

**DECEMBER 1, 2004**

**CLOSED SESSION**

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 5:00 p.m., in Closed Session.

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

**PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION**

None

**VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d))**

Motion by Commissioner Keane to hold Closed Session. Second by Commissioner Sparks. Approved 4-0.

**CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)**

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

- a. Linda Vaccarezza v. City and County of San Francisco, et al., No. C04-1021 WHA

**DECEMBER 1, 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 5:31 p.m., in a Regular Meeting.

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

**VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))**

Motion by Commissioner Orr-Smith for non disclosure. Second by Commissioner Keane. Approved 6-0.

**APPROVAL OF THE CONSENT CALENDAR**

Motion by Commissioner Keane to approve the Consent Calendar. Second by Commissioner Orr-Smith. Approved 6-0.

**RESOLUTION NO. 98-04**

**LINDA VACCAREZZA v. CITY AND COUNTY OF SAN FRANCISCO et al.**

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Linda Vaccarezza v. City and County of San Francisco et al.," in U.S. District Court No. C04-1021, be, and the same is hereby approved.

Date of Incident: March 20, 2003

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

Veronese  
ABSENT: Commissioner Marshall

## **PUBLIC COMMENT**

Richard Stipman discussed concerns regarding actions of police.

## **CHIEF'S REPORT**

- a. **Update on significant policing efforts by Department members**
- b. **Update on recent Q-2 Police Officer Recruitment Drive**

Chief Fong reported on policing efforts by the Department during the past week. Chief Fong reported on great police work done by the members of the Department in different police districts.

Lieutenant Denise Schmitt, Staff Services Division, reported on the recent Q-2 Police Officer Recruitment Drive. She stated that the goal was to publicize the application drive to reach out to various communities throughout the city and the Bay Area and try to get enough candidates to reflect the diversity. She stated that the recruitment drive which ran from November 18<sup>th</sup> through November 22<sup>nd</sup> was one of the most successful drives the Department's had. As of this date the count is approximately 2,394 applications for the Q2 police test.

Commissioner Orr-Smith asked about the Taser weapon and asked the Chief to get information from Amnesty International. Chief Fong stated that she received correspondence from the ACLU and will be reviewing all the documents before reporting back to the Commission with additional information. Commissioner Orr-Smith asked about the smart sensor technology and asked the Chief to look into it and report back to the Commission.

Commissioner Sparks thanked the Chief for responding to an incident regarding a poster that was put up and that she found personally offensive. Commissioner Sparks stated that the posters were immediately taken down and an MCD and EEO investigations were started.

Commissioner Chan asked about a grant regarding mandatory training for Class C protective suits and asked about what the grant is about. Chief Fong explained the UASI Grant stands for Urban Area Security Initiative which are grant fundings from the Federal level that are distributed to regions across the country specifically for homeland security purposes.

Commissioner Chan also asked about the Marine Unit and their functions in regards to container traffic moving through the bay. Chief Fong explained that the Marine Unit coordinates with the Coast Guards as necessary but it is not their primary function unless requested by the Coast Guards. The Marine Unit patrols the bay waters and handle special events that may involve a lot of boats in the water.

Commissioner Veronese asked about not seeing homeless people on Van Ness Avenue. Chief Fong stated that Prop M went into effect in June of this year and so it is against the law to panhandle from the median divide and Department has worked with the Department of Human Services to let people know that this is a violation of the law. Chief Fong stated that the goal is not to cite. The goal is to change the behavior and to get the resources that is necessary to help this person get on their feet and off the street corner.

Public Comment:  
None

## **OCC DIRECTOR'S REPORT**

- a. **Review of Recent Activities**

Attorney Samara Marion, for Director Allen, reported on two issues. The first one is that four of their investigators will be receiving training on the issue of officer-involved training. The second item is that she's been meeting with the Department concerning the translator issue. She stated that she presented a draft department general order to the Department concerning the translator issue.

Public Comment:

None

### **REPORT FROM THE POLICE DEPARTMENT REGARDING THE STATUS OF PENDING INVESTIGATIONS OF OFFICER-INVOLVED SHOOTINGS**

Captain Keohane reported on the status of pending officer-involved shootings investigations. Captain Keohane explained the report in regards to the OIS investigations. He stated that, as of today's date, 12 of the cases have been completed and five cases have gone forward meaning the investigations have been completed and forwarded to the officer-in-charge of the Management Control Division, who did the final analysis. His conclusion was forwarded to the Risk Management Office and then forwarded to the Chief of Police. The Chief did the final review and had a report summary prepared. On these five cases, report summaries have been prepared and will be reviewed by the Chief of Police and hopefully the Commission will have these documents by Friday.

Commissioner Orr-Smith thanked Captain Keohane for his report and asked about the process and if there is a standard time line for when families can have information to help them move forward, for example the death certificate. Captain Keohane stated that the death certificate comes from the Department of Public Health and not the Police Department.

Commissioner Veronese asked about the Sheila Deto case. Captain Keohane stated that the 26 open cases date back to the year 2000 and prior to 2000 should be closed.

Commissioner Chan stated that there is a status conference set for December 7<sup>th</sup> and the matter is set for the taking of evidence for the 16<sup>th</sup> depending on the outcome of the status conference. Ms. Morley explained that the charged officers in the Deto matter have filed a writ challenging the previous Commission's decision not to dismiss the action on statute of limitation grounds and that has been set for hearing on January 28<sup>th</sup> of next year. That case will not appear on this list because that list consists of cases that are still being investigated by the Department's Management Control Division and that have not yet been decided in terms of disciplinary charges.

Commissioner Veronese asked about the cases that occurred in the year 2000 that are still open. Captain Keohane explained that, in one of the cases, the investigator that was first assigned to that case was transferred out of the unit and it's been reassigned and should be close shortly. Commissioner Veronese asked about the cases that are "in policy." Captain Keohane explained that those cases have not only been finished with the investigative but have also gone through an evaluation by the Management Control Division Lieutenant, the Risk Management Captain, and the Chief of Police. Judging from the contents of the investigation and the materials provided, it was determined through this process that the officers' actions were within policy of the Department. He stated that the facts that led to this conclusion will be presented within the summary letter that will be presented to the Commission.

Commissioner Chan asked about case #003-00 and asked why it takes so long to complete an investigation in this particular matter. Captain Keohane stated that he can't address this particular matter but gave a rationale as to why. Captain Keohane stated that he can't explain as to why it took so long

but now that he has these cases, they can be prioritized. Commissioner Chan asked about case #004-01. Captain Keohane stated that he would like to clear these cases as quickly as possible and the goal is to have most of them done by the first quarter of 2005 and have the whole list done by the end of the fiscal year. Captain Keohane stated that there will be general orders that will be brought before the Commission with time lines for the investigation completion, when homicide should be done, when MCD should be done, when it should go to the Firearm Discharge Review Board, and when it should come before the Commission and if these time lines aren't met, the Commission will be receiving written memorandums stating why or the circumstances that preclude each of those steps being completed on a timely basis.

Commissioner Sparks asked about the Detoymatter and if a summary was submitted to the previous Commission. Chief Fong explained that it was an OCC investigation that resulted in charges being filed in the Detoymatter and that is the case that is currently pending before the Commission and the summary should have been completed and she will confirm that and notify Sergeant Reilly.

Commissioner Sparks asked Captain Keohane to explain what is being done to clear these cases as quickly as possible. Captain Keohane explained that once the investigation is completed with MCD, it goes to the Lieutenant who does an evaluation, sends it to the Risk Management office for concurrence, and then on to the Chief of Police. If there is a complete concurrence, then it will go back to the MCD lieutenant who would write the summary report to the Commission. With the number of cases pending and the time to do a thorough evaluation, this is a very time-consuming task. To speed the process up, under the Chief's direction, five individuals with investigative skills and good communication ability, sat down and went over the cases and developed a format to be presented to the Commission. Each one of the five took one of the cases and over the Thanksgiving holiday, wrote up the summary reports so it would be ready to the Commission. In the future, once the backlog has been cleared, it will go back to the MCD commanding officer to write the summaries.

Commissioner Sparks asked if it would be appropriate for this Commission to write a letter to the District Attorney requesting that either some type of status report be given to the Commission as to what's happening with the cases and possibly prioritized or expedite officer-involved shooting cases as much as they could. Commissioner Sparks asked that a draft be developed and put on the agenda in the near future. Commissioner Sparks also asked why the Commission was not briefed about prior OIS cases. Captain Keohane stated that the Commission Secretary have been added to the list of people notified whenever there is an officer-involved shooting.

Commissioner Keane asked about the Detoymatter case. He asked to see the summary with the homicide report regarding the Detoymatter case. He would also like the reports relating to the shooting of Sheila Detoymatter and the reports in OIS cases where someone was fatally shot.

Commissioner Orr-Smith thanked Captain Keohane for his report. She would like the Commission to write a letter to the Health Commissioner, Health Commission, the Coroner, and the Health Director to see about getting the death certificates released.

Commissioner Sparks asked if the use of force log have been released to the public in regards to OIS cases. Captain Keohane stated that he can't tell as to each specific OIS cases but stated that with the current OIS case, the names have already been released.

Commissioner Renne stated that this item will be calendared quarterly so that the Commission can see exactly what progress have been made and what actions have been taken and if the proposed deadlines are working.

Commissioner Keane asked for a date certain in regards to information on the Detoy matter.

Commissioner Chan asked that he be excluded from disclosure of information in regards to the Detoy matter until discovery issues are sorted out as well as any concerns that counsel might have in the context of the disciplinary proceeding.

Deputy City Attorney Morley stated that she would like to send the Commission written information as to the status of the Detoy case and will give the Commission some historical perspective on the matter.

Commissioner Renne would like that report by next week.

Commissioner Veronese asked the City Attorney if there's an issue of the Commission being prejudiced by that information. Ms. Morley stated that any information that will be given to the Commission by the City Attorney, they will have perceived with that concern.

Commissioner Veronese asked if OCC can look at the same evidence and give the Commission a summary as well.

Attorney Samara Marion stated that there is General Order 8.11 where the MCD investigation and summary go to the Chief of Police but it also is to go to the OCC and the OCC will review that and to provide recommendations to the Commission. She stated that the OCC have not received MCD investigations or summaries since June 2000 and they have repeatedly asked for that. She stated that there is a mechanism in place but the OCC has not had access to critical information that they require.

Captain Keohane stated that the five reports that were finished, when reviewed by the Chief, will be forwarded to the OCC as part of General Order 8.11.

Commissioner Renne asked that Ms. Marion and Captain Keohane meet and give the Commission a report as to whether or not there has been compliance.

Ms. Marion stated that it is the position of the OCC that they have not received any information about those closed cases.

Commissioner Veronese asked why the OCC has not mentioned to the Commission that they have not received the reports. He stated that there should be some cooperation between OCC and the Police Department to make sure there is compliance of the general orders.

Chief Fong stated that the Department will go back and look to the files from 2000 and insure that all those cases have been complied with in terms of the reports going to the Commission and to the OCC. Chief Fong stated that the five cases that Ms. Marion mentioned went through the review of MCD, Risk Management Office, and the Chief's Office. The summaries could not have been forwarded because the Chief has not read the final draft of the summaries.

Public Comment:

Malaika Parker, Bay Area Police Watch, discussed concerns regarding OIS cases not being made public.

Stephanie regarding the shooting of her brother which happened June 29<sup>th</sup>. She showed the Commission photos.

Elvira Pollard, Gustava's mother, stated she does not understand the policy regarding officer-involved shootings and why officers that shot her son are still out on the streets.

Silvester Pollard discussed concerns regarding shooting by police.

Marylon Boyd, Campaign for Justice for Cammerin Boyd, stated she's disappointed again and stated she does not know what to do about it and stated that she wants accountability.

Meesha Irizary, Idriss Stelley Foundation, discussed concerns regarding shooting by police and the release of information to the family.

Mother of G. Rugley's son, discussed concerns regarding officer-involved shootings.

Edward Pollack stated that police are corrupt.

Stella Gonzales stated that there should be a Federal investigation in the Cammerin Boyd matter.

Kathy Munoz discussed concerns.

Camilla Boyd, mother of Cammerin Boyd's daughter, discussed concerns regarding officer-involved shootings.

Vanessa Moses discussed concerns regarding the Detoy matter and the Commission to prevent this from happening again.

Unidentified discussed concerns regarding officer-involved shootings.

Unidentified discussed concerns regarding officer-involved shootings.

Unidentified discussed an article regarding an Oakland P.D. shooting.

Commissioner Renne went over the different requests for letters to the D.A., the Health Commission, and asked Sergeant Reilly to circulate those to the Commission. She also asked Captain Keohane and the OCC to get back to the Commission by next week with regard to the summary issue. She asked Deputy City Attorney Morley with regards to the Detoy matter. She also asked Captain Keohane for information in regards to what information have been issued.

Commissioner Keane asked Captain Keohane for any summaries, homicide reports, and any underlying incident reports on the Detoy case. Commissioner Keane also asked, in regards to the 9 cases listed of officer-involved shootings which resulted in death, if any of those have completed the process of having the homicide report and the summary ready, provide the Commission with the materials and for those that are not completed, as they are completed, if the Department can make a practice of doing that.

Commissioner Renne asked that it be calendared for the 15<sup>th</sup>.

**DISCUSSION AND POSSIBLE ACTION TO APPROVE  
MODIFICATION OF THE CURRENT 28-DAY WORK PERIOD  
UNDER THE FAIR LABOR STANDARDS ACT FOR SWORN  
MEMBERS OF THE DEPARTMENT, SO THAT THE WORK PERIOD  
BEGINS ON SATURDAY, NOVEMBER 20, 2004, AT 12:01 A.M., AND  
CONCLUDES ON FRIDAY, DECEMBER 17, 2004, AT 12:00 P.M., AND  
CONTINUES TO REPORT IN 28-DAY PERIODS**

Continued for a later date.

**COMMISSION ANNOUNCEMENTS**

Commissioner Renne stated that she's been meeting with Sgt. Reilly, Captain Keohane, and City Attorney Morley to try to block out various items that will be heard for the month of December.

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

Commissioner Chan asked for a report at to the clearing of homicide cases.

Commissioner Veronese asked for information protocol as to which Commissioners would like to receive certain information and how certain information should be received. Commissioner Veronese, in regards to General Order 8.11, asked Captain Keohane and the OCC to get together and resolved their differences in the timing of the issues that have been reported and that there be a report to the Commission on outstanding cases that have not

been summarized. He also asked for an MOU with the District Attorney's office in how it deals with certain incidents.

Commissioner Orr-Smith asked about the minutes. Sergeant Reilly explained that minutes are being transcribed in the Commission office. Commissioner Orr-Smith also requested for a status report on the development of crowd control procedures on closed quarters specifically in high schools.

Commissioner Sparks asked for a status report on General Order 11.07.

Thereafter, the meeting was adjourned at 8:05 p.m.

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Sergeant Joseph Reilly  
Secretary  
San Francisco Police Commission

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