



San Francisco Ethics Commission

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Date: June 9, 2025

To: Members of the Ethics Commission

From: Olabisi Matthews, Director of Enforcement

Re: **AGENDA ITEM 10: Show Cause Hearing: *In the Matter of Matthew Lotocki v. San Francisco Police Department* (File #24021)**

Background

On May 2, 2025, the Sunshine Ordinance Task Force (SOTF) referred File #24021 to the Ethics Commission for enforcement proceedings under section 67.35(d)¹ of the Administrative Code, citing the San Francisco Police Department's (SFPD) failure to comply with a SOTF Order of Determination.

Under Section 10(B) of the current² [Enforcement Regulations](#) as adopted by the Ethics Commission, the Commission is required to schedule a Show Cause Hearing upon receiving such a referral, providing at least 15 calendar days' notice to the parties involved. Notices were issued on May 27, 2025, to the Petitioner, Mr. Matthew Lotocki, and Respondents, SFPD Chief William Scott and Lt. Jonathan Ozol, who was also named in the referral.

Standard of Review and Hearing Procedure

Per the current provisions of the Enforcement Regulations as adopted by the Ethics Commission, the Commission may defer to SOTF's findings of fact set forth in the Order of Determination but will review SOTF's conclusions of law de novo or independently.

Each party will have 10 minutes to present their argument, with the option to reserve 3 minutes for rebuttal. Witnesses may testify for 3 minutes each. The Commission may extend these timeframes at its discretion. SOTF is not a party to the matter but may send a representative to present comments or arguments in favor of the referral. The

¹ Section 67.5(d) of the Administrative Code states: "Any person may institute proceedings for enforcement and penalties under this act in any court of competent jurisdiction or before the Ethics Commission if enforcement is not taken by a City or State official 40 days after a complaint is filed."

² The Enforcement Division is in the process of reviewing the Enforcement Regulations and will present recommendations to members of the Commission for discussion and possible action, including recommendations that may impact the current provisions of section 10(B) relating to referrals from SOTF.



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representative will have 5 minutes to make their presentation before the commencement of the Show Cause Hearing.

Parties may present new evidence or witnesses, and if new evidence is introduced, the Commission may remand the matter to SOTF for further review. During the hearing, the Respondent bears the burden of proving that they did not violate the Sunshine Ordinance as documented by SOTF's Order of Determination and referral.³ Formal rules of evidence do not apply to hearings on referrals from SOTF.

Deliberations and Findings

Per the Enforcement Regulations, the Commission will conduct its deliberations in public, with opportunity for public comment as required by the Sunshine Ordinance and the Brown Act. Any enforcement decision must be based on the entire record of the proceedings, supported by findings of facts and conclusions of law.

Legislative Framework and Enforcement Authority of the Ethics Commission under the Sunshine Ordinance

While Section 10(B) permits referrals from SOTF, the Commission's enforcement powers are limited by the Charter and Administrative Code. Specifically, Section 67.34 authorizes the Commission to act only on *willful* violations of the Sunshine Ordinance by elected officials or department heads. The current referral does not allege a willful violation by an official within the Commission's enforcement jurisdiction.

Further, the alleged violation at issue involves a department's failure to comply with a SOTF order—not a willful violation of law by an elected official or department head.

Per section [15.102](#) of the Charter, the Commission may adopt rules related to carrying out the purpose and provisions of ordinances regarding open meetings and public records but cannot expand its enforcement authority beyond that defined by law.

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³ This provision which places the burden on a respondent to prove that they did not willfully violate the Ordinance appears to raise due process concerns that must not be ignored.



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Available Remedies and Limitations

Section 10(B)(1)(v) of the Enforcement Regulations permits the Commission to issue cease-and-desist orders or recommend removal of officials where the Commission determines on the basis of substantial evidence presented at a hearing that a violation has occurred. However, the Commission may not impose administrative penalties for any alleged violations of the Sunshine Ordinance, whether they are willful or otherwise.

Recommendation

The Enforcement Division recommends that the Commission take no action regarding this referral. For one, there is no evidence of a willful violation by an elected official or department head. SOTF has provided no evidence that Chief Scott willfully violated the Sunshine Ordinance. Thus, there is no violation over which the Commission has jurisdiction. Even if such a violation occurred, the Commission is not empowered to impose administrative penalties or compel the Respondent to comply with SOTF's Order of Determination.

The Enforcement Division has proposed amendments to the provisions of the Enforcement Regulations that address referral from SOTF. These proposed amendments, which include a broader explanation of the Commission's enforcement authority, are presented under Agenda Item 11.