

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**  
September 20, 2019

**DATE DECISION ISSUED**  
July 16, 2019

**CASE TITLE** – Asian American Advancing Justice, Council on American-Islamic Relations, Northern California American Civil Liberties Union v. Police Department (File No. 19017)

**FACTS OF THE CASE**

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

**File No. 19017:** Complaint filed by Elica Vafaie, Asian American Advancing Justice, Asian law Caucus, Jeffrey Wang, Council on American-Islamic Relations, San Francisco Bay Area, Alan Schlosser Northern CA American Civil Liberties Union of Northern California against Kathryn Waaland and the Police Department 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 April 23, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Elica Vafaie, Asian Americans Advancing Justice, Asian Law Caucus (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Vafaie stated that on October 12, 2018, she submitted an Immediate Disclosure Request to the Police Department and they responded on October 15, 2018. Upon review of the requested document, Ms. Vafaie stated that she discovered that the referenced 'white document' was not provided. Ms. Vafaie stated that she followed up on the missing document and the Police Department indicated that they would not provide the 'white document' and did not provide a reason for withholding. Ms. Vafaie requested that her supplemental record sent to SOTF Administrator on April 22, 2019, be included in the packet.

Lt. Kathryn Waaland, Police Department (Respondent), provided a summary of the department's position. Lt. Waaland stated that the Police Department

received the Immediate Disclosure Request for records from Ms. Vafaie on October 12, 2018, and responded on October 15, 2018, in a timely manner. Lt. Waaland stated that the Police Department received a request on January 10, 2019, for the 'white document,' and responded citing Administrative Code 67.27(a)(b), Government Code 62.54(f)(k) and Evidence Code 1040 which exempts the request records. Lt. Waaland stated that there is an understanding between the SFPD and the FBI that this document not be disclosed.

The Complaint Committee moved to find jurisdiction, that the records are public and to refer the matter to the SOTF for hearing with the recommendation that the Police Department violated Administrative Code (Sunshine Ordinance) Section 67.24, by failing to provide requested records in a timely and/or complete manner.

On July 16, 2019, the SOTF held a hearing to review the recommendation from the Complaint Committee and/or review the merits of the petition/complaint.

Javeria Jamil (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Jamil stated that the Asian American Advancing Justice has worked with the San Francisco Police Department and the Federal Bureau of Investigations on many matters. Ms. Jamil stated that they learned of the requested white pages document while working with the Police Department on a particular case as it was an attachment to an email that was provided. Ms. Jamil stated that this white pages document would provide clarification of other documents they have received. Ms. Jamil stated that the Police Department and the FBI will not provide this document which is a violation of the California Public Records Act (CPRA) and not in the interest of the public. Ms. Jamil stated that the Police Department has also relied on privileged information and will not provide a legal reference for not turning over the document. Ms. Jamil stated that the SFPD violated 67.27(b) and requested that the SOTF find a violation.

Lt. Kathryn Waaland (San Francisco Police Department) (Respondent), provided a summary of the department's position. Lt Waaland stated that there is pending litigation surrounding this matter which will be heard in August (USDC 19-516706). Lt. Waaland stated that Evidence Code Section 1040 provides that those records are exempt from disclosure. Lt Waaland stated that the document cannot be provided in redacted format as it is confidential. Lt. Waaland stated that she will not provide an explanation of the document because the Police Department is not allowed to share it. Lt Waaland stated that once the litigation is concluded, the Police Department will provide the requested document.

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

Chair B. Wolfe requested that the Respondent provide notice regarding when the requested records will be released.

Member Tesfai stated that this matter should be referred back to the Compliance and Amendments Committee and that the SFPD should provide the requested white pages document.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(b)(e), and 67.26, by failing to provide the requested white pages.

#### DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Cannata, seconded by Member Cate, to find that the Police Department violated Administrative Code (Sunshine Ordinance) Sections 67.21(b)(e) and 67.26, by failing to provide the requested white pages document and to refer the matter to the Compliance and Amendments Committee to ensure that the requested 'white pages' document is provided.

The motion PASSED by the following vote:

Ayes: 8 - Cannata, Cate, Yankee, Martin, Tesfai, LaHood, Hinze, B. Wolfe  
Noes: 0  
Absent: 3 - Chopra, Hyland and J. Wolf



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Asian American Advancing Justice, Council on American-Islamic Relations,  
Northern California American Civil Liberties Union (Petitioners/Complainants)  
Lt. Kathryn Waaland, San Francisco Police Department (Respondent)