the department's position. Ms. Stone stated that at the time of the request, she was the Custodian of Records and was deployed to the Moscone Center. Ms. Stone stated that the request was forwarded to the Controller's Office Whistleblower's Office. Ms. Stone said that Whistleblower complaints are not considered public records. Ms. Stone stated that the requested records were released by the Mayor's Office, not their office.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

**Action: Moved by Member Wolfe, seconded by Member Stein, to find that the SOTF has jurisdiction and to refer the matter to the SOTF for hearing. The Committee requested legal counsel advice as to whether the Whistleblower complaints are a public record under California Public Records Act 6252(e ) and recommended the Sunshine Task Force to review CPRA 6253(c)(3) for failure to identify names, title and persons responsible for a request denial and 6255(a) that withholding should be justified for each record request and have the record corrected.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Wolfe, Stein, Schmidt  
Noes: 0 - None

Recess taken at 7:17 PM until 7:25 PM.

Roll call taken. Members Wolfe, Stein and Chair Schmidt all present.

8. **File No. 20083:** Complaint filed by Anonymous (ARE) against Chief William Scott for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 failing to respond to a records request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents.

Anonymous (ARE) (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that the Police Department over redacted the communications between Chief Scott and Mayor Breed claiming personal exemptions. Anonymous stated there were photos that existed and should have been included and knows this because they have been provided in other cases.

Lt. Lynn Reilly (Police Department) (Respondent), provided a summary of the department's position. Lt. Reilly stated that with regards to the withholding nonexempt information, none of the redactions qualify under California Public Records Act 6253(c). Lt. Reilly also stated that with regards to members who have tested positive for Covid, their disclosure would constitute invasion of privacy. Lt. Reilly stated that with regard to Administrative Code, Sunshine Ordinance sections 67.26 and 67.27, the Police Department apologizes for not including the redacted records and have provided all records of the original response. Lt. Reilly stated that with regard to withholding nonexempt in violation of Administrative Code 67.32, the redactions were named for an individual and withheld due to Evidence Code 1040.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

**Action: Moved by Chair Schmidt, seconded by Member Stein, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing and requests that the SOTF consider all violations submitted by the Petitioner.**

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Schmidt, Stein, Wolfe

Noes: 0 - None

9. **File No. 20084:** Complaint filed by Anonymous (ARE) against Harlan Kelly and the Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 failing to respond to a records request in a timely and/or complete manner; 67.26 withholding kept to a minimum and 67.27 failing to provide justification for withholding responsive documents; 67.29-7(a) failing to maintain correspondence and records in a professional and businesslike manner.

Anonymous (ARE) (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that in this case he requested text messages between Harlan Kelly and Walter Wong. Harlan Kelly produced all records and Anonymous stated that he read all of them and many emails were about comingling of business and that Mr. Kelly couldn't have redacted all of them. Anonymous stated that the PUC then took back those records and redacted all of them again Anonymous stated that the PUC can't argue that they should not have released those records.

Mayara Ruski Augusto Sa (Public Utilities Commission) (Respondent), provided a summary of the department's position. Ms. Augusto Sa stated that the request was made June 11, 2020, and that federal charges were brought against Harlan Kelly. Regarding violation no. 1 which alleges that Mr. Kelly failed to provide records, he has since resigned and has produced all records. Ms. Augusto Sa also stated that regarding violation no. 2 her office did respond to the violation. Ms. Augusto Sa stated that a letter was sent to the SOTF in March, 2021 notifying them that the alleged violations were addressed and resolved. Ms. Augusto Sa explained in the letter that redactions were made by Harlan Kelly and another PUC employee responsible for making the redactions. Ms. Augusto Sa stated that the only additional records that were not redacted were private and unrelated to city business.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

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

Public Comment:

None.

**The motion PASSED by the following vote:**

Ayes: 3 - Wolfe, Stein, Schmidt

Noes: 0 - None

10. **Further consideration of efficient changes to complaint process.**

The Committee further discussed possible items to send back to the SOTF. Chair Schmidt stated that since the last SOTF meeting he wanted to have a discussion on what to do next come to a final consensus on what to provide the SOTF.

Public Comment:

David Pilpel offered his comments and agrees with everything Anonymous had to say and that those changes are worthwhile.

Anonymous stated that he thinks that all these ideas and discussions are worthwhile and would be happy to send a redlined memo to the SOTF.

Anonymous stated that SOTF Chair has the authority to transfer their complaint and formalizing that rule would address timeliness issues.

11. **Announcements, Comments, Questions, and Future Agenda Items by Members of the Complaint Committee.**

No announcements from the Committee.

No actions taken.

12. **ADJOURNMENT**

There being no further business the meeting was adjourned at 9:15 p.m.

**APPROVED: 8/16/22**

**Complaint Committee**

**Sunshine Ordinance Task Force**

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.