

**SEPTEMBER 14, 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 5:45 p.m., in a Regular Meeting.

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

**PUBLIC COMMENT**

Cab driver discussed concerns regarding illegal u-turns at 9<sup>th</sup> and Mission. He also thanked Central Station for keeping parking on weekends on Broadway. He also expressed concern regarding the actions of members of the department.

Andrea O'Leary discussed concerns regarding implementation of leash law policies.

Bill Carlin discussed concerns regarding leash law enforcement policy.

**HEARING AND POSSIBLE ACTION ON THE MOTION TO DISMISS IN THE DISCIPLINARY CHARGES FILED IN CASE NOS. C04-105 JWA, C04-113 JWA, AND C04-126 JWA UNDER GOVERNMENT CODE 3304(d)**

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Taken out of order

Commissioner Veronese stated that there is a request to take this item off calendar and also a motion for continuance of the hearing. Commissioner Veronese stated that the motion to continue the hearing is denied and this item, the motion to dismiss, will be continued for next week.

**PUBLIC COMMENT**

None

Motion by Commissioner Orr-Smith, second by Commissioner Veronese to continue this matter for next week. Approved 7-0.

**IN THE MATTER OF CASE NO. C04-074 EGF)**

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- a. **Consideration of the recommendation of the Chief of Police regarding discipline.**
- b. **Discussion and possible action regarding admission of evidence regarding discipline.**
- c. **Possible evidentiary hearing.**
- d. **Discussion and possible action to impose discipline.**
- e. **Adoption of findings.**

*(The proceedings were taken in shorthand form by Ms. Dawn Sandler, CSR., Roomian & Associates.)*

Commissioner Renne asked Commissioners Sparks and Veronese, for the record, if they had the opportunity to review the transcripts and materials. Commissioners Sparks stated that she had the opportunity to review the records. Commissioner Veronese stated that he had reviewed the records.

Ms. Susan Leff, Attorney at Law, appeared on behalf of the Office of Citizen Complaints and the San Francisco Police Department.

The officer appeared in person and was represented by Mr. Leland Davis, III, Attorney at Law.

**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, second by Commissioner Marshall to hold Closed Session. Approved 7-0.

Reconvened to Open Session at 7:42 p.m.

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

Motion by Commissioner Orr-Smith, second by Commissioner Marshall to disclose decision made in Closed Session. Approved 7-0.

Commissioner Renne announced that in Closed Session, the Commission decided the following:

“We could, if we wished to, consider the use of force logs and/or the mult card in determining penalty. However, the Commission also decided that its decision last week with regard to Charge 2 was that there had been an intentional misrepresentation of the report filed; that the position of the OCC that there was lying was the correct position demonstrated by the record. Therefore, under the circumstances, the Commission does not feel that the use of force logs or the mult card are necessary in any further consideration with regard to penalty.

In light of the fact that the Chief is not here, although that we understand that she has made provisions for decision to be made, but in light of the time, we would like the report on the Chief’s recommendation at next week’s meeting in light of further amplification, if you will, of what the Commission decided.”

**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, second by Commissioner Marshall not to disclose any or all discussions held in Closed Session. Approved 7-0.

**CHIEF’S REPORT**

**a. Update on significant policing efforts by Department members**

Deputy Chief Pengel, for Chief Fong, stated no report.

**PUBLIC COMMENT**

None

**OCC DIRECTOR’S REPORT**

**a. Review of Recent Activities**

Director Allen stated he will reserve his report for next week.

**PUBLIC COMMENT**

None

### **DISCUSSION REGARDING REVISED DEPARTMENT GENERAL ORDER 3.19, "COMPLAINT EARLY WARNING SYSTEM"**

Captain Keohane reported that tonight he just wanted to go over the interim General Order 3.19 and that was to provide more timely gathering of materials so that the Department could work with this order while the new order is being prepared. Captain Keohane thanked Commissioner Orr-Smith for attending the meetings.

Captain Keohane announced that he will be presenting on October 5<sup>th</sup> an update on how the Department is moving forward with the new order. At that time, he will have a policy statement. He will also be reporting at that time with a review of the MIS situation and that will give the Department a better idea of when it will be able to implement the new order in totality.

Captain Keohane stated that he provided copies to the OCC and the POA, asking for their recommendations, and he has also phoned Mr. Schlosberg from the ACLU, for their comments.

Commissioner Renne asked Captain Keohane if he can get back to the Commission by October 5<sup>th</sup> with at least the parties' reaction and the initial draft. Captain Keohane stated yes.

Commissioner Veronese asked if the Commission can have a draft of the DGO where the department can identify requests from different parties so that the Commission don't have three different drafts to look at. Captain Keohane stated that he will bring those forward on October 5<sup>th</sup>.

### **PUBLIC COMMENT**

Elizabeth Zitron, member of SF Chapter ACLU, stated that this has been a lengthy process and asked that date certain for the steps in developing a comprehensive proposal for an early warning system be established. She stated that the ACLU has some comments on the revisions. She stated that it appears on Section II.B.2, that it's been change to no longer require forwarding officer complaints to the member's commanding officer; Section II.C.1.A appears to be changed to make performance review for the first referral optional. It says "supervisors shall document through memorandum or conduct a performance review," and that would be a change and those are the changes that she hopes would be discussed among all the parties before they are adopted.

Dennis McNally, ACLU, stated that one of the things that these sort of early warning systems have used nationwide has been a variety of indicators. He stated that for this system to be useful, a broad range of information is needed so that officers can actually benefit.

Commissioner Orr-Smith thanked the members of the ACLU for their comments. She also explained that Captain Keohane has gone to observe some of the software that has been used and available in various departments, and they are researching off the shelf programming that might be adaptable to the Department. She stated that the Commission want the universe of indicators and possibility, whether or not it will be used, but the Department wants that access built in to the software system so that whatever is needed can be retrieved.

### **COMMISSION ANNOUNCEMENTS**

- a. **Assignment of an Appeal of the Chief's Suspension of in Case No. M-JWA D03-199 to an individual Commissioner for the taking of evidence on a date to be determined by the Commission.** (Assigned to Commissioner Veronese, Resolution 59-05)

- b. **Assignment of disciplinary charges filed in Case No. C05-109 JCT to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner.** (Assigned to Commissioner Chan, Resolution 60-05)

Sergeant Reilly announced that the District Meeting will be on September 28<sup>th</sup> in the Park District, Gratan Elementary School, 165 Gratan Street, at 6:00 p.m.

PUBLIC COMMENT

None

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

Commissioner Chan would like to know if citation authority can be given to patrol specials in the matter of littering and would like the Command Staff's position with respect to this matter.

Commissioner Sparks asked that the resolution requiring the Department and the OCC report periodically on the status of general orders and/or policies be put on the calendar for next week. She also asked that the Department and the OCC report on all outstanding unfinished policies and department general orders. She asked that the general order or her resolution be placed on the calendar next week.

Commissioner Renne stated that Commissioner Sparks' resolution will be on the calendar next week.

Director Allen explained about the DGO that Commissioner Sparks' had requested. He stated that it has been forwarded to the Commission Secretary but it was decided that because it was a DGO revision, it has to go before the committee and he will get a copy for Commissioner Sparks.

Motion by Commissioner Chan, second by Commissioner Marshall to adjourn the meeting.

Thereafter, the meeting was adjourned at 8:07 p.m.

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Sergeant Joseph Reilly  
Secretary  
San Francisco Police Commission

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