

**MAY 17, 2006**

**CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:44 p.m., in Closed Session.

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

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

None

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

Motion by Commissioner Marshall, second by Commissioner Veronese to hold Closed Session. Approved 6-0.

**CLOSED SESSION PURSUANT O GOVERNMENT CODE SECTION 54956.9(a) AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)(1)**

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

- a. Bettencourt v. CCSF, Superior Court Case No. 04-504336, Court of Appeal No. A112880
- b. Cota v. CCSF, Superior Court No. 05-505197, 05-505205, Court of Appeal No. A112331
- c. Breslin v. CCSF, Superior Court No. 04-504029, Court of Appeal No. A111455

**CLOSED SESSION PURSUANT TO GOVERNMENT CODE 54956.9(b) AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)(2)**

CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

- a. Application process and qualifications for Patrol Specials and Patrol Special Assistants

**MAY 17, 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 7:41 p.m., in Regular Meeting.

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

**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 DeJesus, second by Commissioner Marshall for non disclosure of discussion held in Closed Session. Approved 6-0.

**DISMISSAL OF DISCIPLINARY CHARGES FILED IN CASE NOS. C05-056 SL, C05-057 SL, C05-058 SL, AND C05-059 SL AS ORDERED BY SAN FRANCISCO SUPERIOR COURT IN CASE NO. CPF 05-505929 (Resolution 35-06)**

Taken out of order.

**PUBLIC COMMENT**

None

Commissioner Sparks asked if the order from the court is available to the public. Deputy City Attorney Molly Stump stated that the City has not received the written order from the judge. The judge did issue an order from the bench so the Commission has been ordered by the Superior Court that the writ has been granted. The written order will be provided into the public record as soon as it is received.

Motion by Commissioner Marshall, second by Commissioner DeJesus to dismiss the charges. Approved 6-0.

**PUBLIC COMMENT**

Lorraine Altamirano discussed concerns regarding the dismissal of the charges and thanked former Commissioner Peter Keane for writing the article published by the Chronicle.

**CHIEF'S REPORT**

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

Chief Fong updated the Commission on the administration of the Q-2 Police Officer examination held yesterday. Chief Fong stated that there were 800 people who participated and there will be a class of 50 that will be starting the last week of June.

*(Commissioner Renne leaves at 7:54 p.m.)*

**PUBLIC COMMENT**

None

**OCC DIRECTOR'S REPORT**

**a. Review of Recent Activities**

**b. Further discussion of OCC's First Quarter Early Warning Report**

Director Allen talked about anonymous complaints received by the OCC. Director Allen stated that the OCC Rules allow the acceptance of anonymous complaints. Director Allen stated that education should not be mistaken as solicitation and explaining to the public that they have a right to file a complain anonymously is not in violation of any rules.

Commissioner Veronese asked what are the standards for requirements for acceptance of complaints. Director Allen stated that the 1983 Rules basically that the OCC will take any complaint from citizen and to deem a complaint frivolous, the OCC will look into any complaints that is filed by a citizen as long as it is by an officer who is on duty or acting under color of authority.

Commissioner Sparks asked the City Attorney if it is clear at when the time frame starts as far as the one year statute of limitation as relative to when the complaint was filed as opposed to when an incident occurred and when notification of the Department occurred. Deputy City Attorney Molly Stump stated that the Government Code states that the time begins to run when an official or city employee or an official who has the authority to investigate is made knowledgeable about the incident. Ms. Stump stated that for the OCC it would generally be the date that a complaint is made.

Commissioner Sparks asked if the POA has contacted Mr. Allen in

regards to the incident that they brought to the public's attention last week. Director Allen stated that no. Commissioner Sparks asked if the POA had come to the OCC, would it have been investigated. Director Allen stated yes and they have done that before. Commissioner Sparks stated that what was done last week was an inappropriate comment and constituted a personal attack on an individual and should not have occurred.

Commissioner Campos asked if there has been an instant where the POA has filed a complaint and the OCC have not investigated that complaint. Director Allen stated that all complaints filed are investigated.

Commissioner DeJesus agreed with Commissioner Sparks and stated that the POA should follow procedures before making any comments.

Commissioner Sparks commented regarding the Early Warning Report. She stated that the commission looked at the confidential reports and that there are some egregious allegations. Is there a method in which the Department is notified in a case of an egregious allegation and if there is an egregious allegation, is there a process in which those particular allegations can be prioritized to be investigated first as opposed to some of the less egregious ones. Director Allen stated that the OCC notifies the District Attorney and the Chief if they see anything criminal and that notification would happen immediately after he has been brief on the case. Director Allen talked about the morning report that goes to each commanding officer about the complaints that are received from their district within the week. The report identifies all complaints that come into the OCC. Director Allen explained that there are several processes in place where certain complaints would go immediately to Legal if they have legal issues and they have processes to make sure that evidence are not lost or that witnesses are interviewed as quickly as possible.

Commissioner Marshall asked about a closed session in regards to the Early Warning Report. Deputy City Attorney Molly Stump stated the matter was agendaized today on the open session for the Commission to have an opportunity to ask procedural questions not having to do with any of the specific content of that confidential document.

Commissioner Veronese asked about the morning report. Director Allen stated that the complaint forms are supplied along with the morning report to the Commanding Officer and to the officer. Commissioner Veronese asked Captain Keohane as to what happens if an egregious allegation is received by the Department on an early warning report. Captain Keohane stated that what is being talked about is receiving a complaint of misconduct against an officer. The discussion so far is only been when somebody walks into the OCC and makes a complaint. Captain Keohane stated that the most prevalent way complaints are received about police officers are through the police department and they happen immediately. Captain Keohane stated that under DGO 2.04 spells out when an immediate investigation has to be performed and some of the criteria is the conduct is still occurring, the allegation is that the officer is unfit to perform police duties, a witness may be unavailable later, the complainant alleges criminal conduct, or the complainant alleges unnecessary force resulting in serious injury and medical treatment. When any one of these complaints is received by the police department, OCC is notified immediately. Also, the Deputy Chief of Investigations is notified within the Department and the circumstances are looked at through the totality of the supervisors on the scene and other information. The Captain of Risk Management is also notified and makes a determination whether an immediate criminal investigation should take place as well as any other investigations. Captain Keohane stated that the Department receives the morning report on a weekly basis and Captain Keohane stated that modification into DGO 3.19 and that 293 form received by the commanding officer goes directly to the

supervising officer in question. That is then entered into the member's PIP file at the District Station immediately. The supervisor will look if there is any kind of a pattern and practice and, in theory, if there is, action should be taken to correct performance if there is a behavioral problem before it comes to the point of the mandated performance review.

Commissioner Campos asked if anybody looks at patterns that are not specific to an officer but trends that is seen in the Department as a whole or maybe out of the specific station from the morning reports. Captain Keohane stated that the morning reports does not provide the Department that type of information at this time but with the new system, the Department will be able to look at that. Director Allen stated that in the past the OCC has written letters to the Chief in regards to behavioral patterns or trends.

#### **PUBLIC COMMENT**

Steve Johnson, POA, discussed concerns regarding comments made by the Commission. He also discussed concerns regarding OCC soliciting complaints.

#### **APPROVAL OF MINUTES FOR THE MEETING OF MAY 3, 2006**

Motion by Commissioner Campos, second by Commissioner DeJesus to approve the minutes. Approved 5-0.

#### **COMMISSION ANNOUNCEMENTS**

None

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

Commissioner Veronese asked that the Commission look into the allegation regarding the OCC subpoena.

Commissioner DeJesus asked the list of priorities be looked at again.

Commissioner Campos would like an update from the Department and OCC regarding the language access issues talked about in the past.

Commissioner Sparks asked about inappropriate videos and would like an update from the Chief regarding the ongoing investigation.

Motion by Commissioner Campos, second by Commissioner Marshall to adjourn the meeting. Approved 5-0.

Thereafter, the meeting was adjourned at 8:45 p.m.

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Sergeant Joseph Reilly  
Secretary  
San Francisco Police Department