

**SUNSHINE ORDINANCE
TASK FORCE**

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**ORDER OF DETERMINATION
December 27, 2017**

DATE ISSUED
December 6, 2017

**CASE TITLE – Denta Tadesse v. Candace Carpenter and the Office of Citizen
Complaints/ Department of Police Accountability (File No. 17056)**

FACTS OF THE CASE

On May 25, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17056: Complaint filed by Denta Tadesse against Candace Carpenter and the Office of Citizen Complaints for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely manner.

HEARING ON THE COMPLAINT

On July 25, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

The Petitioner was not present during the hearing. Ines Frankel and Candace Carpenter, Department of Police Accountability (Respondent), provided a summary of the complaint and stated that the Office of Citizen Complaints is now the Department of Police Accountability. Ms. Frankel provided a summary of the functions and procedures of the Department of Police Accountability in their roles to review complaints against police officers. Ms. Carpenter stated that the bank video was obtained via subpoena and cannot be disclosed as a public record. Ms. Frankel stated that it is the policy of the department to not provide copies of investigative documents but they will meet with the complainant to discuss a complaint only if a non-disclosure agreement is signed. Ms. Carpenter stated that the Petitioner refused to sign a non-disclosure agreement. Ms. Frankel stated that there are several state and federal codes that prevent the disclosure of the information collected during an investigation and that the public is informed of the restrictions as needed.

On December 6, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

It was noted that the Petitioner was not present for the hearing. SOTF Administrator Victor Young confirmed that notice of hearing was provided to the Petitioner. There were no speakers in support of the Petitioner. Ines Vargas Fraenkel, Department of Police Accountability (Respondent), provided a summary of the department's position and described their complaint process. Ms. Fraenkel stated that investigative files are protection from disclosure pursuant to California Penal Code, Sections 832.5 and 8.32.7, regarding citizens' complaints against peace officer and that peace officers personnel records are confidential. Ms. Fraenkel noted that a response to Mr. Tadesse's inquiries were timely as they were provided verbally immediately after receipt. Ms. Fraenkel stated that the video recording in question was acquired from a third party as part of an investigation and could not be provided to Mr. Tadesse as it is part of the investigative file. Ms. Fraenkel stated that the department did gain insight into the public records process and have made policy changes to improve their process and provide written response to public records requests. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that there were no violations of Administrative Code (Sunshine Ordinance), Section 67.21.

ORDER OF DETERMINATION

Member Tesfai, seconded by Member Hinze, moved to find that no violation occurred and to conclude the matter.

The motion PASSED by the following vote:

Ayes: 8 – J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Eldon


Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Denta Tadesse (Petitioner/Complainant)
Ines Vargas Fraenkel, Department of Police Accountability (Respondent)