



SUNSHINE ORDINANCE TASK FORCE
Compliance and Amendments Committee
CITY AND COUNTY OF SAN FRANCISCO
MINUTES

Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

May 15, 2018 - 4:30 PM

Regular Meeting

Members: Frank Cannata (Chair), Fiona Hinze and Chris Hyland

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

Chair Frank Cannata called the meeting to order at 4:32 p.m. On the call of the roll Chair Cannata and Member Hinze were noted present. Member Hyland was noted not present. There was a quorum.

2. Approval of the March 20, 2018, Compliance and Amendments Committee meeting minutes.

The Committee discussed the minutes.

Member Hinze, seconded by Chair Cannata, moved to approved the March 20, 2018, Compliance and Amendments Committee meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – Cannata, Hinze
Noes: 0 – None
Absent: 0 - Hyland

Member Hyland was noted present at 4:34 p.m.

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:

None.

Chair Cannata requested that Files Nos. 17129, 18024 and 18026 be called and heard together.

4. **File No. 17129:** Complaint filed by Patrick Roddie against the Department of Public Health (DPH) 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.

(On 3/7/18, the SOTF referred the matter to the Compliance and Amendments Committee with the request for DPH to be prepared to answered questions related to the processing and filing of records related to deaths in San Francisco.

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 and 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.

Member Hyland, seconded by Member Hinze, moved to re-refer 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.

Public Comment:

Speakers: Bruce Wolfe (Chair of the SOTF speaker as a member of the public) opined that even though the SF DPH provides death records to the state they should maintain a copy for their own purposes and the information does not disappear.

The motion PASSED by the following vote:

Ayes: 3 – Cannata, Hinze, Hyland
Noes: 0 – None

Member Hyland, seconded by Member Hinze, moved to find that the SOTF has jurisdiction in File No. 18024 and 18026, and find that the requested records are public.

Public Comment.

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Cannata, Hinze, Hyland
Noes: 0 – None

5. **File No. 18024:** 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.

See File No. 17129 for summary of the hearing.

Member Hyland, seconded by Member Hinze, moved to refer the matter to the SOTF for hearing with the recommendation that the Department of Public Health violated Administrative Code, Section 67.21, by failing to respond to a public records request in a timely manner.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Cannata, Hinze, Hyland

Noes: 0 – None

6. **File No. 18026:** Complaint filed by Patrick Roddie against the Office of the Chief Medical Examiner 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.

See File No. 17129 for summary of the hearing.

Member Hyland, seconded by Member Hinze, moved to refer the matter to the SOTF for hearing with the recommendation that the Office of the Medical Examiner violated Administrative Code, Section 67.21, by failing to respond to a public records request in a timely manner.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 – Cannata, Hinze, Hyland

Noes: 0 – None

7. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by Members of the Committee.**

There were no announcement or comments.

8. **ADJOURNMENT**

There being no further business the meeting was adjourned at 5:43 p.m.

APPROVED: July 17, 2018
Compliance and Amendment 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.