

**SUNSHINE ORDINANCE
TASK FORCE**

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ORDER OF DETERMINATION
October 31, 2017

DATE ISSUED
October 4, 2017

CASE TITLE – Michael Petrelis v. Police Commission (File No. 17083)

FACTS OF THE CASE

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

File No. 17083: Complaint filed by Michael Petrelis against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On August 15, 2017, the Education, Outreach and Training Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Michael Petrelis (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Petrelis stated that pursuant to Administrative Code, Section 67.8-1, closed session audio recordings should be released whenever all rationales for closing the session are no longer applicable. Sgt. Angela Rodriguez, Police Commission (Respondent), provided a summary of the department's position. Sgt. Rodriguez stated that, pursuant to the California Penal Code, personnel/discipline matter and records containing officer information is confidential and cannot be released. It was stated that the Police Commission chose to no disclose their closed session discussion at the time the meeting occurred.

The Committee opined that the confidentiality of closed session discussion regarding personnel and officer information appears to be valid. However, the issue of confidentiality of closed session for pending/expired litigation needs to be discussed further and suggested that the Petitioner request the Police Commission schedule a hearing to determine if previous closed session discussion should be released.

On October 4, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

The Petitioner was not present for the hearing on the matter. There were no speakers in support of the Petitioner. Sgt. Angela Rodriguez, Police Department (Respondent), provided a summary of the department's position. Sgt. Rodriguez stated that Mr. Petrelis petitioned the Police Commission to review and determine whether or not to disclose their closed session discussion in question and that the Police Commission voted again to not disclose. Sgt. Rodriguez provided a summary of the type of information discussed during the close session and stated that Penal Code 832.7 and California Government Code 6253(c) allows for withholding of discussion related to disciplinary and personnel matter. In addition, Sgt. Rodriguez stated that certain portions of the requested records are protected under attorney client privilege. 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.

The SOTF noted that Immediate Disclosure Requests cannot be automatically converted into a standard public records request but the department can request extensions of time to respond for reasons listed in the Sunshine Ordinance.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that the Police Commission did not violate Administrative Code (Sunshine Ordinance), Section 67.25.

ORDER OF DETERMINATION

Member Tesfai, seconded by Member Fischer, moved to find that the Police Commission did not violate Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland, B.

Wolfe

Noes: 0 – None

Absent: 2 – Chopra, J. Wolf



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Sgt. Angela Rodriguez & Sgt. Rachel Kilshaw, Police Commission (Respondent)
Michael Petrelis (Petitioner)