

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
May 2, 2017**

**DATE ISSUED**  
April 5, 2017

**CASE TITLE – Larry Chan v. Lieutenant Kathryn Waaland and the San Francisco Police Department (File No. 16113)**

**FACTS OF THE CASE**

On December 19, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 16113: Complaint filed by Larry Chan against Lieutenant Kathryn Waaland and the San Francisco Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

**HEARING ON THE COMPLAINT**

On January 24, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard and continued the matter.

The Committee reviewed the written complaint and response submitted by the parties. Upon review of the records the Committee requested that the following questions be forwarded to the Respondent:

- Was the case/investigation ongoing or completed at the time the public records request was submitted?
- What type of information was redacted from the provided documents?
- Why was it necessary to redact the entire page?
- Why was the redaction necessary (Please provide detailed and specific information)?

On February 28, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard and continued the matter.

Larry Chan (Petitioner/Complainant) provided a summary of the complaint. Mr. Chan stated that the investigation of the Police complaint in question has ended but an appeal of the findings is pending. Task Force Administrator Victor Young

noted that the Police Department responded to questions from the Committee regarding the status of the Police complaint and the nature of the redactions.

Upon review of the Police Department's response the Committee opined that the reason for the redaction is unclear as the nature of the information that was redacted cannot be evaluated without testimony from the Police Department.

On March 28, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to SOTF without recommendations.

Lt. Kathryn Waaland and Ashly Worsham, Police Department (Respondent) provided a summary of the department's position and answered questions from the Committee. Ms. Worsham stated that the case file in question is considered open until the Police Chief takes action. In addition, it was stated by the Police Department representatives that even if the case file is closed the requested record will still be provided in a redacted format pursuant to California Evidence Code, Section 6254(f), and Penal Code, Sections 832.5, 832.7 and 832.8. Larry Chan provided a summary of the complaint and stated that the records are needed to prepare his case.

On April 5, 2017, the SOTF held a hearing to review the findings from Committee and to review the merits of the petition/complaint.

Larry Chan (Petitioner/Complainant) provided an overview of the complaint and requested that the Task Force find violations. There were no speakers in support of the Petitioner/Complainant. The representative from the Police Department (Respondent) was not present. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.26 and 67.27.

#### ORDER OF DETERMINATION

Member Cannata, seconded by Member Tesfai, moved to find that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Sections 67.21(e) 67.26 and 67.27, by failing to send an authorized representative to the hearing to explain the basis of its decision to withhold the requested records, failing to keep withholding to a minimum and failing to provide sufficient justification for redaction public records.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

Vice Chair Hyland, seconded by Member Cannata, moved to find that Lieutenant Kathryn Waaland and the Police Department violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to respond to a request for public records in a complete manner.

The complaint shall be referred to the Compliance and Amendments Committee and it is ordered that the Police Department re-submit records provided via the Police Department December 9, 2016, communications in a format that limits redactions to identifying information.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe  
Noes: 0 – None  
Absent: 3 – Chopra, Baranetsky, J. Wolf

Pursuant to Administrative Code (Sunshine Ordinance), Section 67.21(e) failure to comply with the SOTF order within 5 days of issuances of the Order of Determination may result in the referral of the matter to the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of the Sunshine Ordinance.



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

- c. Larry Chan (Petitioner/Complainant)  
Lt. Kathryn Waaland, Police Department (Respondent)