

JULY 7, 2004

REGULAR MEETING

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

CHIEF'S REPORT

- a. **Presentation of a Citizen's Award for assisting during an arrest situation**
- b. **Update on the Department's budget**
- c. **Update on the Officer-involved shooting incident on June 29, 2004**
- d. **Presentation on the Department's Diversity Training**
- e. **Presentation on the Department's Disciplinary Case Tracking System**
- f. **Review of Recent Activities**

Chief Fong stated that the Mayor took a tour of the Crime Lab to look at the forensics capability of the department and to look at hiring additional criminalist to support efforts to suppress violent crime and prepare cases for trial. The Mayor was also shown a demonstration of the Crime Mapping Program. Chief Fong introduced the different members that will be making the presentations listed under the Chief's Report.

Lieutenant Kerr, Sexual Assault Unit, presented a citizens award to Mr. Paul Angelo for assisting in the arrest of a sexual predator.

Commissioner Renne thanked Mr. Angelo on behalf of the entire Commission.

Captain Lynch presented an update on the SFPD budget. He stated that on May 25th and July 2nd, the budget was presented to the Budget Committee of the Board of Supervisors. The department agreed to a total of \$1,825,209 reduction for fiscal year 2004 and 2005. The department also made motions that were accepted to make re-allocations of the budget. The budget committee agreed to the hiring for four criminalist positions; increase funding for SAFE program; televising of Police Commission meetings; \$50,000 move from miscellaneous salaries to the OCC. Captain Lynch thanked Commissioner Sparks for her support and dedications. He stated a lot of hours were dedicated to supporting the department in the presentation of this budget. He also thanked Officer Rowena Wilson for her work and support.

Commissioner Orr-Smith asked about the \$50,000 for OCC. Captain Lynch deferred to the OCC's director. Director Allen thanked Commissioner Sparks for her help on the budget. He stated he has spoken with the budget analyst and the Mayor's office and stated that his primary concern was salary. Director Allen stated that with the money that's already in the budget, the budget analyst has agreed to shift it around plus the \$50,000 will allow for OCC staff to be fully paid and will bring back policy writer.

Commissioner Sparks stated that through some re-allocation, this will get at least full staffing and to a point where OCC can fulfil their basic charter.

Commissioner Orr-Smith asked if the \$75,000 will help. Taking \$75,000 from televising the meetings to shift to the OCC. Commissioner Sparks stated that there have been several comments from public comment and that several of the Board of Supervisors have contacted her asking that it be put on the budget.

Commissioner Sparks acknowledged and congratulated Captain Lynch, Officer Wilson, Deputy Chief Parra, and the Chief for their work in the budget. She stated that the amount of hours they put into the budget is unbelievable.

They all did an excellent and unbelievable job.

Captain O'Leary gave an update on the OIS incident on June 29, 2004 on Alemany Boulevard. He stated the incident report was released this afternoon. He also stated that an incident report was also released on an incident that was on the 600 block of Larch. Captain O'Leary explained that last Tuesday, some homicide inspectors were looking for a suspect that was wanted for questioning in a homicide and on an attempted murder warrant. The officers were on a surveillance on the house that they suspected this person to be in. The suspect was seen and several attempts to stop him. He got in a large SUV, ran into parked cars, hit two unmarked cars, injured one officer from SID, the pursuit continued on to Alemany Blvd and the person started firing shots at police. 14 officers returned fire. The suspect was struck, taken into custody, first aid rendered, but was declared dead at the scene. The investigation is on going in this case.

Commissioner Veronese asked Director Allen if there was an OCC complaint filed. Director Allen stated no.

Commissioner Marshall asked what is the time line for the investigation to be concluded. Captain O'Leary stated that the case will go into different directions. To give a time line is unfair to the Commission, the family, and the inspectors. A lot of effort is put into the investigation immediately. There were several door-to-door surveys done on the same hour that the incident happened. Homicide is working diligently on the case.

Commissioner Sparks thanked Captain O'Leary for releasing the reports. She asked if the report on the Cammerin Boyd incident fulfilled the ACLU request. Captain O'LEARY stated, no. What is released is the initial incident report and it doesn't cover the request of the ACLU. He explained that all the information that the department is collecting is given to the District Attorney's office at the same time. There has not been a medical examiner's report in this matter and he stated that that is very crucial in making a decision. He also stated that there are still officer-involved shooting cases that are still with the District Attorney's office. Regardless, the Department will release information within the 60 days that was promised.

Captain Roth, Academy, explained the Department's Cultural Diversity Training. Captain Roth explained that basic academy class is broken down into 42 learning domains. All are subjects required by the California Commission on Peace Officers Standards and Training. Learning domain number 42 deals with cultural diversity and the state requires 24 hours in the area of diversity. The SFPD devotes 58 hours to this important subject. For 12 hours there is a cultural diversity overview; 4 hours for racial profiling; 42 hours composed of lectures, discussions, presentations from community representatives and officers including groups such as the Homeless Coalition, the Sr. Action Network and many more. In August recruits will have HIV representatives talking about IV drug users and their culture. There is also a class about ex-offenders living and working within the community. Captain Roth introduced Mr. Ralph Moreno, director of Sr. Escort Program.

Mr. Ralph Moreno, Sr. Escort Program since 1983. He has been invited to talk to the recruits at the Academy and stated that this has been a tremendous experience for him because he sees young people eager to work in the community. Sr. Escort was established in 1978. There are 54 staff members. In 1993 he was laid off due to cutbacks. He came back in 1997. Sr. Escort was established because there was a need for educating the senior community about prevention of crimes. The Sr. Escort Program escorts senior citizens, 60 years and over, to medical appointments, banking, social security. What is provided is protection. They were trained at the police academy and training was excellent. The program also do shopping trips and at the present time, they are doing about 60-65 trips. They also patrol the high crime areas. They do a crime prevention presentation to help senior citizens to protect themselves.

Mr. Moreno stated that staffing is down to 13 staff members out of 54. This is the 26th anniversary.

Commissioner Orr-Smith asked about the reduction in staff for Sr. Escort. Mr. Moreno explained that out of the 13, four are on workers' comp so he is down to nine staff members. They are currently doing 1200 escorts a month with the staff he has.

Captain Roth introduced Mr. L.S. Wilson, Homeless Coalition.

Mr. L.S. Wilson, Homelessness Coalition. The Coalition on Homelessness has been around since 1987. He came aboard in 1998. He started as a volunteer and now he is the coordinator for the Civil Rights Project. Doing training at the academy, they go in to talk about different issues that people face on the streets on a day-to-day basis. They talk about law in general, quality of life laws; housing situation here in San Francisco; different activities homeless people have to do in order to survive on the streets. Talk about sensitivity training, role plays, stress the point that most calls, police should check out before approaching homeless person because they want to have open communications between organizations or businesses instead of involving the police. They talk about police officers as social workers. Information is passed out to the recruits.

Captain Roth introduced Mr. Jamison Green.

Mr. Green, Transgender Law and Policy Institute, training based on transgender community in 1985. He explained that they do a 4- hour diversity training about the transgender community. They started with two hours and have been doing four hours since the year 2000. They talk about the myths and stereotypes about transgender and transexual people; the differences between sex gender and sexual orientation which many people erroneously think are all the same thing. They talk about city ordinances and state laws that are now in place to protect transgendered people from adverse discrimination. They introduce recruits to several different transgendered or transexual people and allow them to engage in interactive dialogue with these individuals to ask all the questions that they can possibly think of to divest themselves of the mythology and the stereotypes about transgendered people. They also talk about department policies with respect to how to deal with transgenders as suspects, witnesses, or civilian complainants or as coworkers. They also talk about procedures for searches, housing associated with arrests, and report writing. They have trained every academy class since June 1995. They have also done two sessions for command staff and they are in the process of scheduling two trainings at each station to refresh the officers who attended the academy and also to train officers who were in the academy prior to June of 1995.

Commissioner Marshall asked if there is anywhere in the training where there is something about what not to say to make a situation worse. Commissioner Marshall stated that a lot of young men that he talked to who have encountered with officers have often said that the officer have called him a name, for example, that made the situation worse. Is there somewhere in the training that something like this is covered because that is often the source of tension between young men and officers of the law. Captain Roth stated that that is covered in the Tactical Communications class in which the recruits are thought how to communicate with people, how to de-escalate situations. This is called verbal judo which teaches recruits how to get out of sticky situations through communication. There is also a Customer Service Class. An entire day is devoted to customer service: treating people with respect, avoiding complaints, and trying to de-escalate situations. Commissioner Marshall stated he would like to attend the class. Captain Roth stated he will send an outline through Lt. Geeter.

Commissioner Chan asked regarding interaction of curriculum what

extend will that overlap with situations like domestic violence, how to spot instances or deal with community who are reluctant to report spousal or elderly abuse. Captain Roth stated that there is a lot of overlaps and stated that there is a significant amount of hours devoted to the Asian culture and in that Asian culture block the recruits are taught the differences, the authority, the military figure, the persona the police project specially with people that had just come over from China. In the domestic violence class, they talk to recruits about different cultures and that some cultures do not want to report and they go through all the cultures. They also have a presentation from the Gang Task Force Unit regarding Asian extortions, about the significance of Chinese New Year's, and the red envelopes, and the plants, and everything that has to do with that.

Captain O'Leary presented the Department's disciplinary case tracking system. Captain O'Leary explained that currently there are two separate tracking systems. The OCC has an excellent technician and he can take the information from the composites and tell you how many complaints per station, per neighborhood. Unfortunately a case will be resolved and the information is slow in getting back to the OCC to close it. So the OCC and the Department found it was hard to close that loop. MCD has a tracking system in which it tracks OCC cases received. Some of the cases are assigned outside of MCD. What is being done it to try to merge these data bases. This will track the cases from the beginning to the end. This tracking system is now in the data phase. He stated that MCD staff is not comfortable with the training received. DTIS will go back to MCD and do retraining. He stated that he thinks that this will work but the intention is to get to a point where the department and OCC will know where all the cases are.

Commissioner Sparks asked as far as the number of OIS case pending and how much information have been released from each one and are there OIS cases before the Boyd shooting not released yet to the public. Captain O'Leary stated he will look into the cases asked for by Commissioner Sparks.

PUBLIC COMMENT:

Malaika Parker, Bay Area Police Watch, regarding information released in regards to the Boyd incident. She stated that it is very disturbing because on the cover page it states that it was a justifiable shooting.

Michael Petralis would like to discuss concerns regarding budget overview specifically \$75,000 to televise meetings. He also discussed meeting at the Bayview and was impressed with what the Captain had to say and what the community had to say. He was also glad that Captain Bruce sends out daily emails to the community.

Commissioner Keane stated that he has not received the police report.

Michael Bauchamp, CEO Autoside Inc., discussed concerns regarding fraud case and why no arrests have been made.

Roger Basely commended the Department on its cultural diversity training.

Commissioner Chan asked regarding new crime mapping system and Asian women being targeted for purse snatching. Was there a trend detected here. Chief Fong stated that the crime mapping allows to see what occurred in a specific area. Classification of crime, location, time frame and that number will tell exactly where things occurred and you can look at reports and see how suspects look like. Captains have access to crime mapping city-wide. Public have access through website.

Commissioner Keane complimented the Chief in the different demands by the Commission. He stated that the police report was not handed to them and they just got it now. He discussed concerns regarding the police report recently released where it states "Homicide justifiable by police officer with gun." He hopes that in the future, that it will not have the words because it

jumps the gun to label something before the investigation is done and that that should not be a title of the police report. Chief Fong stated that she will look into that and report back to the Commission.

Commissioner Orr-Smith with respect to the document released, how many incident reports were filed? Preliminary police reports were the ones that were released. Chief Fong stated that she is not sure if there are supplement reports but there are additional information in the investigative case file. Commissioner Orr-Smith why this particular report released. Chief Fong stated that there is only one preliminary report done and if there are statement forms, those forms are attached to the report. Chief Fong stated that she has not seen the complete police case file. Chief Fong explained that in officer-involved shootings, the interviews commence immediately so officers are not writing statements in addition to being interviewed.

Deputy Chief Tabak explained that in cases of OIS, the initial report is just the very brief factual basis of that evening by one officer. The entire investigation is completed by Homicide. All the questions asked by Commissioner Orr-Smith, all those answers will be in the homicide case. At the time the officer prepared that report, that information was not available to him or her. It would be the Homicide investigators responsibility to determine exactly what happened, who was involved, why it happened, and all those facts and that would be in the final homicide investigative file.

Commissioner Marshall asked if this is only one version, but asked does this report have to be released. Chief Tabak stated that this is a brief overview of the incident but the thorough investigation is quite thick but this only initiates the process. Chief Tabak stated that that is not a proper title and that will be a training issue and he would not ask someone to title a report at that time.

Commissioner Veronese discussed concerns regarding report. Chief Tabak stated that the writer of the report did not have access to witnesses, forensic, et cetera of the case. Chief Tabak explained that at the time of the report this was written, most of the officers that can provide information are interviewed by Homicide as a priority but all the questions asked by the Commission will be part of the Homicide report.

Commissioner Chan asked regarding format of the report. Are attachments to the report released to the public. Chief Fong stated that statements are booked into evidence. Chief Tabak stated that witnesses' statements are booked as evidence.

Commissioner Keane comment regarding Homicide summary. He stated that if the Commission will only get a summary, the Commission will not be happy with it. He urged the Department that in giving the summary, give the underlying reports at that time so that it can be discussed.

Commissioner Orr-Smith asked that the incident report does not explain the incident and will not accept this as disclosure because report is not adequate.

Commissioner Marshall asked if we can let the public know that this is not a justifiable homicide.

Commissioner Orr-Smith stated that if this is posted on the website, that it explains that this is an investigation in progress and that there has been no determination. Chief Fong stated that can be done.

OCC DIRECTOR'S REPORT

- a. Presentation on OCC cases eight months and older**
- b. Review of Recent Activities**

Director Allen reported on cases eight months and older. He stated that

there are 80 cases that are eight months and older and five of which are in suspension, cases that have some type of criminal cases pending which prevents people from talking about it, so there is nothing being done with the case but it is documented that there is some type of exception to the case.

Commissioner Veronese asked if a non-sustained complaint stays in the employee's file. Director Allen stated yes, it does. It stays in the OCC office and in the officer's PIP binders. Commissioner Veronese asked why a non-sustained complaint stay in the file. Director Allen stated that they are kept due to Early Warning System.

Commissioner Chan asked about non sustained complaints that trigger early warning system. Director Allen stated three within six months and four within a year.

Commissioner Keane stated that he doesn't see anything wrong with the early warning system. Police officers should be held at a higher standard.

Commissioner Orr-Smith stated that police officers have a unique position in our society and it is very important to use the early warning system.

PUBLIC COMMENT:

None

(The Commission took a break from 7:45 p.m. to 7:55 p.m.)

DISCUSSION AND POSSIBLE ACTION TO APPROVE REVISED GENERAL ORDER 10.10, "MOTOR FLEET"

Officer Rich Lee, Fleet, explained the changes in the general order and explained that there are 91 vehicles available and cars are tracked and maintained by the Fleet Office.

Commissioner Chan asked about how fleets are procured? Officer Lee stated that every vehicles are seen by the service station in a regular basis and done in-house. Officer Lee stated that Central Shops are use for parts.

Commissioner Sparks asked about the change in marked vehicles and unmarked vehicles. Officer Lee stated that each district stations have unmarked cars and the need is greater now than it used to be.

PUBLIC COMMENT:

None

Motion by Commissioner Orr-Smith, second by Commissioner Keane. Approved 7-0.

RESOLUTION NO. 60-04

APPROVAL OF REVISED GENERAL ORDER 10.10, "MOTOR FLEET"

RESOLVED, that the Police Commission hereby adopts revised General Order 10.10, "Motor Fleet."

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DISPOSITION ON THE DISCIPLINARY CHARGES FILED IN CASE NO. C03-119 JWA

Mr. Jerry Akins, Attorney representing the Department and the Management Control Division, explained the charges and the disposition agreed to regarding Case No. C03-119 JWA.

Mr. Steve Johnson, POA, representing the officer, stated this agreement, if not accepted by the Commission, the officer reserves the right to defend himself before the Commission and all the facts that have been presented.

Commissioner Veronese stated that he worked with the officer's representative involved and the Police Chief and have taken a look at this and he believes this to be a fair punishment.

Commissioner Renne asked since the incident happened, where has the officer been. Mr. Akins stated in Operations Center. Commissioner Renne asked has he been paid during this entire time? Mr. Akins replied, yes, and the th 180-day suspension will be unpaid leave. Commissioner Renne asked if it had been an ordinary person who had made the same demands as the officer did, would that person been arrested. Mr. Akins stated the he believed so. They investigated what they thought was a person impersonating an officer. When they found that he was a police officer, they didn't pursue the criminal matter. Commissioner Renne asked how about coming back to the to the hotel, would that person been arrested? Mr. Akins said, yes. Commissioner Renne asked what do anger management programs entail? Mr. Akins stated that the it is worked out with the Captain of Staff Services who oversees 11.11 program and the members are assessed by a doctor or psychologist to determine how this person is and help deal with his anger.

Commissioner Keane stated that he will vote to accept the recommendation because he will give great deference to the view of the Commission that actually sat and reviewed this matter.

Commissioner Veronese stated that any sustained complaint against the officer will come back to the Commission and the Commission will get to decide on the part that was held in abeyance. The initial investigation was done by an outside agency, Burlingame P.D., and he stated that Director Allen has no problems with the recommendation.

Commissioner Renne stated that she has great concern about the officer being back on the street and will vote to terminate him.

Motion to approve by Commissioner Keane, second by Commissioner Sparks.

The officer admitted to the truth of allegations No. 1, 2, 3, and 4, and accepted responsibility for his actions.

Mr. Akins stated that the officer was involved in an OIS incident prior to this incident. Mr. Akins stated the Department is investigating that incident and the OCC is investigating because someone had filed a complaint. The OIS incident happened before this incident happened.

Commissioner Veronese stated that if there is a sustained finding against the officer then it has to be considered if the officer should be in the Department.

Commissioner Veronese asked if this particular complaint comes back as sustained, does the Commission have power to terminate the officer. Ms. Morley stated that if the Commission is going to adopt a recommendation, it should be made clear on the record on what the Commission wants it to mean.

Commissioner Keane asked if the Commission is to have a finding later on that the complaint was sustained regarding OIS, can Commission look at

prior misconduct and this an act where officer admitted to the allegations. Ms. Morley stated the commission can.

Commissioner Keane withdraws motion to accept the recommendation.

Commissioner Sparks asked that Commission deliberate for a moment.

Motion by Commissioner Sparks to deliberate.

(The Commission deliberated from 8:20 p.m. to 8:55 p.m)

Motion not to disclose by Commissioner Orr-Smith. Second by Commissioner Veronese. Approved 7-0.

Commissioner Renne stated that recommendation be continued until a written settlement offer is before the Commission and that the Commission wants all proposed settlements in written form so there is no question about what is being proposed. This matter will be continued for four weeks, August 4th.

Commissioner Veronese would like the City Attorney to see it within two weeks.

Motion to continue by Commissioner Sparks, second by Commissioner Chan to move item to August 4th, four weeks. Approved 7-0.

PUBLIC COMMENT:

None

Attorney Akins asked that plea be vacated and Commissioner Renne stated agreement is not accepted and plea is vacated. Commissioner Renne wants all settlements in written form and with some specificity.

DISCUSSION AND POSSIBLE ACTION TO DISMISS DISCIPLINARY CHARGES FILED IN CASE NOS. OCC 0212-99, OCC 0403-99, AS REQUIRED BY THE SETTLEMENT OF SAN FRANCISCO POLICE OFFICERS ASSOCIATION v. CCSF, SAN FRANCISCO SUPERIOR COURT NO. 324625

Commissioner Veronese stated that after looking at it further it is his opinion that this Commission does not need to act on this particular item since it is a settlement between the City and the parties. It is a housekeeping matter to the Commission but not a necessary task and would move to have this Commission not to take any action on it.

Commissioner Keane agreed with Commissioner Veronese and stated that this matter has gone before the prior Commission and that actions by this Commission is not relevant.

Motion by Commissioner Veronese to table the item. Second by Commissioner Keane. Approved 7-0

COMMISSION ANNOUNCEMENTS

- a. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-106 JWA** (Assigned to Commissioner Theresa Sparks, Resolution 62-04)
- b. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-105 JWA** (Assigned to Commissioner Joe Veronese, Resolution No. 63-04)
- c. **Scheduling of items identified for consideration at future**

Commission meetings.

PUBLIC COMMENT

None

RESOLUTION NO. 62-04

**ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR
HEARING ON DISCIPLINARY CHARGES FILED IN CASE
NO. C04-106 JWA**

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall,
Sparks, Veronese

RESOLUTION NO. 63-04

**ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR
HEARING ON DISCIPLINARY CHARGES FILED IN CASE
NO. C04-105 JWA**

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall,
Sparks, Veronese

Commissioner Renne that the next district meeting will be at the Crocker Amazon at Ingleside.

Commissioner Sparks asked about OIS cases under investigation, when it occurred, what state investigation is at, names release, and when it will go to Commission.

Commissioner Chan request from the Department an update whether or not there are commendations pending before the Commission. He would also like a list of gifts to the department for which approval of the Commission is required.

Commissioner Orr-Smith asked for a presentation from the Department's Sex Crimes unit.

Commissioner Orr-Smith will attend Awards Committee meeting.

**APPROVAL OF MINUTES OF THE POLICE COMMISSION
MEETING OF JUNE 9, 2004**

PUBLIC COMMENT

None

Motion by Commissioner Marshall, Second by Commissioner Orr-Smith. Approved 7-0.

PUBLIC COMMENT

Steve Johnson, POA, discussed concerns regarding Early Warning System. He stated that the POA and the members of the Department have no objection to civilian oversight. There is no objection to the early warning system but as long as it's an early warning system that makes sense. He also discussed concerns regarding DGO 2.04 violated by the OCC. He also expressed concerns regarding Commission's discussion with Chief Fong and Deputy Chief Fong. He stated that the way questions were asked were disgraceful. He stated that, since both Chief Fong and Deputy Chief Tabak are members of the Association, he is objecting formally to the manner in which it was done.

Meesha Irizarry, Idriss Stelley Foundation, regarding disciplinary action of Officer Celis and stated that Officer Celis killed a man.

Malaika Parker, Bay Area Police Watch, discussed the 3304 issue and the refusal of the Commission to take a vote on it. She stated that she appreciates the Commission's vote.

Thereafter, the meeting was adjourned at 9:15 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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