

SEPTEMBER 21, 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 5:46 p.m., in a Regular Meeting.

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

(Commissioner Chan arrived at 8:22 p.m.)

PUBLIC COMMENT

Kevin Martin, POA Vice President, discussed concerns regarding the OCC. He stated that the Association is very concerned about the Bill of Rights not being adhered to on a routine matter or on a routine basis. He presented 1,000 signatures from the POA requesting a hearing regarding the issues that the POA has. He also asked that an investigative body be appointed to audit the OCC as to their policies, procedures, compliance or lack of to their manual, and as a routine practice, lack of adherence to the Peace Officers' Bill of Rights.

Marilyn Boyd, Campaign for Justice for Cammerin Boyd, commented on the comments of Kevin Martin. She discussed concerns regarding another shooting of a young man who was shot five times. She also stated that she was disappointed on the ruling of Officer Nelson.

John Evans, POA representative, discussed concerns regarding the OCC. He stated that Kevin Allen informed him that he would not be allowed to represent officers at the OCC because he had threatened an OCC investigator.

Leroy Moore discussed concerns regarding incidents with tasers and talked about the ADA rights.

Jason Sawyer, Tactical Unit and POA representative, asked if there is any rules for the OCC and discussed concerns regarding time lines for the OCC.

Gwen Sacco discussed concerns regarding actions by the police.

Meesha Irizarry, Idriss Stelley Foundation, discussed concerns regarding the Department.

Malaika Parker, Bay Area Police Watch, discussed concerns regarding the Bayview community.

DISCUSSION AND POSSIBLE ACTION TO IMPOSE DISCIPLINE ON SUSTAINED DISCIPLINARY CHARGE FILED AGAINST OFFICER ANTHONY D. NELSON; ADOPTION OF FINDINGS (FILE NO. C04-074 EGF)

Motion by Commissioner Keane, second by Commissioner Veronese to continue this matter to October 5th. Approved 6-0.

HEARING AND POSSIBLE ACTION ON THE FOLLOWING MOTIONS IN THE DISCIPLINARY CHARGES FILED AGAINST LIEUTENANT JERRY LANKFORD (FILE NOS. C04-105 JWA, C04-113 JWA, & C04-126 JWA)

- a. Motion to continue hearing
- b. Motion for additional discovery

(The entire Lankford proceedings were taken in shorthand form by Ms. Anna C. Greenley, CSR, Roomian & Associates.)

Ms. Eileen Burke, Attorney at Law, was present on behalf on Lieutenant Jerry Lankford.

Mr. Robert Tronnes, Attorney at Law, was present on behalf of the San

Francisco Police Department.

After hearing the arguments from both counsels, the Commission went into Closed Session for deliberation.

Motion by Commissioner Sparks, second by Commissioner Keane to hold Closed Session. Approved 6-0.

PUBLIC COMMENT

None

Reconvene to Open Session:

VOTE WHETHER TO DISCLOSE ANY OR ALL OF THE DISCUSSION HELD IN CLOSED SESSION PURSUANT TO S.F. ADMINISTRATIVE CODE SECTION 67.12(a)

Motion by Commissioner Orr-Smith, second by Commissioner Marshall for non disclosure of discussion held in Closed Session. Approved 6-0.

POSSIBLE REPORT ON ACTION TAKEN IN CLOSED SESSION, PURSUANT TO GOVERNMENT CODE SECTION 54757.1 AND S.F. ADMINISTRATIVE CODE SECTION 67.12(b)

Commissioner Renne announced that on the motion to continue the hearing, the Commission has decided to deny the motion to continue the hearing. Approved 6-0.

Commissioner Renne announced that on the motion for additional discover, the Commission will refer that matter to Commissioner Veronese to make the decision. Any and all papers on that motion to be filed no later than noon this Friday.

Motion by Commissioner Orr-Smith, second by Commissioner Keane to refer this item back to Commissioner Veronese with condition that any and all papers due, opposition papers are due on noon on Friday and reply, if one is forthcoming, arrives by close of business that day. Approved 6-0.

CHIEF'S REPORT

a. Update on significant policing efforts by Department members

Deputy Chief Pengel, for Chief Fong, stated there is no report this evening.

PUBLIC COMMENT

None

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

b. Review of all outstanding OCC Policy Recommendations and their status

Director Allen talked about outstanding OCC Policy Recommendations and their status and presented the general order that's proposed by the OCC and the proposed Department General Order 8.12, which is the death in custody review board order.

Commissioner Sparks stated that it would have been better if the Commission had received the information in enough time to actually review it before the meeting. Commissioner Sparks stated that she asked for the same

report from the Department. Commissioner Sparks asked Director Allen in regards to the pending status on OCC policy recommendations so that the Commission can have the ability to move them along.

Commissioner Renne suggested that this item be continued for two weeks to give the Commission time to read the information provided by Director Allen.

Commissioner Sparks agreed and asked Deputy Chief Parra to forward the Department's document to the Commission in the Commission's Friday packets.

DISCUSSION AND POSSIBLE ACTION REGARDING RESOLUTION ON MONTHLY REPORTS BY THE OCC ON PENDING POLICY RECOMMENDATIONS AND DEPARTMENT GENERAL ORDERS UNDER REVIEW AND REVISION

Taken out of order

Commissioner Sparks stated that the resolution was offered and the OCC and ACLU offered comments which suggested that the resolution really covered only half of the problem, the half being the OCC policy recommendations, not the policy recommendations being developed at the Department. Commissioner Sparks stated that the DGO that Director Allen offered as an alternative was intended to include her resolution and the Department's responsibility on reporting as well. Director Allen stated yes, that is correct and it was not only to report on policies that are generated within the Department but Commissioner Sparks' resolution also asked for the tracking of modifications and work that was done on the policies and Director Allen stated that that would be difficult for OCC to do without constant communication between the Department and all the various bureaus and so what the OCC proposed is the OCC's report would show their policies, when they were proposed and modified and that the Department, if they proposed a Department Order, they would report on it and report on any policies submitted by the OCC and how soon the Department would be able to present it to the Commission.

Commissioner Sparks stated that the Commission just received the combination general order tonight and that's the right direction but Commissioner Sparks stated that she doesn't believe that a general order is needed for this and that a resolution would be sufficient. Commissioner Sparks asked that this item be continued for two weeks and she will sit down with the OCC and the Department to come up with a combination resolution which would do both pieces and then present it to the Commission in a couple of weeks.

Commissioner Renne suggested that it be done in three weeks.

PUBLIC COMMENT

Mark Schlosberg, ACLU, thanked Director Allen for submitting the report because this is a very important document. He wanted to highlight some of the important issues: In-custody death protocol; Officer-involved shootings; and, the Thurgood Marshall incident.

Malaika Parker, Bay Area Police Watch, stated that policies should include how public is informed about information.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 3.10, "FIREARM DISCHARGE REVIEW BOARD"

and

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 8.11, "OFFICER-INVOLVED SHOOTINGS AND DISCHARGES"

Lieutenant Groshong, Legal Division, for Captain Keohane, updated the Commission on the two Department General Orders.

Commissioner Sparks stated a lot of the changes added consistency between the two general orders and that 3.10 is fine. Commissioner Sparks stated that she does have an issue with 8.11. She stated that there was a lot of discussions about whether or not the firearm discharge review board should in fact be the entity that meets to look at officer-involved shootings. Commissioner Sparks had two changes on 8.11. She asked that the second paragraph of #4 on page 5 be restored to its original condition and also take the first sentence of the next paragraph and restore it to its original condition and everything else would stand as written.

Director Allen stated that it is very crucial to have a civilian at those initial discussions and thanked Commissioner Sparks for her comments.

PUBLIC COMMENT

Mark Schlosberg, ACLU, thanked Commissioner Sparks for her comments. He discussed concerns regarding the changes in regards to having a civilian in the firearm discharge review board.

Vincent Harrington, attorney for the POA, stated that he couldn't follow all the changes and requested that it would fair that if there is a substantial revision to reissue the revisions so that it can be properly reviewed by all interested parties. He discussed concerns regarding 3.10.

Marylon Boyd, Campaign for Justice for Cammerin Boyd, discussed concerns regarding the need for an independent review and the need for civilian oversight.

Dennis McNally, ACLU, discussed concerns regarding the police policing itself.

Leroy Moore discussed concerns regarding changes made to the general orders.

Matt Leroy, Bay Area Police Watch, discussed concerns regarding the general orders.

Malaika Parker, Bay Area Police Watch, discussed the need for civilian oversight.

Commissioner Veronese stated he agrees with the changes by Commissioner Sparks.

Commissioner Orr-Smith stated that there are a number of things that the Commission can do and must do and most of them are framed within the orders that are before the Commission tonight. She encouraged the Commissioners to keep in mind the boundaries and the parameters that the City Attorney has outlined for them that they are not neutralizing their capacity to be effective at making decisions in adjudicating the cases that come before them. She stated that the goal is to facilitate the maximum amount of public involvement and access without the Commission neutralizing their impact and power to render decisions in cases

Commissioner Chan joined the meeting at 8:22 p.m.

Motion by Commissioner Marshall, second by Commissioner Keane to adopt General Order 3.10, "Firearm Discharge Review Board," as presented to the Commission this evening. Approved 7-0.

RESOLUTION NO. 61-05

**ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 3.10,
“FIREARM DISCHARGE REVIEW BOARD”**

RESOLVED, that the Police Commission adopts revised Department General Order 3.10, “Firearm Discharge Review Board,” as stated below:

FIREARM DISCHARGE REVIEW BOARD

This order outlines the functions and responsibilities of the Firearm¹ Discharge Review Board and delineates the procedures for reviewing, investigating, and reporting to the Police Commission, cases in which members discharge a firearm.

I. POLICY

A. DUTIES OF BOARD

It is the policy of the San Francisco Police Department to review every instance in which a firearm is discharged whether or not such discharge results in an injury or death. The Firearm Discharge Review Board shall review every discharge of a firearm by a member.

The purpose of this review process is to ensure that the department is continually reviewing its training, policy and procedures in light of the circumstances that lead to firearm discharges by members and to determine if the discharge was in policy.

The San Francisco Police Department recognizes the public’s right to know about this department’s use of deadly force. It is the policy of the San Francisco Police Department to provide as much information as possible through this public reporting process while complying with applicable civil and criminal laws and preserving the integrity of ongoing investigations.

B. DEFINITIONS

– Officer-involved shooting.

An officer’s discharge of a firearm that results in the physical injury or death of a person, even if it is an accidental discharge.

– Officer-involved discharge.

An officer’s discharge of a firearm that does not cause injury or death to a person. Shooting at, injuring, or killing animals also fall into this category, including an accidental discharge that does not cause injury.

C. COMPOSITION

1. The Department Firearm Discharge Review Board shall

¹ For the purpose of this order, “firearm” is defined in conformance with California Penal Code Section 12001(b), excluding Extended Range Impact Weapons shall not be considered firearms within the meaning of this order.

be composed of:

- Member of the Police Commission, Advisory
- Deputy Chief of the Administration Bureau, Chair
- Deputy Chief of the Field Operations Bureau
- Deputy Chief of the Airport Bureau
- Deputy Chief of the Investigations Bureau
- Range Master, ~~a~~Advisory
- Commanding Officer of Risk Management, ~~a~~Advisory
- Director of the Office of Citizen Complaints (OCC), ~~a~~Advisory

2. The Police Commission member shall be appointed by the Commission President and serve a one year term. ~~The Range Master and the Commanding Officer of Risk Management shall be excused during the deliberations and voting of the Firearm Discharge Review Board.~~

D. FUNCTION:

Officer Involved Shootings:

1. ~~Within 30 calendar days of a shooting event following receipt of investigatory reports from the Homicide Detail and Management Control Division regarding a shooting event,~~ the Chair of the Department Firearm Discharge Review Board shall convene the panel to determine whether the shooting was within policy. ~~Within 60 days of the event,~~ 30 days following the first meeting of the Firearm Discharge Review Board, the Chair shall report the status of the matter to the Commission. ~~Within 120 days following the first meeting of the Firearm Discharge Reivew Board~~ the panel shall complete its investigation and issue its findings in accordance with this policy.
2. The Firearm Discharge Review Board shall review written reports submitted by the Homicide Detail - Criminal Investigation, and the Management Control Division - Administrative Investigation. ~~If the report of either unit is not completed, the investigator responsible for the investigation and his/her commanding officer shall appear before the Firearm Discharge Review Board and explain, orally and in writing, the reason for not complying with the time limits of this order.~~
3. The Firearm Discharge Review Board shall review the submitted reports and interview the involved investigators, as necessary.
4. The Firearm Discharge Review Board shall discuss the circumstances surrounding the shooting event and the response of the officer(s). Within 15 days of completion of the investigation referred to in paragraph I. D.1., the Firearm Discharge Review Board will submit to the Chief of Police, for his/her concurrence, a written summary of its findings on the officer-involved shooting. This summary shall indicate one of the following findings:

In Policy - The actions of the officer in response to the circumstances leading to the discharge of his/her firearm were

appropriate and consistent with department policy.

Not in Policy - The discharge of the firearm was not appropriate under the circumstances and was not consistent with department policy.

This finding shall be accompanied by a recommendation for discipline, or a referral to M.C.D. for further investigation. The Firearm Discharge Review Board shall assign a due date for cases found Not in Policy and referred back to MCD for further investigation.

These findings, In Policy, Not In Policy, shall also include a review of applicable department policy, lack of department policy and recommendations for further policy adoptions.

Further Investigation – Matter referred back to M.C.D. for further investigation or clarification, with a stated due date to the Review Board.

The Chief shall review for concurrence and forward the Firearm Discharge Review Board's written summary to the Police Commission, with a copy to the OCC Director, within 15 days of receipt. In the event of disagreement between Management Control and the Firearm Discharge Review Board, the Chief of Police shall make the final decision. This summary report with the Chief's decision shall be a public record. No report that is made public shall disclose any information deemed confidential by law.

The Director of the O.C.C. shall review the investigation and summary and recommend any further action (including an independent investigation) that the Director concludes is warranted. A summary of the O.C.C. Director's recommendations shall be a public record.

The Police Commission shall review the Firearm Discharge Review Board's summary and the O.C.C. Director's recommendations and take action as appropriate. No report that is made public shall disclose information deemed confidential by law.

Officer Involved Discharges:

At least once during each quarter of the year, the Firearm Discharge Review Board shall convene to review all Officer Involved Discharges investigated by the Commanding Officers of the members involved. The Firearms Discharge Review Board will meet on the 3rd Tuesday of March, June, September and December to review Officer Involved Discharges that were not addressed in previous meetings during the respective quarter.

The Firearm Discharge Review Board shall review the submitted reports and interview the involved investigators, as necessary.

These discharges shall be reported to the Commission on a quarterly basis. A summary report will be provided at the 1st Police Commission meeting following the reporting quarter. Police Commissioners shall have complete access to reports.

E. POLICE COMMISSION QUARTERLY REPORT

The Chair of the Firearm Discharge Review Board shall prepare a quarterly report to the Police Commission, and a copy to the Director of the O.C.C., that contains a summary of each Officer-Involved Shooting and Officer-Involved Discharge, any disciplinary action or training recommended, and proposals for modifying department policy. This report shall be a public record. No report that is made public shall disclose any information deemed confidential by law.

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

In regards to DGO 8.11:

Commissioner Sparks stated that the modification offered by the Department are kind of housekeeping to make sure that the time frames coincided with 3.10. The only changes she would make to 8.11 as written with the modifications by the department would be on page 5, paragraph 4. The first part of paragraph 4 ending with punitive would remain the same. The second paragraphs should be modified to say within 5 business days of an officer-involved shooting, the Firearm Discharge Review Board shall convene a panel to discuss whether it is appropriate for the involved members to return to duty and strike the rest of that. The next paragraph, reinstate the first sentence of the next paragraph.

Commissioner Marshall stated that there was a lot of discussion held in this matter asked the Commission if this can be done right away.

Ms. Molly Stump, City Attorney, stated that this is a policy can be scheduled for another session and that this is a policy matter for the Commission.

Commissioner Sparks stated that her rationale for the amendment is that she still believe from the original discussions with the original City Attorney that there be civilian inclusion in the panel.

Commissioner Chan asked if there is a concern that the panel would address matters specific to the personnel records and specific relationship that the individual who would be the subject matter of the inquiry would necessarily be discussed and that civilians would be privy to material that conceivably constitute confidential information.

Commissioner Sparks stated that the Commission was advised by two city attorneys to this matter and that those issues should be determined in court because in her opinion this is a policy decision and that the Commission has the latitude to make such decisions.

Motion by Commissioner Sparks, second by Commissioner Veronese to approved DGO 8.11 as amended by Commissioner Sparks. Not approved 4-3.

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

On Department General Order 8.11 as presented to the Commission without amendments. Approved 5-2.

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

RESOLUTION NO. 62-05

**ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 8.11,
“INVESTIGATION OF OFFICER-INVOLVED SHOOTINGS AND
DISCHARGES”**

RESOLVED, that the Police Commission adopts revised Department General Order 8.11, “Investigation of Officer-Involved Shootings and Discharges” as stated below:

**INVESTIGATION OF OFFICER INVOLVED SHOOTINGS
AND DISCHARGES**

This order outlines the rules and procedures to be followed in the conduct of all officer-involved shooting and discharge investigations.

F. I. POLICY

It is the policy of the San Francisco Police Department to respond immediately and conduct a timely and complete investigation of all officer-involved shootings.

II. PROCEDURES

II. DEFINITIONS:

- Officer-involved shooting. An officer’s discharge of a firearm that results in the physical injury or death of a person, even if it is an accidental discharge.
- Officer-involved discharge. An officer’s discharge of a firearm that does not cause injury or death to a person. Shooting at, injuring, or killing animals also falls into this category, including accidental discharge without injury.

B.
INVESTI
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venues:

- A. Criminal Investigations. Investigations to determine if there was criminal conduct on the part of the involved officer(s) are conducted separately by the Homicide Detail and the Office of the District Attorney.

Officer-involved shootings occurring on San Francisco International Airport property or in San Mateo County shall be investigated by the San Mateo County Sheriff's Office in conjunction with the San Mateo County District Attorney's Office.

- B. Administrative Investigation. Investigations to determine if the officer-involved shooting was within Department policy are conducted separately by the Management Control Division and by the Office of Citizen Complaints if and when initiated by a citizen complaint.

If the officer-involved shooting occurs on San Francisco International Airport property or on its surrounding areas, the Management Control Division shall contact the San Mateo County Sheriff's investigators and the San Mateo County District Attorney's Office investigators responsible for the criminal investigation and request copies of any reports those agencies have made that are relevant to the officer-involved shooting.

C. OFFICER-INVOLVED SHOOTINGS OCCURRING WITHIN THE CITY AND COUNTY OF SAN FRANCISCO.

As soon as practical after an officer-involved shooting occurring within the City and County of San Francisco, the following notifications shall be made:

- _ If practical, the member(s) involved shall notify Emergency Communications Division (ECD), and his/her immediate supervisor, or the platoon commander of the district in which the shooting took place.
- _ ECD shall immediately notify the Field Operations Bureau Headquarters (Operations Center after normal business hours).
- _ The Field Operations Bureau or the Operations Center shall make the following notifications:
 - _ The on-call Homicide Inspectors
 - _ The Crisis Incident Response Team (See DGO 8.04, Crisis Incident Response Team)
 - _ Management Control Division
 - _ District Attorney's Office

- _ The Commanding Officer of the member(s) involved
- _ Chair of the Firearm Discharge Review Board
- _ Office of Citizen Complaints
- h. San Francisco Police Department Command Staff
- i. Legal Division
- j. Captain of Risk Management
- k. Secretary of the Police Commission

D.OFFICER INVOLVED DISCHARGES. In cases where injury or death has not occurred, the Commanding Officer of the member involved is responsible for conducting a thorough shooting investigation, including accidental discharges. The Commanding Officer may delegate this investigation to another Commissioned Officer. The Commanding Officer, however, shall be responsible for the proper conduct of the investigation, and the appropriate findings and recommendation as documented in an investigative summary. The Commanding Officer's Bureau Chief shall set an appropriate due date for this investigation. However, this investigation shall not exceed 45 days. Officer involved discharges require the following notifications:

1. If practical, the member(s) involved shall contact the platoon commander of the district in which the discharge occurred.
2. The platoon commander shall contact the officer's Commanding Officer.
3. If outside San Francisco, as soon as practical, the officer shall contact that jurisdiction's Police or Sheriff's Department requesting that entity contact the San Francisco Police Department.
4. An officer who discharges a firearm in an Officer-Involved Discharge shall be assigned to his or her respective Bureau Headquarters. The officer shall not return to regular assignment for a minimum of 5 days or unless, upon recommendation of the member's Commanding Officer with the approval of his or her respective Bureau Chief, the Chief of Police determines the member may return to his/her assignment.

5. **OFFICER-INVOLVED SHOOTINGS OR DISCHARGES OCCURRING OUTSIDE THE CITY AND COUNTY OF SAN FRANCISCO.** If a member discharges a firearm outside the City and County of San Francisco (except at an approved range or during lawful recreational activities) either while on duty or off duty, he/she shall follow these procedures:

- _ Absent exigent circumstances, remain at the scene of the discharge and notify the law enforcement agency.
2. Immediately contact the on duty supervisor in your unit or detail.
 3. As soon as practical, the member shall contact the senior ranking member on duty in the Bureau to which he/she is assigned, or the

Operations Center after normal business hours, and report the incident. The senior-ranking member in the Bureau who is notified or the staff at the Operations Center shall notify the on-duty supervisor of the involved member. If the member's unit is closed, the notification shall be made to the Commanding Officer or Officer-in-Charge.

F. SCENE. The member who has discharged his/her weapon in an officer involved shooting should limit his/her investigation and activity to the following:

A. When officer safety permits: de-cock, holster, and strap in his/her firearm. He/she should not reload the weapon, or remove the magazine to examine its contents. Thereafter, he/she should not remove the weapon from the holster until directed to do so by the Homicide Detail. In cases involving shotguns and/or long rifles the weapon shall be placed on "safe" and isolated in a secure location.

i. Nothing in this order shall preclude a member from taking reasonable actions to provide/ensure officer and/or public safety.

B. As soon as practical, seek medical assistance/ treatment for injured persons.

C. As soon as practical, protect the crime scene and preserve all evidence. Prior to the arrival of the homicide detail investigators as provided under II.F.5., no person(s) should be permitted to enter the scene except to perform emergency medical assistance or assist in the preservation of the scene and evidence contained therein.

D. As soon as practical, attempt to obtain the name and address of any witness who may not remain at the scene.

E. When an officer-involved shooting occurs within the City and County of San Francisco, the crime scene(s) shall be under the control of the Homicide Detail upon the arrival of their investigators. No persons shall be permitted to enter the crime scene without the approval of the Homicide Inspector assigned the investigation or the Homicide OIC.

F. Nothing in this order shall prohibit a member from taking reasonable actions to ensure his/her safety or the safety of another person.

G. INVOLVED OFFICERS. The following actions will be taken in all cases of officer-involved shootings (resulting in injury or death):

1. All members shall be afforded all substantive and procedural rights and remedies as provided by applicable law, including without limitation thereto the Public Safety Officers' Bill of Rights.
2. When a supervisor arrives on the scene, the supervisor shall have the involved member(s) escorted from the scene. If more than one member is involved in the discharging of a firearm, absent exigent circumstances, the members shall be separated and will be kept separate from one another, and shall not discuss the incident with each other prior to being interviewed by the Homicide Detail Inspectors. If possible, the supervisor shall

contact the investigator from the Homicide Detail and ascertain if the involved member is to be taken to the Homicide Detail, the Investigations Bureau, or the involved member's Station or Detail. In all circumstances the member shall be taken to a department facility.

3. Members of the department's C.I.R.T. program may assist the member(s) involved prior to their interview with investigators. However, they shall not discuss the facts or details of the shooting with the member.
4. Officers who discharge a firearm in an officer-involved shooting will be reassigned to his or her respective Bureau Headquarters. Officers shall not return to regular assignment for a minimum of 10 calendar days. This reassignment is administrative only and in no way shall be considered punitive.

~~Within 10 5 business days of an officer-involved shooting, the Chair of the Firearm Discharge Review Board~~ Chief of Police shall convene ~~the~~ a panel to discuss whether it is appropriate for the involved member to return to duty. The Panel shall include a representative of the Behavioral Science Unit, the officer-in-charge of the Homicide Detail, the Deputy Chief, Commander, and Captain overseeing the involved officer's unit, the officer-in-charge of the Management Control Division, the Deputy Chief of Investigations and officer-in-charge of Risk Management.

~~Recommendations from this meeting, along with any recommendations made by the officers in charge of the Homicide and Behavioral Science Unit, shall be immediately forwarded to the Chief of Police for his/her consideration.~~ The Chief, after consulting with the panel shall determine if ~~Upon the Chief's approval, a~~ the member should be returned to their regular field duty assignment, but only after completion of any mandatory debriefing (per DGO 8.04, Section 1.A), and any recommended retraining. This decision, including the factors supporting the decision, shall be contained in a written report that shall be forwarded immediately to the Police Commission. A copy of the report shall also be forwarded to the Director of the OCC. This report will be part of the officer's confidential personnel file and shall not be disclosed to any member of the public except by court order. The Police Commission shall, at the first Commission meeting following receipt of the report, meet in closed session with the Chief of Police to review the Chief's findings and decision. Officers shall not be returned to their regular duty until the Commission has met in closed session with the Chief of Police.

~~This~~ Any determination by the Chief not to return an officer to their regular assignment and to continue their reassignment is administrative only and in no way shall be considered punitive.

5. The officer shall receive a debriefing by the Crisis Incident Response Team and support as outlined in Section C., of Department General Order 8.04.
- ~~6. The Chief shall make a written report to the Police Commission, with a copy to the OCC, of his/her decision of whether or not to return the member to field duty.~~

H. INVESTIGATIONS

- ~~_~~ Officer-involved shootings. The Homicide Detail and the

Management Control Division shall respond immediately and conduct a timely investigation into every officer-involved shooting. These investigations shall utilize the same numbering system, and be consistent with each other, e.g., 03-01 (first O.I.S. of 2003), 03-02 (second O.I.S. of 2003) etc.

- Officer-involved discharges. The Commanding Officer of the member involved shall contact the Management Control Division and obtain an O.I.D. number. The report prepared by the Commanding Officer of the member involved shall reflect the M.C.D. issued O.I.D. number. The final report submitted shall be routed through channels, to the Management Control Division for evaluation prior to review by the Chief of Police.

I. REVIEW OF INVESTIGATIONS

1. Officer-involved shootings.
 - a. Homicide Detail Investigation. The criminal investigation prepared by the Homicide Detail shall be completed and received by the Chair of the Firearm Discharge Review Board within forty-five-calendar days of the shooting event. If the criminal investigation report is not completed within forty-five calendar days of the shooting event, the Officer-in-charge of the Homicide Detail shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.
 - b. Management Control Division Investigation. The administrative investigation prepared by the Management Control Division shall be completed and submitted to the Chair of the Firearm Discharge Review Board within sixty-calendar days of the shooting event. If the administrative investigation report is not completed within *sixty* calendar days of the shooting event, the Officer-in-charge of the *Management Control Division* shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.
 - c. The Firearm Discharge Review Board shall convene within thirty calendar days ~~of the incident~~ of receipt of the Management Control Division investigation report. Within 120 calendar days following the first meeting of the Firearm Discharge Review Board, the panel shall complete its investigation and issue its findings in accordance with Department General Order 3.10. If the *Firearm Discharge Review Board* report is not completed within the required 120 calendar days, a representative of the Firearms Discharge Review Board shall appear before the Commission at the earliest possible meeting to explain why the report has not been completed.

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

NAYS: Commissioners Sparks, Veronese

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF APRIL 6, 2005

Motion by Commissioner Keane, second by Commissioner Veronese to approve the minutes. Approved 7-0.

COMMISSION ANNOUNCEMENTS

District Meeting will be in the Park District on Wednesday, September 28th, at the Grattan Elementary School, 165 Grattan Street, at 6:00 p.m.

Commissioner Veronese stated that he is concerned about some of the comments made in regards to the OCC rules and urged members of the Department to come to the Commission if they have any concerns or if they feel their rights are being violated. Commissioner Veronese also discussed concerns regarding shooting incidents in the city and asked for a presentation in regards to resources in the Department are being used to the best of the Department's ability.

Commissioner Keane asked Sergeant Reilly to report to the public in regards to the in-custody death. Sergeant Reilly deferred to the Department. Deputy Chief Pengel reported that there was an in-custody death last night and the incident is under investigation.

Commissioner Keane stated that it happened in the Bayview and that it was a young black male who was in custody in the Bayview.

Commissioner Renne asked that a letter be addressed to the OCC in regards to information on cases where the statute of limitations may have been blown within the past 12 months and would like to have a report on that to go to the other Commissioners as soon as possible. Secondly, the Director should respond to the charges made this evening (1) they are not following their own time rules with regard to handling of cases. She would like a respond as soon as possible.

Commissioner Sparks would like a copy of the OCC's Rules of Conduct and expressed concerns in regards to comments about an authorized POA representative not being allowed to represent an officer in front of the OCC and that the Commission would like a response from Director Allen.

Motion by Commissioner Orr-Smith, second by Commissioner Keane to adjourn the meeting. Approved 7-0.

Thereafter, the meeting was adjourned at 9:00 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct