

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

September 29, 2020

DATE DECISION ISSUED

September 2, 2020

CASE TITLE – Anonymous v. Chief William Scott, Lt R. Andrew Cox and the Police Department
(File No. 19112)

FACTS OF THE CASE

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

Complaint filed by Anonymous against Chief William Scott, Lt. R. Andrew Cox and the Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.25, 67.26, 67.27, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner, failing to respond to a public records request in a timely and/or complete manner; failing to justify withholding of records and failing to maintain a Proposition G calendar.

HEARING ON THE COMPLAINT

On December 17, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he made an Immediate Disclosure Request for Police Chief Scott's Proposition G and Non-Proposition G calendars. Anonymous stated that only the Proposition G calendar provided was in an incomplete and untimely manner. Anonymous stated that many calendar entries were redacted without legal citations.

Lt. Andrew Cox (Police Department) (Respondent), provided a summary of the department's position. Lt Cox stated that there was a miscommunication and acknowledged that the responses were late. Lt Cox stated that the Police Department has provided Chief Scott's Proposition G calendar with redactions.

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

On September 2, 2020, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on October 8, 2020, he sent an Immediate Disclosure Request to the Police Department for Prop G and non-Prop G past and future calendars. Anonymous stated that on October 23, 2019, he was told that he would not be provided future Prop G calendars. However, the calendars were provided long after the events listed on the calendars had taken place. Anonymous stated that he received only two weeks of calendar entries after his complaint was filed and that the response was not timely.

Lt. Andrew Cox (Police Department) (Respondent), provided a summary of the department's position. Lt. Cox stated that the Police Department takes full responsibility for not providing the records in a timely manner. Lt. Cox stated that Anonymous refused to use the Police Department's records request portal. Lt. Cox stated that when the request came in it was auto sorted into a file that became an archivable request. Lt. Cox stated that this IDR was not simple and got in touch with the Petitioner to request an additional 10 days to respond. On March 27, 2020, the Petitioner was sent an updated version of his requested records.

Member LaHood noted that the initial request was funneled to an email not regularly monitored and because this was an Immediate Disclosure Request there is a timeliness issue.

Lt Cox stated that his department did develop a different email account and will closely monitor emails so that they do not go through auto sort. Lt Cox also noted that there was no request for future calendars. However, his department provided the requested records.

Anonymous stated that on October 23, 2019, he was told that he would not be provided future calendars. However, they were provided long after the calendars were no longer in the future.

Action: Moved by Member Yankee, seconded by Chair B. Wolfe, to find that Chief William Scott, Lt. R. Andrew Cox and the Police Department violated Administrative Code, (Sunshine Ordinance), Sections 67.25, by failing to provide the requested records in a complete and timely manner, 67.26, for withholding all future calendars instead of providing them with minimal redactions, and 67.27 for incorrectly citing 67.29-5 for withholding non Prop G calendars.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Chief William Scott, Lt. R. Andrew Cox and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.25 for failing to provide the requested records in a complete and timely manner, 67.26 for withholding all future calendars instead of providing them with minimal redactions and 67.27 for incorrectly citing 67.29-5 for withholding non Prop G calendars.

DECISION AND ORDER OF DETERMINATIONS

On September 2, 2020, Member Yankee, seconded by Chair Wolfe moved to find that Chief William Scott, Lt. R. Andrew Cox and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.25 for failing to provide the requested records in a complete and timely manner, 67.26 for withholding all future calendars instead of providing them with minimal redactions and 67.27 for incorrectly citing 67.29-5 for withholding non Prop G calendars.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, B. Wolfe, J. Wolf, Tesfai, LaHood, Hinze, Hyland
Noes: 0 - None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
Chief William Scott, Lt. R. Andrew Cox, Police Department (Respondents)