

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**  
March 6, 2019

**DATE DECISION ISSUED**  
January 2, 2019

**CASE TITLE – Kevin Williams. v. George Gascon, District Attorney; File No. 18075**

**FACTS OF THE CASE**

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

File No. 18075: Complaint filed by Kevin Williams against District Attorney George Gascon for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.25 and 67.29-5, by failing to respond to a request for public records (for business calendars) in a timely and/or complete manner.

**HEARING ON THE COMPLAINT**

On October 16, 2018, the Education, Outreach and Training Committee acting in its capacity to hear petitions/complaints referred the matter to the SOTF for hearing. On January 2, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the complaint.

The Office of the District Attorney submitted a letter by Deputy City Attorney Wayne Snodgrass in lieu of appearance for File No. 18075. The Respondent did not appear at the hearing.

Mr. Williams (Petitioner) objected to the City Attorney's letter on procedure and merit grounds.

Member Hyland, seconded by Member Hinze, moved to not accept the letter written by the City Attorney Wayne Snodgrass in lieu of appearing.

Kevin Williams (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Williams stated he wished to have his complaint heard before the full SOTF. Mr. Williams stated that the District Attorney's office violated Sunshine Ordinance Code 67.25 to timely respond to the complaint and 67.29-5 by failing to keep an accurate calendar. Mr. Williams stated that he disagrees with the District Attorney's response indicating that the

calendar must be made publicly available three days prior to an appointment or event. Mr. Williams stated that the District Attorney failed to turn over calendar records three days before the events take place and instead turned over calendar records after the scheduled event took place.

A question and answer period occurred.

Chair J. Wolf asked if Mr. Williams' Immediate Disclosure Request was responded to in a timely manner. Mr. Williams stated that the District Attorney's response was timely and as the District Attorney's Office invoked a ten-day extension of time and responded with records. Mr. Williams stated that he wanted the records of appointments three days after the appointment is made not three days after it takes place.

Member Hinze, seconded by Member Hyland, moved to find that the SOTF has jurisdiction, the records are public and to refer the matter to the SOTF for hearing regarding a possible a violation of Sunshine Ordinance, Section 67.29-5.

On January 2, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Kevin Williams (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Williams stated that only past dates on Gascon's calendar (Prop G) were provided and that the reason future dates were not provided is because he is a Black man. Mr. Williams stated that the District Attorney's Office willfully violated Sunshine Ordinance, Section 67.25 and restated that section into the record.

Nikesh Patel, Assistant District Attorney, Office of the District Attorney (Respondent), provided a summary of the department's position. Mr. Patel stated that the future schedule/calendar dates of the District Attorney (DA) were not provide due to security precautions. Mr. Patel stated that his department provided all Prop G records in response to Mr. Williams' request and that the records were provided in a timely manner. Mr. Patel stated that the DA keeps two separate calendars; one for past and one for future events, the later being unavailable to the public because of section 67.29-5. Mr. Patel stated that the reasons for not turning over the future calendar are not personal but due to the necessary security precautions.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Member J. Wolf opined that the calendar of future items might be considered draft material. Member Cate opined that the DA's calendar could have been produced if every line had been redacted.

The SOTF opined that future schedule/calendars are public records and should be provided in a redacted format.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that District Attorney George Gascon violated Administrative Code (Sunshine Ordinance), Section 67.21.

#### DECISION AND ORDER OF DETERMINATIONS

Member Cate, seconded by Member LaHood, moved to find that District Attorney George Gascon violated Administrative Code (Sunshine Ordinance), Section 67.21, by failing to provide the requested records (future calendars).

The motion PASSED by the following vote:

Ayes: 9 - Cate, LaHood, Hyland, Hinze, Cannata, J. Wolf, Martin, Yankee, B. Wolfe

Absent: 2 - Tesfai, Chopra

Noes: 0 - None.



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Kevin Williams (Petitioner/Complainant)  
George Gascon, District Attorney (Respondent)  
Nikesh Patel, Office of the District Attorney (Respondent)