

NOVEMBER 15, 2006

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 5:03 p.m., in Regular Meeting.

PRESENT: Commissioners Renne, Campos, DeJesus, Lee, Marshall, Sparks, Veronese

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

Carl Olsen, SF Chronicle, discussed his concerns regarding the Copley Press matter.

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner DeJesus, second by Commissioner Veronese. Approved 7-0.

CLOSED SESSION

- a. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Chief of Police**
- b. **CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation**
Supreme Court decision in Copley Press v. Superior Court of San Diego County, No. S128603

(Item 3b is continued to a future meeting.)

PUBLIC HEARING PURSUANT TO SF ADMIN CODE 19.4(b) TO CONSIDER THE PROPOSAL OF THE MAYOR'S OFFICE OF CRIMINAL JUSTICE FOR PILOT INSTALLING OF COMMUNITY SAFETY CAMERAS AT THE FOLLOWING LOCATIONS:

<i>Third Street & Newcomb Avenue</i>	<i>Geneva Avenue & Mission Street</i>
<i>16th Street & Mission Street</i>	<i>24th Street and Mission Street</i>
<i>Turk Street & Taylor Street</i>	<i>Ellis Street & Jones Street</i>
<i>1050 McAllister Street</i>	

Mr. Allen Nance, Director of the Mayor's Office of Criminal Justice, discussed historical perspective the prompted installation of safety cameras. Third & Newcomb was identified as a result regarding the number of robberies, vehicles thefts, burglaries, and assaults that have occurred in that area. Since January through end of August there were 16 incidents. 16th & Mission there were 112 reports of criminal activity within a 200 foot area of 16th & Mission. 24th Street & Mission Street there were 76 reported incidents of criminal activity within a 200 foot area. 1050 McAllister Street seven reported incidents and a homicide that occurred inside the facility. Ellis and Jones Streets there were 71 reported incidents. Geneva & Mission Street there were 41 reported incidents. Turk & Taylor there were 89 reported incidents.

Mr. Nance introduced Mr. Ed Lee, City Administrator, to speak to the role of the City Attorney's Office in helping the city oversee camera installations. Mr. Lee stated that his role is to ensure full compliance with the City's Ordinance and the other is to make sure that the City keeps a good eye on the balance of the enforcement and the constitutional issues that are presented with this technology. Mr. Lee stated that he oversees the Department of Technology and they are the technical people to provide the cameras and to go to the sites with the police officers and the Mayor's Office,

evaluate those sites as to the best locations with respect to the range of the cameras. Mr. Lee stated that he met with members of Boalt Hall School of Law as well as with the Center on Technology Use in UC Berkeley, along with the Samuel Center for Public Policy. The meeting was to begin to understand all the research issues that have arrived through the use of video camera surveillance throughout the country and internationally. He stated that the meeting ended with a note that more meetings have to occur and with an agreement to form a long-term partnership with UC Berkeley's Public Policy School and the Boalt Hall School to keep abreast of all the legal issues that arise and to make sure a healthy balance is kept.

Commissioner Renne announced that the Commission is in receipt of a letter from Supervisor Daly asking that the proposed camera on 16th & Mission Street be postponed until he has an opportunity to convene a meeting with community stakeholders.

Commissioner DeJesus asked if the efficacy of the cameras were discussed as opposed to having better lighting, et cetera. Mr. Lee stated that all of the studies are just beginning and that they will help in the research of whether the cost benefits are here, weighing the costs of technology relative to other types of law enforcement and be able to look and evaluate, even site by site, what is being done to have the best balance.

Commissioner Campos stated that there should be significant support from the affected communities for the cameras and asked how the requirement that there be support from affected communities is actually being met. Director Nance explained that his phone has been ringing off the hook from numerous individuals from the community asking for their camera on their doorstep. Mr. Nance stated that feedback from telephone calls, reports from individuals that meet with their staff is used as the basis for determining whether or not there is some support for the camera. The crime stats is also looked at in determining the benefits of the camera. The MOCJ is also in support of the ordinance that allow for early notification to the public so that they have an opportunity to come forward.

Commissioner Sparks stated that the uncertainty as far as public safety throughout the city is that of homicides. Commissioner Sparks asked the using Comstat, homicides occurred in locations other than the locations where cameras are recommended. Commissioner Sparks stated that in the Mission District, homicides are more over toward Harrison around 26th Street; in the Northern, there are homicides around Eddy and around Laguna; in the Southern, no cameras are recommended but there have been homicides in the Southern. Commissioner Sparks asked why MOCJ used criteria from crimes that seem to be on a decline in San Francisco as opposed to homicides. Director Nance stated that while homicides are extremely disturbing and problematic for the City and for the residence of San Francisco, his office is also concern about the number of stabbings, shootings that don't result in homicides, and other violent activity that occurs against other individuals that is represented in the sites that were identified. Director Nance stated that if his office were simply to deploy the resources based on where homicides occur, that may or may not be effective. He stated that the fact of the matter remains that to the extent that sites have been identified where violent crimes occur and where there are assaults and burglaries, and where the community has indicated that they are concerned about that degree of criminal activity, Director Nance stated that he believes that the cameras can serve to deter that.

Director Nance stated that there's a total of 21 being installed. The location at 1050 McAllister has two cameras, Turk & Taylor has three camera, Mission & Geneva would have three cameras, 24th & Mission would have four cameras, 16th and Mission would have three cameras, Jones and Ellis would have three cameras, 3rd and Newcomb would have four cameras.

Commissioner Veronese stated that the goals for these cameras is deterrence. Director Nance stated that that is primarily the goal to deter crime. Director Nance also stated that the ordinance requires the department, on an annual basis, to identify the number of incidents that are captured on camera that have been pulled, the number of arrests that have occurred, the prosecutions for those offenses. Those information is, by Ordinance, required to be reported back to the Commission on an annual basis.

PUBLIC COMMENT:

David Villalobos, Community Leadership Alliance, expressed support for cameras on Turk & Taylor and Ellis & Jones locations.

Laurie Hampton lives on Ellis & Jones and discussed concerns regarding the camera not covering the grocery store that is fronting one of the gangs that's openly dealing in front of the store.

Edward Evans, Tenderloin resident, discussed crime in the Tenderloin District and expressed support for the surveillance cameras.

Stella Parker expressed support for cameras at Turk & Taylor and Ellis & Jones.

Steve Currier, President of Outer Mission Association, turned in 80 petitions in support of cameras at Geneva & Mission.

Catherine Pacheco, Outer Mission resident, expressed support for Geneva & Mission cameras.

Lone Lee, Tenderloin, expressed opposition to cameras in the Tenderloin and expressed concern regarding notice written only in English.

Mark Schlossberg, ACLU, expressed opposition to cameras.

Lorna Loon, ACLU, expressed opposition due to inadequate notice provided regarding the cameras. She stated that the ordinance was not properly followed.

Keoh Crossman, 16th & Mission, opposed the cameras.

Ethel Newman, 16th & Mission Public Safety Task Force, expressed support for the cameras.

Joseph Cadis, 16th & Mission, expressed support for the cameras.

Jeanette Berger, 16th & Mission, expressed support for the cameras.

Bobbi Lopez, Novice Latina, expressed support for the cameras in the Tenderloin but there should be more discussion about angles of the cameras.

Unidentified, Director of Housing in Tenderloin, expressed support for cameras but stated that there was inadequate notice to the community and hopes that locations of cameras be placed in the right place.

Paul Leintz, 64 Turk Street, expressed support for the cameras.

Sister Lisa Ann Martinez, Immaculate Conception Academy, 24th & Guerrero, expressed support for cameras.

Rita Alviar, 24th & Bryant, expressed support for the cameras.

Eric Arguello, President Lower 24th Street Neighborhood Association, expressed support for the cameras.

Juanita Jablonski, ACORN, expressed support for the cameras.

David Lee, SF State Graduate, President & CEO of Intelesite, talked about his company and expressed support for the cameras.

Matt Thaikovsky, Bayview, expressed support for the cameras.

Judy Merkowitz, 24th & Mission, expressed support for the cameras and would like more cameras on 16th & Potrero.

Jim Hung, Bayview Resident, expressed support for the cameras.

Eric Steinberg, City Hall employee, stated output of cameras should be made public like on a web page.

Michael Martinez, property owner in the Tenderloin, expressed support for Turk & Taylor cameras.

Darren Tuttle asked what will be done with data provided by the cameras. He stated that this may not be the solution but, today, it's a good alternative.

George Dias, District 6 Supervisor candidate, stated these cameras are an experiment and stated that the City should go for it.

Francisco Decosta stated that quality of life issue should be considered.

Kate Griffin discussed concerns regarding civil rights issues.

Elaine Zamora, District Manager for North of Market Tenderloin Community Benefit District, presented the Commission with 35 cards signed by the community in support of the cameras.

Marlon Crump, Mission Collaborative, thanked Commissioners Campos and DeJesus.

Michael Peterson, Tenderloin resident, stated that cameras should be combined with foot patrols and other solutions but he does support the cameras.

Commissioner Marshall asked how much is the cost for the cameras. Director Nance stated that for the 22 cameras it is \$275,000.00 for the hardware, cameras, and installation. Mr. Nance also announced that he has 24 signatures from residents in the Western Addition in support of the camera at 1050 McAllister.

Commissioner Campos asked the City Attorney if she had an opinion on the camera data being subjected under the Public Record's Act. Deputy City Attorney Molly Stump stated that the ordinance provide that the City will not release those records except to the Police Department under the conditions that are described in the ordinance or pursuant to a court order.

Commissioner DeJesus asked about signs and notifications for the cameras. Mr. Lee stated that the Department of Technology went out 20 days in advance and showed the Commission pictures of posted signs.

Director Nance stated that the purpose of this process is to provide the public with an opportunity to be heard and that's been done today. Director Nance stated that he would be in support of moving forward today based on feedback received.

Commissioner DeJesus stated that she concerned that there are some members of the Tenderloin community that are not present in tonight's meeting to voice their concerns.

Commissioner Sparks stated that she is also concerned about the notification issues and the language issues with notification but she is satisfied that overall communities were notified. Commissioner Sparks would like to see some type of quarterly or semi-annual reports be developed as to what the impact of the cameras are and if there is impact then the idea of shifting the cameras around periodically to try to continually concentrate on intersections and areas where there seems to be crimes and issues. Commissioner Sparks recommended that the Commission approves the camera resolution.

Commissioner Campos stated that he is also concerned about notification. He asked that the Commission wait on the 16th and Mission camera as per Supervisor Daly's request but he also stated that the issues raised by the ACLU are important that the Commission need to be vigilant in terms of making sure to see how this is working out.

Commissioner Lee stated that she is also concerned about notification and that there is no mention that the Police Commission will be holding a hearing. She stated that she supports the program reluctantly because there are issues raised by the ACLU that needs to be dealt with. She asked that Director Nance report back to the Commission in six months instead of at the end of the year. She also asked the public to come back and report to the Commission how the camera is making an impact.

Commissioner Marshall stated that the mentality that causes the City to put up the cameras is not going to be deterred by any cameras. Commissioner

Marshall stated that he would personally like to see the Commission spend a lot more time, effort, and money on doing something about the mentality that causes the City to put up the cameras. He stated that this is one tool in the strategy and hopes that this be complimented with other tools that he was talking about before but he does support this recommendation.

Commissioner DeJesus stated that she does have issues because the ACLU has brought some significant issues up and if it is not going to do any good and it is just going to be a placebo, then it is a concern, but she does agree with the safety issue and safety comes first. She is still concerned about the notification. Commissioner DeJesus stated that if the Commission wants to move on this tonight, that's fine but people that are not present tonight should be given a chance to speak.

Director Nance showed a footage of a shooting investigation where cameras were involved.

Motion by Commissioner DeJesus to approve resolution with the exception of 16th & Mission to be continued to December 6th and that Mr. Nance comes back in six months for a status report. Second by Commissioner Lee.

Commissioner Sparks would like to vote on all the sites tonight, approve all the locations tonight, contingent upon Supervisor Daly coming back and suggesting that that is not a good location at which time that particular site can be revisited.

Commissioner Renne stated that as a matter of courtesy to the Supervisor, the Commission should continue it to December 6th and also when the Supervisor is notified, to tell him there was substantial support for that site.

AYES: Commissioners Renne, Campos, DeJesus, Lee, Marshall, Sparks, Veronese

RESOLUTION 70-06

APPROVAL OF INSTALLATION OF COMMUNITY SAFETY CAMERAS

WHEREAS, pursuant to SF Admin Code 19.4(b), the Police Commission held a public hearing to consider the proposal of the Mayor's Office of Criminal Justice (MOCJ) for pilot installation of Community Safety Cameras at the following locations:

Third Street & Newcomb Avenue	Geneva Avenue & Mission Street
16 th Street & Mission Street	24 th Street & Mission Street
Turk Street & Taylor Street	Ellis Street & Jones Street
1050 McAllister Street	

WHEREAS, after hearing public comment and discussion on the above-mentioned proposal, the Commission approved all of the recommended MOCJ Community Safety Camera installation locations except for the 16th and Mission Streets location to provide Supervisor Chris Daly more time to meet with community stakeholders on the matter; therefore, be it

RESOLVED, that the Police Commission approved all of the recommended MOCJ Community Safety Camera installation locations except for the 16th Street and Mission Street location;

FURTHER RESOLVED, that the Police Commission has put over action on the matter of the 16th Street and Mission Street location for its meeting of December 6, 2006.

AYES: Commissioners Renne, Campos, DeJesus, Lee, Marshall,
Sparks, Veronese

(The Commission to a five minute recess at 9:00 p.m. and returned at 9:05 p.m.)

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE RECOMMENDATIONS OF THE CHIEF OF POLICE AND IMPOSE DISCIPLINE IN THE MATTER OF LIEUTENANT JERRY LANKFORD (FILE NOS. C04-105 JWA, C04-113 JWA, AND C04-126 JWA)

(This proceeding was taken in shorthand form by Ms. Anna Greenley, CSR.)

PUBLIC COMMENT

Ms. Eileen Burke spoke on behalf of Lieutenant Lankford.

Ms. Marguerite Machen spoke on behalf of Lieutenant Lankford and stated that he is a good manager and effective leader.

Ms. Doris Machen, Machen Center, spoke on behalf of Lieutenant Lankford and expressed concern that there is no officers present to support him.

Lieutenant Jerry Lankford made a brief statement on his behalf.

Motion by Commissioner Marshall, second by Commissioner DeJesus to go into Closed Session. Approved 7-0.

Motion by Commissioner Marshall, second by Commissioner Campos to not disclosed.

AYES: Commissioners Renne, Campos, Lee, Marshall, Sparks, Veronese

NAYS: Commissioner DeJesus

RESOLUTION NO. 69-06

IMPOSITION OF DISCIPLINE IN THE MATTER OF LIEUTENANT JERRY LANKFORD (FILE NOS. C04-105 JWA, C04-113 JWA, AND C04-126 JWA)

The hearing of Lieutenant Jerry Lankford, Star No. 1707, was called it having been set for this date. Lieutenant Lankford was charged, in a properly verified complaint by Heather J. Fong, Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures, as follows:

FILE NO. C04-105 JWA:

SPECIFICATION NO. 1

Engaging in conduct that subverts the good order, efficiency or discipline of the department or which reflects discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (1) At all times herein mentioned, Jerry Lankford, Star Number 1707, (after this called "the accused") was and is a police officer employed by the San Francisco Police Department holding the rank of Q-60 Lieutenant and assigned to the Ingleside District and now assigned to the Administration Bureau.
- (2) As a police officer, the accused was and is responsible for knowing and

obeying the rules, orders and procedures of the San Francisco Police Department.

- (3) On June 30, 2003, the accused worked the swing watch at the Ingleside Police Station, commencing at 1500 hours and ending somewhere between 0030 and 0100 hours on July 1, 2003. After the accused finished his tour of duty, he left the Ingleside Station in his personal automobile. The automobile he was driving that morning was a black Cadillac Escalade sport utility vehicle (his SUV). The automobile has a personalized license plate.
- (4) On July 1, 2003, at about 0200 hours, the accused was driving his SUV on Ellis Street near Mason Street in San Francisco, California. The accused saw a young woman (the victim) walking by herself on the sidewalk on Ellis Street. The victim was a student who had just visited a friend who lived on Mason Street and was returning to her home in a hostel on Ellis Street. The accused followed her slowly down the street and when she finally asked him what he wanted, he offered her a ride which she declined. The accused continued following the victim, he in the street in his SUV and she on the sidewalk. Finally, the victim crossed the street behind the SUV to the other side of Ellis Street. The accused opened the passenger side door and told the victim to get in the car. The victim declined but the accused pulled the victim into the car. The door closed, as she was holding onto it, and the accused locked the doors of the SUV so that she could not exit.
- (5) The accused asked the victim if she wanted to “earn a little money” and told her that it would only “take about five minutes.” The victim believed that the accused was soliciting sex from her and she declined but was afraid, because the accused continued driving around with the doors locked and would not let her out of the SUV. Finally, he let her out of the SUV at the corner of Ellis Street and Larkin Street in San Francisco, California. The victim ran to her residence which was on Ellis Street near the corner of Larkin Street. The accused was shaken by the incident and told the desk clerk at her residence what happened and he called police at 0217 hours on July 1, 2003. San Francisco police officers responded to the victim’s residence and other units searched the area for a dark SUV. The accused was contacted on Van Ness Avenue and California Street by SFPD officers but since they believed they were looking for a car containing a kidnap victim, and the accused was alone in his SUV, they did not pursue the contact.
- (6) There is prostitution activity on Ellis Street where the accused began following the victim as she walked up the street. The accused’s presence in areas with high levels of prostitution activity had come to the attention of various police agencies in the past.
- (7) The accused, by pulling the victim into his automobile and not letting her out, and by offering the victim an opportunity to earn some money, which under the circumstances the victim believed was a solicitation for paid sex from her, has engaged in conduct which any reasonable police officer would recognize as conduct bringing discredit on the department and conduct which subverts the good order and discipline of the department and therefore he violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:
 - “9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the state that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit

upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

SPECIFICATION NO. 2

Failure to answer truthfully and without evasion when questioned by a superior officer (violation of Rule 21 of Department General Order 2.01 of the San Francisco Police Department.)

- (8) Each and every allegation contained in paragraphs (1) through (6), inclusive, of Specification No. 1 above is incorporated herein by reference and is realleged as though set forth in full.
- (9) On October 22, 2003 and October 23, 2003, the accused was interviewed by investigators from the Management Control Division regarding the incident on July 1, 2003 set forth in Specification No. 1 above.
- (10) Before the interview, the accused was told of his duty, set out in rule 21 of Department General Order 2.01, to answer truthfully and without evasion concerning the incident.
- (11) During the course of the interview, the accused was untruthful and evasive in his answers in the following particulars.
 - (A) The accused said he remembered the night of June 30 - July 1, 2003 because of an incident concerning the death of an 18-month old child that occurred when he was working that night. In fact the incident involving the death of the child did not occur until July 2, 2003.
 - (B) On October 22, 2003, the accused said that he visited a friend in San Francisco for about an hour at her home after he ended his tour of duty and then he went home. On October 23, 2003, the accused said that he had not stayed at his friend's house, but that they had gone out in his automobile to search for a business establishment selling barbecue.
 - (C) The accused told the MCD investigators that he went home to Richmond, California, after leaving his friend's house on July 1, 2003. The accused denied that he had driven through the Tenderloin and that he had pulled the victim into his car.
 - (D) The accused told MCD investigators that he had not talked with a woman on Ellis Street. The preponderance of the evidence proves he did talk with the victim in this incident.
 - (E) The accused stated to MCD investigators that he did not telephone anyone about his contacts with SFPD officers in the early morning hours on July 1, 2003. The evidence supports the fact that he did call the Night Supervising Captain, who made further inquiries on his behalf that morning.
 - (F) The accused stated that another police captain had told him that he was cleared in the criminal investigation of this incident and the Chief of Police had said that everything was alright because “they had cleared him and that was that.” The captain denied that he had told the accused that the criminal investigation cleared him.

- (12) The accused, by his conduct of making untrue and evasive statements to Management Control Division investigators violated Rule 21 of Department General Order 2.01, which states:

“21. COOPERATION WITH INVESTIGATORS. Members shall, when questioned on matters relating to their employment with the Department by a superior officer or by one designated by a superior officer, or by a member of the Office of Citizen Complaints, answer all questions truthfully and without evasion. Prior to being questioned, the member shall be advised of and accorded all his or her rights mandated by law or Memorandum of Understanding. (See DGO 2.08, Peace Officers’ Rights).”

FILE NO. C04-113 JWA:

SPECIFICATION NO. 1

Engaging in conduct that subverts the good order, efficiency or discipline of the department or which reflects discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (1) At all times herein mentioned, Jerry Lankford, Star Number 1707, (after this called “the accused”) was and is a police officer employed by the San Francisco Police Department holding the rank of Q-60 Lieutenant and assigned to the Ingleside District and now assigned to the Administration Bureau.
- (2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders and procedures of the San Francisco Police Department.
- (3) During July 2003, the Mayor of San Francisco, received a complaint from a retired member of the San Francisco Police Department concerning the accused’s conduct. On July 14, 2003, the Mayor’s staff forwarded the email to the Chief of Police of the San Francisco Police Department. The email alleged that the accused frequented high crime areas of Bay Area counties, particularly areas with large numbers of prostitutes working the streets. The initial complaint was that the accused had been shot while in an area known for prostitution in Richmond, California.
- (4) The Management Control Division initiated an investigation. The investigation determined that on two recent occasions, East Bay law enforcement officers had contact with the accused, one on June 2, 2003, in Oakland, California, and one on June 8, 2003, in Emeryville, California. These contacts were consistent with prostitution related activity.
- (5) The June 2, 2003, contact occurred at 0157 hours when an Oakland Police Officer queried the computer regarding the license plate number of the car the accused was driving. The officer ran the plate based on the high level of criminal activity in the area and the fact that the accused was driving his automobile much slower than the flow of traffic. The contact occurred at 0157 hours near International and High Streets in Oakland, California. That area is a high crime area with high levels of prostitution activity along with shootings and robberies. There are few businesses open at that time of morning.
- (6) A query of the computer showed that two San Francisco Police Department Officers were looking for stolen automobiles in the area of Turk and Eddy Streets on June 2, 2003, at 0123 hours when they saw

the accused's vehicle. They queried the computer regarding the license plate of the automobile the accused was driving at that time. The officers pulled up next to the car the accused was driving and one of the officers recognized the accused who had come back as the owner of the vehicle. The officers broke off the contact once they recognized the accused. The area of Turk and Eddy Streets is a high crime area frequented by prostitutes working from the streets.

- (7) On June 8, 2003, at 1953 hours, an Emeryville Police Officer noticed the accused's automobile at San Pablo Avenue and 56th Avenue. That area is frequented by prostitutes and pimps. One of the Emeryville officers stated that the accused's automobile was the same kind that was popular with local pimps. The basis for pulling the accused over was that his rear license plate was covered with a neatly folded towel extending from the rear tailgate of the automobile. One of the officers called the violation to the accused's attention and the accused replied, "Is that against the law?" California Vehicle Code §5201 prohibits covering an automobile license plate. After running the license plate and identifying the accused, the officers permitted the accused to leave.
- (8) The accused, by frequenting areas of high crime and prostitution activity and in covering his license plate in violation of the California Vehicle Code, has engaged in conduct which any reasonable police officer would recognize as conduct bringing discredit on the Department and conduct which subverts the good order and discipline of the department and therefore he violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

"9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the state that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 2

Engaging in conduct that subverts the good order, efficiency or discipline of the department or which reflects discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (9) Each and every allegation contained in paragraphs (1) through (8), inclusive, of Specification No. 1 above is incorporated herein by reference and is realleged as though set forth in full.
- (10) The accused provided his California Drivers License to the Management Control Investigator investigating this matter. He stated that he did not exercise the privilege to have his residence address held confidential in Department of Motor Vehicles records. However, when his Department of Motor Vehicles record was accessed, the record lists the accused's address as "California Department of Justice."
- (11) The Department of Motor Vehicles "Request for Confidentiality of Home Address" form is clear in separating State agencies from police departments. Department Bulletin 01-164 requires that only the Personnel Division can make a request for confidentiality to the Department of Motor Vehicles.
- (12) The accused, by not knowing that covering his license plate violated

the California Vehicle Code, violated Rule 7 of Department General Order 2.01, which states:

“MAINTAINING KNOWLEDGE. Members shall acquire and maintain a working knowledge of all information required for the proper performance of their duties (see DGO 3.01, Written Communications System).”

- (13) The accused, by not following department procedure for requesting confidentiality, violated Rule 10 of Department General Order 10, which states:

“WRITTEN ORDERS. Members shall obey all written orders, policies and procedures of the Department, and promptly obey all lawful written or verbal directives of superiors.”

- (14) The accused, by his conduct in using the Department of Justice for his home address with the Department of Motor Vehicles without having the Personnel Division fill out the form and by professing not to know that he could not cover his license plate in violation of Rules 7 & 10, violated Rule 9 of Department General Order 2.01, which states:

“9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the state that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

FILE NO. C04-126 JWA:

SPECIFICATION NO. 1

Engaging in conduct that subverts the good order, efficiency or discipline of the department or which reflects discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (1) At all times herein mentioned, Jerry Lankford, Star Number 1707, (after this called “the accused”) was and is a police officer employed by the San Francisco Police Department holding the rank of Q-60 Lieutenant and assigned to the Ingleside District and now assigned to the Administration Bureau.
- (2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders and procedures of the San Francisco Police Department.
- (3) Between January 2002 and August 2003, the accused had several motor vehicles registered in his name. The vehicles were the subject of computer inquiries by San Francisco Police Department field units on nineteen (19) separate occasions. Most occasions did not result in traffic stops, however, on three occasions, units stopped the accused in one of his vehicles.
- (4) The first query recorded which resulted in a traffic stop occurred on December 28, 2002, at 0026 hours. Two officers assigned to the Richmond District, on patrol noted a vehicle traveling at a high rate of speed ignore a stop sign and enter Geary Boulevard traveling westbound. The officers queried the license plate in the computer

while following the vehicle and effected a traffic stop near the intersection of Arguello Boulevard and Clement Avenue, in San Francisco, California. The driver Officer (Officer One) approached the vehicle, 1997 Lexus, and asked the driver for his driver's license and proof of insurance. The accused did not comply, but asked Officer One why he was being stopped. Officer One said he was stopped for speeding and for running a stop sign. The accused said "Oh," and reached in a large notebook binder and produced his San Francisco Police Department identification card which listed the accused's rank and name. Officer One scrutinized the identification card, saw that it matched, returned the card to the accused and wished him a good evening. The accused drove away.

- (5) The second query which resulted in a traffic stop occurred on April 29, 2003, at 0148 hours. Two officers assigned to the Park District on patrol noticed a vehicle roll through a stop sign. They followed the vehicle and noted that the rear license plate was covered. California Vehicle Code §5201 prohibits covering an automobile license plate so that it is not clearly visible and requires that it be maintained so as to be clearly legible. The officers followed the vehicle for about two blocks and effected a traffic stop near the intersection of Haight and Pierce Streets. The driver Officer (Officer Two) approached the driver's side of the vehicle, a black Cadillac Escalade [SUV], and noted that he could see the face of the accused in the exterior rear view mirror giving him a mean look. When he arrived near the door, he noted that the accused's hands were done in his lap. Officer Two gave him a second command to put his hands on the steering wheel and he did not comply immediately, but finally did comply. Officer Two asked the accused for his driver's license and registration. The accused did not answer or hand over the requested documents. Officer Two thought that the accused looked familiar to him. Officer Two asked the accused if he was a cop. The accused did not reply. The accused did not give Officer Two his driver's license or registration, but kept his hands on the steering wheel and kept staring at Officer Two. Finally, Officer Two placed the accused's face and asked, "Lieutenant Lankford, Ingleside Station?" The Officer had worked with the accused a couple of years before at Ingleside Station. The accused answered, "Yes, I am." The Officer thought a moment then said to the accused, "Have a nice night," and started to walk back to his patrol car.
- (6) Before Officer Two got back to his patrol car, the accused yelled at him, "Why did you pull me over?" Officer Two answered that he had a towel covering his license plate and told him that he might want to pull it up. The accused continued his questioning of Officer Two. Officer Two suggested to the accused that he exit his SUV to observe the towel obscuring his license plate and then tell Officer Two that it "isn't a good traffic stop." The accused exited his SUV and went to the back of the car and say, "you pulled me over for that?" The accused told Officer Two "that is my golf towel," and opened the tail gate and threw the towel in the back of the SUV with his golf clubs. However, Officer Two observed before the stop that the towel did not appear to flutter while the vehicle was traveling, that it covered all the letters on the license plate, and that afer the stop it appeared to be intentionally tucked in at the edges. The accused returned to his SUV and drove away.
- (7) A third query which resulted in a traffic stop occurred on May 8, 2003, at 0226 hours. A San Francisco Police Department Officer (Officer Three) assigned to the Mission District was on patrol in a marked police vehicle. The Officer observed a black Cadillac Escalade (SUV) with tinted windows driving on the street with a piece of cloth

obscuring the rear license plate. The Officer could not see who was driving the vehicle or how many persons were in the vehicle. The Officer effected a traffic stop for a violation of California Vehicle Code §5201 near the intersection of 24th Street and Mission Street in San Francisco, California. As he approached the accused's SUV, Officer Three noted that he could only see the first three letters on the license plate, with the remaining numbers covered by a towel.

(8) Officer Three approached the driver's side door on the accused's SUV and requested that the driver produce the driver's license, registration, and proof of insurance. Officer Three observed that the accused was very upset and asked Officer Three, "Why did you stop me?" Officer Three told the accused, "excuse me, relax, calm down; you have a towel covering your license plate." Officer Three then asked the accused for his license, registration, and proof of insurance and the accused said, "that's not a violation, what is the real reason you stopped me?" Officer Three told the accused the violation. The accused finally handed Officer Three his driver's license and again asked why he had been stopped. Officer Three took the license and started back to his patrol car. He told the accused to wait in his car while he reviewed the information of the driver's license. As soon as he turned from the window, the accused exited his SUV and walked to the rear of the vehicle. He opened the tailgate of the SUV and threw the towel in, protesting that, "this wasn't a violation, you don't know what you are doing, this isn't a violation, it's a mere accident." Officer Three observed that the towel was not free hanging, but was hanging straight down and appeared to be tucked under the license plate frame. After the tailgate was closed, the accused handed Officer Three his San Francisco Police Department identification card. Officer Three reviewed it and then handed the drivers license and identification card back to the accused, who grabbed them out of Officer Three's hand, entered the SUV and left.

(9) The accused, by engaging in minor traffic violations and refusing to comply with officer's requests for his driver's license, registration, and proof of insurance and in covering his license plate in violation of the California Vehicle Code, has engaged in conduct which any reasonable police officer would recognize as conduct bringing discredit on the Department and conduct which subverts the good order and discipline of the department and, therefore, he violated Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

"9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the state that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 2

Engaging in conduct that subverts the good order, efficiency or discipline of the department or which reflects discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(10) Each and every allegation contained in paragraphs (1) through (8), inclusive, of Specification No. 1 above is incorporated herein by reference and is realleged as though set forth in full.

(11) When interacting with the officers who stopped him for minor traffic violations, the accused appeared to challenge the authority of the officers, he was uncooperative, intimidating, and, in two instances, told the officers that covering a license plate was not a violation of law. When Officer One stopped the accused, the accused refused to cooperate, when asked for his driver's license, registration, and proof of insurance. After he was informed that he had been speeding and driven through a stop sign without stopping, the accused provided his San Francisco Police Department identification card to the officer instead of the requested documents. Officer Two felt the accused attempted to intimidate him by staring at him and refusing to follow his instructions. At first, the accused refused to place both hands on the steering wheel, an officer safety measure. When Officer Two requested his driver's license, registration, and proof of insurance, the accused did not answer and did not cooperate. When Officer Two thought that he knew the accused's identity, he did not acknowledge that he was a member of the Department until the officer identified him by name. The accused created a scene after Officer Two had let him go and wished him a good evening. With Officer Three, the accused became agitated and when asked for his driver's license and proof of registration did not give him the requested documents but demanded to know why he had been stopped, and when the officer told him the reason, the accused told the officer that the violation of the Vehicle Code was not the real reason, and again demanded to know why he was stopped.

(12) The accused, by being uncooperative, intimidating, and by trying to tell the officer that covering his automobile license plate was not a violation of law, violated rule I-A-1 of Department General Order 1.06, which states:

“I. POLICY

- A. SUPERIOR OFFICERS. All superior officers shall:
1. CONDUCT. Set an example of efficiency, sobriety, discretion, industry and promptness. Not use abusive language or act arbitrarily in dealing with subordinates.”

(13) The accused, by his conduct in being uncooperative, intimidating, and challenging the authority of the officers who stopped him violated Rule 9 of Department General Order 2.01, which states:

- “9. MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the state that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

WHEREAS, hearings on said charges were held before the Police Commission pursuant to Section 8.343 of the Charter of the City and County of San Francisco on September 26th, 27th, 28th, 29th, October 3rd, 4th, 5th, 6th, 7th, 13, 2005, January 10th, 11th, 20th, 24th, 25th, 31st, February 1st, 3rd, June 5th, 6th, 12th, 13th, 20th, 21st, 26, 2006, and on October 11, 2006, the matter was submitted to the Police Commission for decision. On November 1, 2006, the following findings were adopted by the Commission:

File No. C04-126 JWA:
Specification No. 1 Sustained
Specification No. 2 Sustained

File No. C04-105 JWA:
Specification No. 1 Not Sustained
Specification No. 2 Not Sustained

File No. C04-113 JWA:
Specification No. 1 Sustained
Specification No. 2 Not Sustained

Based on those findings, the Commission requested a recommendation from Chief of Police Heather J. Fong. Chief Fong recommended the following:

File No. C04-126 JWA:
Specification No. 1, that Lieutenant Lankford be suspended for thirty (30) days with fifteen (15) days held in abeyance for five (5) years.

Specification No. 2, that Lieutenant Lankford be suspended for ninety (90) days.

File No. C04-113 JWA:
Specification No. 2, that Lieutenant Lankford be suspended for thirty (30) days with fifteen (15) days held in abeyance for five (5) years.

And that Lieutenant Lankford participate in the Department's 11.11 Program for five (5) years and participation in an Anger Management Program; therefore be it

RESOLVED, that based on the findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

File No. C04-126 JWA:
Specification No. 1, that Lieutenant Lankford be suspended for forty-five (45) days with fifteen (15) days held in abeyance for five (5) years and thirty (30) days imposed.

Specification No. 2, that Lieutenant Lankford be suspended for ninety (90) days.

File No. C04-113 JWA:
Specification No. 2, that Lieutenant Lankford be suspended for forty-five (45) days with fifteen (15) days held in abeyance for five (5) years and thirty (30) days imposed.

And that Lieutenant Lankford participate in an Anger Management Program for five (5) years.

FURTHER RESOLVED, that said total one hundred fifty (150) day suspension imposed shall commence on Thursday, November 16, 2006, at 0001 hours, and terminate on Saturday, April 14, 2007, at 2400 hours. Lieutenant Lankford is directed to make telephone contact with his commanding officer three (3) days before the end of his suspension for further direction regarding his return to duty. If Lieutenant Lankford is unable to reach his commanding officer, he shall report to his unit by 0900 hours on the day his suspension ends.

If this decision is subject to review under Code of Civil Procedure

§1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.

AYES: Commissioners Renne, Campos, Lee, Marshall, Sparks,
Veronese
NAYS: Commissioner DeJesus

DISCUSSION AND POSSIBLE ACTION TO ADOPT A RESOLUTION REGARDING STIPULATED DISPOSITIONS OF DISCIPLINARY CHARGES AND/OR REPORTING OF DISCIPLINARY CASE PROCEEDINGS

PUBLIC COMMENT

Carl Olsen, Hearst Corporation, discussed concerns regarding how disciplinary proceedings are handled.

Mark Schlossberg, ACLU, supports not having settlements done in closed session.

Motion by Commissioner Campos, second by Commissioner DeJesus that the original resolution be approved.

Commissioner Sparks would like to amend the original resolution that cases less than 45 days be allowed to have stipulated dispositions in closed session and that this policy would be in effect for a 9-month period of time after which the Commission will readdress the issue to see if it is working.

Commissioner Campos stated that the Commission needs a vote on the original resolution and did not accept the amendment.

AYES: Commissioners Campos, DeJesus, Sparks
NAYS: Commissioners Renne, Lee, Marshall, Veronese

Motion by Commissioner Veronese, second by Commissioner Marshall to adopt Commissioner Veronese's proposed policy.

AYES: Commissioners Renne, Lee, Marshall, Veronese
NAYS: Commissioners Campos, DeJesus, Sparks

RESOLUTION NO. 71-06

RESOLUTION REGARDING POLICE COMMISSION POLICY AND PROCEDURES FOR PROCEEDINGS IN DISCIPLINARY CASES

WHEREAS, Charter section A8.343 provides that police officers who violate the rules and regulations of the Police Department may be suspended or dismissed from employment "after a fair and impartial trial" before the Police Commission; and

WHEREAS, from time to time, an officer who is charged with misconduct and the charging official (the Chief of Police or the Director of the Office of Citizen Complaints) approach the Commission with a proposal to expedite resolution of a disciplinary case through a procedure called "stipulated disposition." In such cases, the charged officer agrees to admit (or "stipulate") that some or all of the charged conduct occurred and that the conduct violated Department rules, provided that the Commission imposes the penalty that the officer and the charging official jointly recommend. If the Commission determines that the recommended penalty is appropriate under all the circumstances, the Commission finds, on the basis of the officer's stipulation, that the salient facts and the rule violation(s) occurred, and imposes the recommended penalty. If the Commission determines that the recommended penalty is not appropriate, the Commission rejects the proposed stipulation and recommended penalty, the officer withdraws his or her stipulation to the facts, and the matter proceeds to a trial as provided in the Charter; and

WHEREAS, the Commission has made available the “stipulated disposition” procedure as an administrative convenience to parties who wish to use it. The Commission is under no legal obligation to entertain or grant proposals for stipulated dispositions; and

WHEREAS, the Commission finds that public access to police disciplinary records in cases where serious misconduct is alleged increases public confidence in the Police Department by demonstrating that officers who commit misconduct are held accountable for their actions; and

WHEREAS, the Commission finds that openness is particularly important where stipulated dispositions are proposed for cases of serious misconduct. If the Commission considers and approves a stipulated disposition in closed session without public disclosure, the public may view the disposition as a “backroom” or “closed door” deal. Denying the public access to proceedings and records of stipulated dispositions threatens to erode public confidence in the Police Department to a greater degree than where full trials are conducted; and

WHEREAS, the California Supreme Court has held that Penal Code section 832.7 makes peace officer disciplinary records, including the identity of the peace officer, confidential. (*Copley Press Inc. v. Superior Ct.*, S128603, August 31, 2006.) Confidential records may not be provided to the public unless an officer waives confidentiality and authorizes disclosure, or where exceptions provided in the law are present; now, therefore be it

RESOLVED, that it is the policy of the Police Commission to provide public access to information about the disciplinary system to the maximum extent permitted by law; and

FURTHER, BE IT RESOLVED, that the Commission encourages officers to consider waiving confidentiality under Penal Code section 832.7, and consenting to public disciplinary proceedings. In any case where the officer waives confidentiality, the Commission will hold the stipulated disposition or disciplinary trial in public; and

FURTHER, BE IT RESOLVED, that the Commission will issue a bi-monthly report giving the findings of any disciplinary hearing (whether by trial or by “stipulated dispositions”) during the preceding reporting period pursuant to this resolution.

The Commission’s report will include (1) the case number, (2) the alleged rule violation(s), (3) a brief summary of the factual basis for the alleged rule violation(s), (4) the disposition of each alleged violation, (5) the type of proceeding (full trial or stipulated disposition), (6) the penalty imposed, and (7) any relevant policy failures identified. Per Penal Code section 832.7, the identity of the peace officer will remain confidential.

FURTHER, BE IT RESOLVED, that the Commission will place the report on its regular meeting agenda, and take public comment on the item; and

FURTHER, BE IT RESOLVED, that the Commission affirms that every police officer who is charged with misconduct is entitled to a full and fair trial on the charges. No officer will be penalized or sanctioned at trial in any manner for exercising their right to a trial or to confidentiality. The Commission affirms that every disciplinary matter that proceeds to trial will be fully and fairly tried, and will be decided solely on the evidence presented at trial.

AYES: Commissioners Renne, Lee, Marshall, Veronese

NAYS: Commissioners Campos, DeJesus, Sparks

PUBLIC COMMENT

Mark Schlossberg, ACLU, asked that the resolution be revisited.
Carl Olsen agrees with Mark Schlossberg in that the resolution should be revisited.

CHIEF'S REPORT

a. Update on significant policing efforts by Department members

Commissioner Sparks asked regarding comments made by the Chief in regards to foot patrols. Chief Fong explained that the Department prepared a proposal as to foot patrols. The proposal covers 10 districts versus 8 districts, which is covered in the legislation. In the legislation for the 8 districts, 2 of those districts, Northern & Park, have specific geographic areas outlined. For the 6 of the districts, the discretion is left to the Captains. The Chief explained that her comments relevant to that is that if there were a change in the Park and Northern District and in the areas that are addressed, the crime have been displaced elsewhere, she would like to see the Captains come back with information relative to that. Chief Fong stated that the Department's plan is comprehensive and it does comply with the provisions of the legislation.

Commissioner Campos expressed concern regarding information provided by the Department in that the Department reacted to the initial proposal that the Department did not have the resources to implement the legislation but now the Department is able to do exactly what the legislation wanted it to do and that raises some issues about the accuracy of information provided. Chief Fong explained that when the legislation was talked about, she clearly stated that the intent and the will was there to do that but the Department had to get all its civilianization and recruit classes in place. Chief Fong stated that what the Department did, knowing that this is something the Department wanted to do, was the Department have a group of civilian staff coming in and there's a class finishing and the last thing the Department wanted to do was to take people out of radio cars. Chief Fong stated that these are new resources that are being put out there and the Department is continuing with its civilianization process.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

No report.

COMMISSION ANNOUNCEMENTS

No meeting on November 22nd and the 29th will be in the Mission District at the Eureka Valley Recreation Center, 100 Collingwood Street, at 6:00 p.m.

ADJOURNMENT

Motion by Commissioner Campos, second by Commissioner Marshall.
Approved 7-0.

Thereafter, the meeting was adjourned at 10:58 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission