

JANUARY 5, 2005

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 5:49 p.m., in a Regular Meeting.

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

PUBLIC COMMENT

COMMISSION ANNOUNCEMENTS

Commissioner Renne announced that Commission will start to use the meetings on a priority basis to get rid of the backlog of disciplinary cases and to move forwards with policies and OIS matters as well. Commissioner Renne stated that this Commission will not be generous with continuances. She also stated that a number of Commissioners have expressed a willingness to use not only these meetings on Wednesday, but to meet as often and/or as long as necessary to get the disciplinary cases done and resolved. She also stated that, in moving the case forward, the Department has one lawyer with all of these cases and very few OCC lawyers. She stated that over the holidays, she put out a request to a number of lawyers and contacted the Bar Association to see if there would be pro bono attorneys willing to assist Department counsel and OCC counsel to move these cases along. She stated that there is willingness expressed by a number of counsel who would volunteer their time and efforts.

Commissioner Renne stated that in an effort to move these matters along, she spoke with the Chief and the OCC in regards to the Chief's Report and the OCC Director's Report on the weekly Commission agenda and requested that they keep their reports to a minimum and that if there are critical matters that need to be discussed, they will be discussed. Commissioner Renne stated that on the Commission agenda, there will be at least two or three disciplinary cases to move the cases along. The Chief and Director Allen have indicated their full cooperation in this matter.

PUBLIC COMMENT

Unidentified, friend of Sheila Deto, stated that she is very pleased to hear and it is so important to move the cases along.

CHIEF'S REPORT

- a. **Update on the Bureau of Investigation's strategic initiatives to reduce homicides**
- b. **Update on significant policing efforts by Department members**

Chief Fong stated that Deputy Chief Tabak will give an update on the Bureau of Investigation's strategic plans and initiatives to reduce the homicide rate in the city.

Deputy Chief Tabak presented an overview of the 2004 homicides in San Francisco. In 2004, San Francisco experience 88 homicides which is 18 more than 2003.

In studying both the locations and the demographics of the homicides, most of the impacted neighborhoods were in the southeast sector of the city, primarily in and around public housing sites in the Bayview and Ingleside Districts. Of the 53 homicides committed by the end of June, 36 of them were Black on Black and/or gang related. The common factor in virtually all these homicides were narcotic sales and guns.

Deputy Chief Tabak stated when they looked at all the patterns and crime factors involved, they knew that in order for it to be effective, any homicide reduction plan that will be implemented would have to be proactive, aggressive and sustained. They took a concept developed in Boston, credited for reducing gang violence there, known as Operation Cease Fire but they modified it. Although some of the homicides that were occurring here had a gang component, many did not. Many of the homicides were territorial such as selling drugs in somebody else's turf or neighborhood.

Operation Cease Fire was modified by changing its focus from gangs to individuals. It was further modified by focusing on those geographical areas most impacted by the violence. The individuals most responsible for violence were targeted with a focus on the neighborhoods most impacted by the violence. This strategy is called Target Specific Enforcement.

Approximately 60 individuals were identified responsible for most of the homicides and non fatal shootings. The objective was to surgically preempt further violence by taking those most responsible into custody and to remove from the community the tools of violence: guns and narcotics.

In April, 2004, the Department began a dedicated 24-hour/7 days a week confidential tip line (575-4444). This tip line was designed to receive information on homicides, shootings, and other violent crimes. Callers could remain anonymous if they so choose. By the end of December, 150 tips had come into that line. Approximately 35 percent of these tips were significant in that it moved an investigation forward by providing information not previously known to the investigators.

The Homicide Unit has been increased from 14 investigators to 18. A new selection process has been put in place to insure that the best suited and qualified investigators are chosen for that assignment.

The Gang Task Force has been increased from 14 officers to 24. In support of the Target Enforcement strategy, these officers focus their efforts on the targeted suspect and the impacted communities. They work closely with district station personnel and the Homicide Unit by identifying, interviewing witnesses, developing informants, and working with the impacted communities in preempting further violence. They make their presence known to gang members and wannabes and provide a deterrent effect. In 2004, the Gang Task Force confiscated 88 firearms and made 77 arrests in these targeted hot zones.

The Narcotics Division increased the number of buy programs targeting the dealers in those impacted neighborhoods. In 2004, the Narcotics Division conducted 13 buy operations resulting in 920 arrests citywide; 90 of which came from these targeted areas. They also confiscated 126 firearms.

The Department has also increased coordination and communications between Homicide, Gang Task Force, Narcotics investigators and Field Operations personnel especially from the Bayview and Ingleside Districts in order to prevent or identify suspects in homicides and non fatal shootings.

After a homicide, strategy meetings convene within 24 hours of a homicide. These meetings involved personnel from Homicide, Gang Task Force, Narcotics, Field Operations, and any other impacted units. The purpose of the meetings is to exchange information and to assign tasks in order to assist homicide investigators, identify suspects and key witnesses.

A new neighborhood canvassing protocol after a homicide for the initial day of occurrence and subsequent days and weeks. Flyers in languages other than English, when appropriate, are disseminated in the neighborhoods where these homicides occur which include the confidential tip line.

Immediate witness relocation when necessary on a 24 hours/7 days a week basis and long term relocations. The Mayor's Criminal Justice has provided an additional \$100,000 to the Police Department for that program.

The Department also began non traditional and non advertised firearms buy back program. Different from past programs which were advertised in the media, anyone can return any gun operable or not, this particular program used confidential informants and citizens to give the Department the location and/or facilitate the seizure or sale of these firearms that are being used for these shootings and homicides. A special effort is made to recover assault weapons. In 2004, the Department took over 1500 firearms into custody. Approximately 10 percent of which were assault-type weapons.

Deputy Chief Tabak showed photos of weapons seized by the Department.

Deputy Chief went on to talk about the Crime Scene Investigations Unit. He stated that the Department will increase the number of criminalists positions, particularly in the firearms and ballistics discipline. This will quadruple the Department's capability to develop and identify ballistics evidence and enable the Department to clear and present additional cases for prosecution.

Deputy Chief Tabak also stated that San Francisco is the 9th safest city in United States when comparing all of the cities with the population of 500,000 and more.

Commissioner Veronese asked Chief Tabak about homicides in 2004 where firearms were used and asked if any of those firearms were recovered and if any of them were legally registered to the person they were recovered from. Chief Tabak stated he will get the information for the Commissioner.

Commissioner Keane asked about the history of the automatic weapons that were recovered. Chief Tabak stated that in most cases yes. A lot of the weapons come from Eastern block countries, some from the East Coast or the South, a lot of the weapons have been manufactured and sold prior to the assault weapons ban. Some of them, even with the ban, they were still purchased outside of areas that have that restriction.

Commissioner Sparks asked, with redeployment of resources, has there been any corresponding increase in crime in other areas where these resources were taken from. Chief Tabak said no because the strategy is directed at focusing to the most problematic areas and the problematic suspects so it's quite the opposite. He stated there's been a positive impact by redeploying and using personnel in the best fashion possible.

Commissioner Marshall asked if Deputy Chief Tabak have any idea as to why the number of homicides peaked. Chief Tabak stated that it's a combination of a lot of factors. There were people that were released from prison. There were some people that were paroled to San Francisco. There were people that should have remained in custody longer. There was an eight percent increase this year to last year on Black on Black and gang related. There was a lot of homicides of the non-preventable type this year than last year and that's one of the factors that increased the numbers from 70 to 88 this year. Chief Tabak also stated that it's not one gang against the other. A lot of it is personal and territorial in nature.

Commissioner Chan asked about civil gang injunctions and if it's been used and put in place as an additional tool. Chief Tabak stated that yes, the Department have used them and have used them in a variety of fashions primarily to keep an individual out of a neighborhood that is prone to narcotics

sales, gang violence. They are also used as stay-away orders and the Department is continuing to work with the City Attorney. Chief Tabak also stated that gang registry has been used since 2001 and that's when someone is a validated gang member upon conviction, it's part of their probation that they have register as a gang member.

Chief Fong responded to questions regarding staffing. She stated that next Wednesday, Deputy Chief Parra will be presenting the staffing report. She also announced that the Disaster Council meeting will be held next Tuesday, January 11th, at noon, in Room 201, at City Hall.

Commissioner Sparks asked about officers involved in OIS cases. Chief Fong stated that she looked at a number of officers who are still involved in the investigative process, whether it be at the Homicide section or the MCD section, and although it is written in the general order that officers are on administrative assignments until conclusion, that has never been the practice of the Department. The Department has looked at the officer participating in the investigative process and then going through the debriefing process that the Department has outlined through the Behavioral Science Unit and then determined whether they could be returned back to the field after some retraining. Chief Fong stated that the Department has been in contact with other agencies in the State and the consistency goes from several days to a week and modifications to the general order will be presented to the Commission.

Commissioner Keane asked the Chief, when the Department spoke to other agencies, when someone involved in an OIS case and because of the circumstances of the shooting, were they reassigned and did they immediately go back to what they were doing despite what the circumstances might appear to be. Chief Fong stated in each case a decision was made on whether or not that officer should return to their assignment that they were at when the incident occurred. In some cases officers chose to go to another assignment but the Department has always made the determination that based on the debriefing and the retraining that that officer is able to go back to the field. If the determination was that the officer was unable to return to the field, then that would not occur.

Commissioner Keane asked, in making the determination, has that determination ever depended upon the fact that it looks like the person shouldn't be back in the field. Chief Fong stated that she cannot answer the question because she does not have personal knowledge of that.

Commissioner Veronese asked what happens when an officer was involved in an OIS incident and then three months later the DA finds that this cop has committed a crime. Chief Fong explained that that's why the investigators and the District Attorney's office do a preliminary look at the incident.

Commissioner Chan asked about the arrest of Captain Bruce for voter fraud. Commissioner Chan stated that he was more disturbed in how the announcement was made and he wanted to know what the timing was of the DA's announcement to the press and when the Department knew of this action against one of its members. Chief Fong stated that in lieu of the action, the Department heard from the press and stated that she has had conversations with the District Attorney's office to find out what happened.

Commissioner Keane stated that he also heard about it when he read the newspaper and he was a little bit surprised that the Captain was arrested. He stated that, knowing the tradition of doing things, particularly in regard to a misdemeanor, and the fact that he had counsel, usually in regard to matters like this there is sort of an unspoken agreement that the prosecutor's office will say

to person's counsel that there's going to be a charge and the person should come in and have it done that way. Commissioner Keane stated that someone as respected as Captain Bruce should have been treated in that way and stated that it was unfortunate. Commissioner Keane asked if there is some sort of tension between the DA's office. Chief Fong stated that her understanding, after the fact, was that Captain Bruce was notified and he was cited out so nobody went to physically arrest him. He was told that the warrant was there. He responded and was subsequently cited out from the Warrant Bureau. Chief Fong also explained that she has a standing meeting with the District Attorney every two weeks so that they can continue working closer together in order to ensure that they're doing the best that they can, from their Department's perspectives, for the people of the San Francisco.

PUBLIC COMMENT

Steve Johnson, POA, complimented Chief Tabak for his report. He commented on how the Investigations Bureau is down 80 investigators. He stated that the Department do not have enough officers. He stated that the POA's New Year's resolution is that there will be no more delays in hiring police officers.

Elvira Pollard, Gustavo Rugley's mother, stated that the Chief needs to clean house.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Commissioner Renne announced that Director Allen had to go out of town due to death in the family.

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES IN CASE NO. C03-004 JWA, WHO WAS APPROVED FOR DISABILITY RETIREMENT. SAID DISCIPLINARY CHARGES WILL BE PLACED BACK ON CALENDAR SHOULD THE OFFICER BE WITHIN THE JURISDICTION OF THE POLICE COMMISSION IN THE FUTURE (Resolution No. 1-05)

Sergeant Reilly announced that he has confirmed with the Retirement Board that the officer is in fact retired.

PUBLIC COMMENT

None

Motion by Commissioner Chan, second by Commissioner Orr-Smith to take off calendar indefinitely the disciplinary charges filed in Case No. C03-004 JWA. Approved 7-0.

Motion by Commissioner Chan, second by Commissioner Marshall to include disposition in the officer's personnel file. Approved 7-0.

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES FILED IN CASE NO. C03-097 JWA, WHO WAS RELEASED FROM PROBATIONARY EMPLOYMENT AS A POLICE OFFICER FOR FAILURE TO COMPLETE THE REQUIRED 12-MONTH FULL DUTY PROBATION (Resolution 2-05)

Commissioner Veronese asked that a letter be included in the officer's personnel file that there were charges pending that the Commission has tabled.

Deputy Chief Parra stated that this was a probationary separation and non disciplinary in nature and there were no restrictions on future

employability and that is what the record in the Department of Human Resources will read. If this individual were to reapply with another police department or with the San Francisco Police Department and pass through the testing process, they will participate in the background process. A waiver will be signed by that individual and through the background process, these issues would be known.

PUBLIC COMMENT

None

Motion by Commissioner Chan to add to this agenda item to add another like that would say that said disciplinary charges will be placed back on calendar should the officer be within the jurisdiction of the Police Commission in the future. Secondly, in regards to both items the Secretary of the Commission is instructed to place the disposition or the tabling of these matters in the officers' personnel file if permitted by law. Second by Commissioner Orr-Smith. Approved 7-0.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE CHIEF'S RECOMMENDATION FOR STIPULATED DISPOSITION OF THE DISCIPLINARY CHARGES FILED IN CASE NO. C04-045 JWA WITHOUT TRIAL

(Resolution 3-05)

Motion by Commissioner Chan to go into Closed Session. Second by Commissioner Orr-Smith. Approved 7-0.

DISCUSSION AND POSSIBLE ACTION TO AMEND RULE 2.3 OF THE SAN FRANCISCO POLICE COMMISSION RULES OF ORDER TO CONFORM THE TERMS OF OFFICE FOR COMMISSION PRESIDENT AND VICE-PRESIDENT TO THE ANNIVERSARY DATE OF THE POLICE COMMISSIONERS' APPOINTMENT TO THE COMMISSION

PUBLIC COMMENT

David Pilpel asked that Rules 2.4 and 2.15 be amended.

Motion by Commissioner Chan to amend Rule 2.3, second by Commissioner Marshall. Approved 7-0.

RESOLUTION 4-05

AMENDMENT OF RULE 2.3 OF THE SAN FRANCISCO POLICE COMMISSION RULES OF ORDER TO CONFORM THE TERMS OF OFFICE FOR COMMISSION PRESIDENT AND VICE-PRESIDENT TO THE ANNIVERSARY DATE OF THE POLICE COMMISSIONERS' APPOINTMENT TO THE COMMISSION

RESOLVED, that the Police Commission adopts the amendment of Rule 2.3 of the San Francisco Police Commission Rules of Order to conform the terms of office for Commission President and Vice-President to the anniversary date of the Police Commissioners' appointment to the Commission. The new rule 2.3 should read, as follows:

Rule 2.3 - Election of Officers. At the last regular meeting of the Commission held before the 30th day of May of each year, or at a prior meeting, the date of which shall be fixed annually by the Commission, the members of the Commission shall elect from among their number a President and Vice President of the Commission, each to serve for a term beginning on the date of the first regular or special meeting held

after the 30th day of May, and ending one year thereafter or until the election of a new President or Vice President.

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

**APPROVAL OF MINUTES OF POLICE COMMISSION MEETINGS OF
SEPTEMBER 22ND AND 29, 2004**

Motion by Commissioner Marshall to approve minutes. Second by Commissioner Sparks. Approved 7-0.

**SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT
FUTURE COMMISSION MEETINGS**

None.

Thereafter, the meeting was adjourned at 9:19 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission

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