

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
June 8, 2021**

DATE DECISION ISSUED
April 7, 2021

CASE TITLE – Anonymous v. The Police Commission
File No. 20066

FACTS OF THE CASE

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

File No. 20066: Complaint filed by Anonymous against the Police Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b) incomplete response; 67.24(i) citation of unlawful public-interest balancing test; 67.26 nonminimal withholding; 67.27 failure to cite a specific provision of law for justification.

HEARING ON THE COMPLAINT

On December 22, 2020, Compliance and Amendments 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 this is regarding his request for audio records and involves the personnel matters of police officers under SB1421. Anonymous stated that comments by police officers can be redacted and justified. Anonymous stated that the Police Department should cite only what they are using and what actually applies. Anonymous stated that his request is for audio recordings under Penal Code 832.7(b)(6).

Sgt. Stacy Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that he did cite that particular portion in error and that a performance evaluation is not an SB1421 document. Sgt. Youngblood stated that the Chief's evaluation is a personnel matter and can be obtained by court order.

Action: Moved by Member Wolfe, seconded by Member Wong, 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 April 7, 2021, 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 provided various code references and explanations in support of their argument that Penal Code 832.7(b)(6) cannot be cited as a withholding justification for SB 1421 records. Anonymous stated that specific exemption must be used and catch all exemptions are inappropriate.

Sgt. Youngblood (Police Commission) (Respondent), provided a summary of the department's position. Sgt. Youngblood stated that the Commission is following the City Attorney's advice regarding closed session meetings and performance evaluations and Senate Bill 1421 does not apply.

Action: Moved by Vice Chair Yankee, seconded by Member Schmidt, to find that the Police Commission violated Administrative Code, Section 67.24(i), by relying on an impermissible balance test.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Police Commission violated Administrative Code (Sunshine Ordinance), Section 67.24(i).

DECISION AND ORDER OF DETERMINATIONS

On April 7, 2021, Vice Chair Yankee, seconded by Member Schmidt, moved to find that the Police Commission violated Administrative Code, Section, 67.24(i), by relying on an impermissible balance test.

The motion PASSED by the following vote:

Ayes: 11 - Hyland, Frazier, Forsley, Padmanabhan, Neighbors, Stein,
Schmidt, Wong, Yankee, LaHood, Wolfe

Noes: 0 - None

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
The Police Commission (Respondent)