

JANUARY 12, 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, Keane, Marshall, Veronese
ABSENT: Commissioners Chan, Sparks

PUBLIC COMMENT

Unidentified discussed concerns regarding medical marijuana.

Unidentified thanked the Commission for scheduling another meeting at the Mission District.

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES FILED AGAINST OFFICER W. HAZELHOFFER (FILE NO. C03-118 JWA), WHO WAS APPROVED FOR DISABILITY RETIREMENT. SAID DISCIPLINARY CHARGES WILL BE PLACED BACK ON CALENDAR SHOULD THE OFFICER BE WITHIN THE JURISDICTION OF THE POLICE COMMISSION IN THE FUTURE

PUBLIC COMMENT

None

Motion by Commissioner Keane, second by Commissioner Marshall.
Approved 5-0.

RESOLUTION NO. 5-05

HEARING OF OFFICER GARY W. HAZELHOFFER, MISSION

WHEREAS, on March 18, 2004, Chief of Police Heather J. Fong made and served disciplinary charges against Officer Gary W. Hazelhofer, Star No. 381, Mission, as follows:

SPECIFICATION NO. 1

Driving a motor vehicle while intoxicated, conduct which undermines the good order, efficiency, and discipline of the Department and which brings 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 Gary W. Hazelhofer, Star Number 381, (referred to as "the accused") was a police officer, employed by the San Francisco Police Department, assigned to the Field Operations Bureau, Mission Station.
- (2) As a member of the Department, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department.
- (3) On December 28, 2002, at 1800 hours, the accused was off duty driving his personal vehicle, a large black Dodge truck, northbound on Highway 80 in Oakland, California. The accused had his two minor sons in the truck with him.
- (4) A motorist was also driving northbound on Highway 80 in Oakland, California, at the same time stopped behind a California Highway Patrol Officer who was parked on the right shoulder of westbound Interstate Highway 80 near the metering lights on the entrance to the Bay Bridge.

- (5) The motorist informed the Highway Patrol Officer that a man in a large black Dodge truck had just threatened him with a handgun. The motorist gave the Highway Patrol Officer the license plate number of the truck, which is the number of the accused's truck. The Highway Patrol Officer instructed the motorist to call 911 and make the report while he searched for the black truck on the Oakland-San Francisco Bay Bridge.
- (6) The Highway Patrol Officer located the accused in his black Dodge truck near Fremont Street and effected a traffic stop. Both vehicles exited the I-80 Freeway on the 9th Street off ramp and the vehicles parked in front of 455 8th Street, San Francisco, the address of the office building for the San Francisco Office of the California Highway Patrol. The Highway Patrol Officer asked communications to direct the motorist to respond to 455 8th Street, San Francisco, to identify the person who he said had threatened him. After waiting for 30 minutes for the motorist, the Highway Patrol Officer asked dispatch to contact the motorist on his cell phone, but dispatch was unable to reach him.
- (7) The California Highway Patrol Officer questioned the accused regarding whether he had threatened the motorist with a handgun. The accused denied that he had threatened the motorist but admitted that he had a handgun in the truck under the back seat.
- (8) While waiting with the accused, the Highway Patrol Officer noticed that the accused had a strong alcoholic breath, that the accused was unsteady on his feet and that his eyes were extremely red and watery. The Highway Patrol Officer asked the accused to perform a series of field sobriety tests which he demonstrated and explained to the accused. The accused did not perform all the field sobriety tests as demonstrated and explained.
- (9) Based on his observations, the Highway Patrol Officer arrested the accused for violating California Vehicle Code §23152(a) and informed him of the requirement for testing under the implied consent law. The accused agreed to take an Intoxilyzer breath test which was performed on December 28, 2002, at 1921 hours. The results of the Intoxilyzer test showed that the accused had 0.10 percent of alcohol, by weight, in his blood.
- (10) California Vehicle Code §§23152 (a) and (b), state:

“§23152. DRIVING UNDER THE INFLUENCE.
(a) it is unlawful for any person while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.
(b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle ...”
- (11) The accused engaged in conduct which, in a criminal context, violates the California Vehicle Code: by driving a motor vehicle while under the influence of alcoholic beverages which violates §23152(a); by driving a vehicle with more than 0.08 percent, by weight, of alcohol in his blood, which violated California Vehicle Code §23152(b); any reasonable police officer must know that such conduct violates the standards of the Department and is cause for discipline or dismissal from employment; such conduct violates Rule 9 of Department General Order 2.01, which states:

“MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the

state that tends to undermine 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, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

SPECIFICATION NO. 2

Carrying a handgun while under the influence of alcohol, conduct which undermines the good order, efficiency, and discipline of the Department and which brings discredit on the Department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

- (12) Each allegation of Specification No. 1 above is incorporated by reference in this specification as though set forth in full.
- (13) The accused had a handgun with him in the cab of the pickup on December 28, 2002, at 1700 hours, while he was driving his truck with a blood alcohol level of more than 0.04 percent by weight. Department General Order 2.02, Rule I-B-1 defines intoxication: “Shall mean a member is unable to perform his/her duties because of the consumption of ingestion of alcohol. A member shall be deemed intoxicated if the member had .04 percent or more by weight of alcohol in his/her blood.”
- (14) The accused by having a handgun in his possession while intoxicated, engaged in conduct which, violates Rule I-A-3 of Department General Order 2.02, which states:

“OFF DUTY. A member, while off duty and carrying a weapon, shall not consume alcoholic beverages to the extent that he/she becomes intoxicated.”

- (15) The accused by carrying a handgun with a blood alcohol content above 0.04 percent by weight, engaged in conduct which any reasonable police officer must know that such conduct violates the standards of the Department and is cause for discipline or dismissal from employment; such conduct violates Rule 9 of Department General Order 2.01, which states:

“MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the state that tends to undermine 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, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action.”

WHEREAS, Officer Gary W. Hazelhofer, Star No. 381, was approved for disability retirement from the San Francisco Police Department; therefore be it

RESOLVED, that said charges of violating the Rules and Procedures of the San Francisco Police Department filed against Officer Gary W. Hazelhofer, Star No. 381, be, and the same are hereby continued off calendar with the condition that said disciplinary charges be place back on the Police Commission calendar should Officer Hazelhofer be within the jurisdiction of the Police Commission in the future.

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

CHIEF'S REPORT

a. Update on significant policing efforts by Department members

Chief Fong gave an update on the Department's recruitment drive. She stated that yesterday there were lines around the Bill Graham Civic Auditorium at 8:00 in the morning and at 1:00 in the afternoon because the written examination was administered yesterday. She stated that in the morning there were 761 participants and in the afternoon there were 749 for a total of 1,510 individuals who have now taken the written exam.

PUBLIC COMMENT

None

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Director Allen thanked the Commission for excusing him last week. He stated that on the Department of Public Health website they have information that list Inspector Martin Halloran and the Office of Citizen Complaints and it says that if the public has a complaint to contact either. Director Allen stated that it's confusing and wanted to state on the record that the Office of Citizen Complaints is at 480 Second Street, Suite 100, San Francisco, CA 94107, and telephone number is (415) 597-7711, and the website is sfgov.org/occ. He stated that he is working with the Department of Public Health to get the information corrected.

Commissioner Keane announced that he started a disciplinary hearing as the Hearing Officer and stated that he was impressed by the quality of both counsels. He stated it went very well. He commended Susan Leff and Jean Field from the OCC and Lee Davis for the officer.

PUBLIC COMMENT

None

PRESENTATION OF THE QUARTERLY REPORT - PROVISION OF DOCUMENTS TO THE OFFICE OF CITIZEN COMPLAINT (JULY-SEPTEMBER 2004)

Lieutenant Groshong, Legal Division, presented the Quarterly Report. He explained that as part of the protocol between the Police Department and OCC for the production of documents to OCC, the Department is required to provide the Police Commission with a quarterly report as the Department's compliance.

Lieutenant Groshong stated that the total number of written requests received by the department for the 3rd quarter 2004 was 72. From this number, 65 requests were provided within the mandated time frame. On three requests, OCC was notified in a timely manner that there would be a delay in provision. On three requests, OCC was notified in an untimely manner that there would be a delay in provision. This was a result of his recent assignment to the Legal Division and becoming familiar with the process. Two routine requests were provided in four days and one juvenile log was provided in 10 days. Lt. Groshong stated that it should be noted that while it exceeded the three-day time period, all these documents were provided well within the 15-day time period. There were two denials for production of material due to two separate juvenile requests involving two juveniles each. In each case only one juvenile provided a signed juvenile release form requiring the other juvenile's information through redaction and then those documents were provided to OCC. At the time this report was prepared, one request remain open and that's OCC 331-04 which involves an antiwar demonstration incident. All materials except for a video tape has been released to OCC.

PUBLIC COMMENT

None

UPDATE ON IMPROVEMENTS TO THE DEPARTMENT'S RECORDS MANAGEMENT SYSTEM

Captain Pardini, Planning, introduced Lt. Gitmed as the project manager for the implementation of the new Records Management System (RMS). He went on to talk about the new RMS system. He explained that the new RMS system is going to capture the information once and reuse it and disseminate it out through the system. It will track incident reports with related detail and narrative. It's going to provide reports for the effective management of case assignments and the incident reports. It's going to accept and manage the information involved in incidents, accidents, arrests, crime scene analysis, evidence, and other aspects of the policing with the booking data including identification procedures, warrant, and criminal history searches.

In the District Stations when the officers are doing their initial investigations and in Investigations Bureau sometimes they have to go to two or three different computer terminals because the systems are not connected at this time. Another benefit to the project is the Sheriff's Department. The Sheriff's Department is in the process of acquiring a new jail management system and they have chosen the same vendor. In December, the Department joined with the Sheriff's Department and went into negotiations and were able to negotiate the best deal possible to acquire these systems. He stated that implementation process will start on March 1st and estimated time for putting the system on line is November of this year.

Commissioner Veronese asked how many systems in the last 10 years had the Department been through. Captain Pardini stated that two up and running right now. Lt. Gitmed stated that the report writing aspect has been available but not connected to any database or record management system to share the information through out the department. The report writing systems were designed to automate that function. He stated that this contract, including the Sheriff Department, is \$3.3 million. Commissioner Veronese asked what can the Commission, in working with the State, do to give the officers out on the streets the tools they need to protect themselves and to prevent crime. Lt. Gitmed explained that the Department does not want officers stopping citizens, running them up to see if they have criminal records. The Department wants officers to have probable cause in order to run somebody. The current system provides sufficient amount of information so that an officer doing a traffic stop can run an individual and get a list of contacts they've had with the Department, any warrants on that individual, and their driving record. As far as the State, what they can do is do a modified criminal history information.

Commissioner Orr-Smith how this system would work with the Sheriff's Department. Lt. Gitmed explained that right now it takes about 30 minutes to book somebody in the county jail because there's two different systems and all the information has to be exchanged before the person can be booked. Under the new system, the Department and the Sheriff's Department will be in the same environment. The data entered by the officer he was booking the person at the substation will be automatically transferred to the booking system so there will be a reservation at the jail waiting for the individual to come and all they have to do is place their cell number and do their property check in and the officers are out the door.

Commissioner Renne asked about the technology advisory committee. Lt. Gitmed explained that the Department have this committee because it needs input from different aspects of the department.

PUBLIC COMMENT

Unidentified stated that the way the system is set up, it protects the public from the bad apples in the Department.

COMMISSION ANNOUNCEMENTS

Commissioner Renne asked about the CLETS training. Sergeant Reilly stated that that class is still going on on the 18th and he will send out reminders to the Commission.

Commissioner Marshall asked that he be notified in regards to shootings and homicides.

Commissioner Renne stated that the Commissioners should be notified of officer-involved shootings and homicides.

Commissioner Renne asked the members of the Commission to notify Sergeant Reilly if they are going to be away.

PUBLIC COMMENT

None

SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS

Commissioner Orr-Smith asked for a presentation by Victim Services of the DA's office in regards to what support are provided to families who were victims of violent crimes.

Commissioner Veronese asked about the diversion program under the new MOU where an officer is injured in making an arrest, that person who was arrested not qualify for the diversion program. Chief Fong explained that that policy is in draft form and there was a meeting this afternoon with the courts and will get a copy of the draft to the Commission.

PUBLIC COMMENT

None

Thereafter, the meeting was adjourned at 6:31 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission

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