

**AUGUST 4, 2004**

**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 5:20 p.m., in Closed Session.

PRESENT: Commissioners Renne, Chan, Keane, Marshall, Sparks,  
Veronese

ABSENT: Commissioner Orr-Smith

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

None

**VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER  
WITH LEGAL COUNSEL. (SAN FRANCISCO ADMINISTRATIVE  
CODE SECTION 67.1(d))**

Motion by Commissioner Veronese. Second by Commissioner Renne.  
Approved 5-0.

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

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:  
AS DEFENDANT

Significant exposure to litigation pursuant to California Government Code  
Section 54956.9(b)

**AUGUST 4, 2004**

**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 Regular Meeting.

PRESENT: Commissioners Renne, Chan, Keane, Marshall, Sparks,  
Veronese

ABSENT: Commissioner Orr-Smith

**VOTE TO ELECT WHETHER TO DISCLOSE ANY AND ALL  
DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO  
ADMINISTRATIVE CODE SECTION 67.12(a))**

Motion by Commissioner Keane for non disclosure. Second by  
Commissioner Marshall. Approved 6-0

**CHIEF'S REPORT**

- a. **Report on the activities of the Traffic Enforcement Unit**
- b. **Review of recent activities**

Chief Fong introduced Captain Ed Springer on the update of activities of the Traffic Company.

Captain Ed Springer, Traffic Enforcement Unit, described the mission of the Traffic Company. Captain Springer stated that the district stations wrote over 30,000 traffic citations in the city. Year to date there are 2100 citations issued for unlicensed drivers. Captain Springer talked about the different programs that the Traffic Company work with for education, to reduce DUIs, and for pedestrian safety.

Commissioner Chan asked about pedestrian-involved collisions. Has the program of timed green lights or warning pedestrians knocked down injuries and fatalities. Captain Springer stated clearly it has impact on the number of injuries and fatalities. Captain Springer explained that the district station Captains, the Department of Parking and Traffic, and working with the community have a lot to do with making changes in the timing of lights.

Commissioner Renne asked about the number of motorcycle officers and do they work different shifts and what are hours. Captain Springer stated there are 60 officers and they work 10-hour shifts, seven days a week. Currently they all work out of the Hall of Justice and have geographical areas of responsibilities. They primarily focus on traffic enforcement within that district. Captain Springer explained that due to many events that can be happening in the city, the motorcycle officers need a main place to meet and be briefed. Commissioner Renne expressed concern regarding not seeing motorcycle officers on the street. Captain Springer stated that there is not a lot of motorcycle officers but based on the number of tickets they write, they are out there.

Commissioner Veronese asked if each have their own bikes. Captain Springer stated they each have their own bikes.

Chief Fong updated the Commission on recent activities. She stated that on Saturday the Mayor was in the Bayview. She stated that it was a very positive event and are looking forward to moving to different communities in the city. On Sunday, the Chief had a national conference call from Homeland Security and have been informed that the city have been elevated to orange alert. The Department immediately looked at additional resources to be deployed to ensure that message is out and answer questions from the community. As information changed and more information was released, resources were redeployed. On Monday, Chief Fong responded to a Congressional Hearing to discuss burglary that occurred over the 4<sup>th</sup> of July weekend. In light of the burglary, the department no longer use the site. Yesterday, in light of information that came in on Sunday, they met with OES to coordinate efforts. Last night, in San Francisco, there were five National Night Out Events. In San Francisco several districts had barbeques with community groups and in the Northern District, they had a peace march. It was a collaboration between the community and the department. Chief Fong talked about an article in which the suspect was booked and taken into custody due to a call from a citizen. In the Bayview area, officers were able to arrest suspect with a firearm. Officers in Bayview were able to arrest four suspects, with narcotics and firearms. In the Mission, a robbery occurred where the officers took the suspect in custody. In the Ingleside, officers were able to discover a handgun and crack cocaine and took the suspect in custody. In the Tenderloin, officers received information from an informant and were able to seized firearm. On July 23<sup>rd</sup> there was a suspect charged with homicide. On the 27<sup>th</sup> another individual was booked for a homicide. On July 29<sup>th</sup>, another suspect was booked for the homicide of Mr. Kimble. This case was solved due to DNA evidence. On July 31<sup>st</sup>, officers responded and recovered a Mack 10 weapon. Today there was suspicious property. Upon search there was a loaded handgun and another semi automatic weapon was seized. The Internet Crimes Unit arrested a man who came from San Mateo for attempted kidnapping on a minor under 14 years of age. The Department is doing as much as possible to reduce the crimes.

Commissioner Sparks asked about a possible hate crime committed on a political campaign. Chief Fong stated that Richmond Station responded, took photographs of the evidence, and the case have been assigned to the Hate Crimes Unit.

Commissioner Veronese thanked the Chief for a great presentation.

Commissioner Veronese asked if SFPD is still sharing explosive sites with San Mateo and FBI. Chief Fong stated that the Department is no longer sharing that site and explosives that have been stolen have been recovered in the East Bay. Commissioner Veronese asked about homicide witnesses. Chief Fong stated that there have been cooperation from the community, there is still reluctance but that is understandable. There is a confidential tip line where the public can call. The tip line is 575-4444.

Commissioner Keane thanked Chief Fong for her report. He wanted to ask about Sgt. Vicki Stansberry. What he was disturbed by was Sgt. Stansberry having made allegations that she has been harassed because of a memo that she wrote that is seen as not popular and he found it very disturbing particularly her allegations against her supervisors. Chief Fong stated that she cannot say very much about that because that matter is under investigation.

#### PUBLIC COMMENT

None

#### **OCC DIRECTOR'S REPORT**

Director Allen reported regarding policy recommendations sent to the Commission. He stated that he will be meeting with the Chief and her staff to discuss policy recommendations.

Commissioner Sparks asked regarding policy recommendations that have been implemented. Director Allen stated that he has to discuss with the department to see where each of the policy recommendations are. Director Allen stated that 1998-1999 there are seven, in 2001 no policy person in the office, in 2000 there was one, and 13 last year and four of the 13 have already been implemented. The OCC is trying to get a policy person to come in. Commissioner Sparks asked if not having a policy person impact charter on implementing new policy. Director Allen stated yes, it does.

Commissioner Veronese asked if the OCC have a mechanism for public input on policies other than complaints. Director Allen stated that the OCC does meet with community leaders for input on policy recommendations.

Commissioner Renne asked of the OCC policy recommendations some have been adopted by the department are incorporated in various rules and some have not. Commissioner Renne asked Director Allen to report back to the Commission on or about August 18<sup>th</sup> as to those policies that have not been implemented by the department.

Commissioner Sparks asked about policy recommendation regarding officer-involved shootings and asked Director Allen if he can give a time frame? Director Allen stated that it will be sometime in September. He believes there are three or four department orders that will be affected by that one policy.

Commissioner Veronese asked about cases with writ attachments. Ms. Morley stated there are only two writs pending against the city and those are the two described by Director Allen and she is not aware of any pending motions regarding 3304 grounds and they are multiple officer cases.

Director Allen presented the OCC's Quarterly Report. It will be posted on the website along with the first quarter report.

Commissioner Sparks asked about a case from 1998 and 1999 and why is it taking six years. Director Allen stated that there are court issues dealing with that. The older cases have some kind of exceptions attached to them.

PUBLIC COMMENT

Andrea Shorter stated that she is here regarding the Celis matter and wanted to make sure that the Commission is aware of correspondence regarding Officer Michael Celis.

Mark Schlosberg, ACLU, discussed concerns regarding OCC report. He talked about policy recommendations regarding OIS incidents and that it is good that it is moving forward and with regards to the policy recommendations, copies should be available to the public.

**DISCUSSION AND POSSIBLE ACTION TO APPROVE REVISED GENERAL ORDER 7.02 “PSYCHOLOGICAL EVALUATION OF JUVENILES”**

Officer Mike Cowig presented revised General Order 7.02 and stated that this order explains what is available to juveniles.

PUBLIC COMMENT

None

Motion by Commissioner Keane, Second by Commissioner Marshall. Approved 6-0.

**RESOLUTION NO. 68-04**

**APPROVAL OF REVISED GENERAL ORDER 7.02, “PSYCHOLOGICAL EVALUATION OF JUVENILES”**

RESOLVED, that the Police Commission hereby adopts revised General Order 7.02, “Psychological Evaluation of Juveniles.”

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

**DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CHIEF OF POLICE TO APPLY FOR, ACCEPT, AND EXPEND FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING TO IMPLEMENT THE COPS IN SCHOOL PROGRAM**

Lieutenant Fatooh, SRO Program, described the grant and stated that the Department currently have an SRO program which is currently funded by the Cops In School Program.

Commissioner Veronese asked about the city matching the grant. The city will pay for additional two years and federal will pay for the first two years. Sgt. Dave Collins described that these funds are budgeted in the city’s budget.

PUBLIC COMMENT

None

Motion by Commissioner Keane, Second by Commissioner Sparks. Approved 6-0.

**RESOLUTION NO. 69-04**

**APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR ACCEPT, AND EXPEND FUNDS FROM THE U.S. DEPARTMENT OF JUSTICE OFFICE OF COMMUNITY ORIENTED POLICING TO IMPLEMENT THE “COPS-IN-SCHOOLS PROGRAM”**

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to apply for, accept, and expend funds from the U.S. Department of Justice Office of Community Oriented Policing to implement the “Cops-In-Schools Program,” including any augmentations, extensions, and modifications.

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

**WITHDRAWAL OF THE APPEAL OF THE CHIEF’S SUSPENSION IN CASE NO. M-DRA D03-338 FOR FURTHER PROCEEDING BEFORE THE CHIEF OF POLICE**

Captain O’Leary stated that the officer’s attorney asked to withdraw the appeal.

Motion by Commissioner Marshall, second by Commissioner Keane.  
Approved 6-0

**RESOLUTION NO. 70-04**

**NOTICE OF WITHDRAWAL OF APPEAL OF THE CHIEF’S SUSPENSION IN CASE NO. M-DRA D03-338**

WHEREAS, a letter was received from Mr. James Collins, Attorney at Law, representing the officer, withdrawing his appeal of the Chief’s suspension for further proceeding before the Chief of Police; therefore be it

RESOLVED, the request for withdrawal of appeal of the Chief’s suspension filed by the officer for further proceeding before the Chief of Police is hereby approved.

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

**DISCUSSION AND POSSIBLE ACTION TO INSTRUCT THE CHIEF OF POLICE TO WORK WITH THE CITY’S PURCHASER TO TERMINATE THE KROLL CONTRACT**

Commissioner Renne stated that this is put on the calendar in light of the OCC’s actions and that there are questions of whether or not to keep the contract going.

Captain O’Leary stated that this contract came into light in the form of a Commission resolution regarding an incident that occurred in November 2002. That happened earlier this year and Kroll began working on the contract which included reading case files and grand jury testimony on this case. They hired subject matter experts and a commander from So. California who have been working in this matter. Chief Fong wants this matter to remain enforced. The reason is that there was a lot of skepticism on the Department regarding this case. Captain O’Leary stated that he has not read the sustained case and the Department welcomes a fresh pair of eyes and asked that Kroll continue its work in this matter because the department would like to know if there is policy failure that can be changed and to ensure it does not happen again.

Commissioner Keane stated that he is dismayed regarding a letter sent

by Kroll and that he finds it unprofessional and it raises questions about the organization themselves.

Commissioner Sparks suggests that it continues but she did find the letter disturbing and that they are consultants but she asked to go ahead with the contract.

Commissioner Renne expressed concerns regarding the letter from Kroll and that she is not sure that that is part of the original charge. She is troubled by the letter and would like to know what was the charge given to Kroll for the contract amount.

Captain O'Leary deferred to Ms. Morley. Ms. Morley read the way that agenda is written and what is in the Kroll Contract. Ms. Morley read excerpts from the contract and explained it.

Commissioner Renne asked if Kroll will provide a report to the Chief or to the Commission. Ms. Morley stated that they are to provide a report to the Chief.

Commissioner Marshall asked Director Allen on how he feels about this. Director Allen stated that when this was discussed at the time, it did not sit well with the OCC and stated that it is up to the Department and the Commission if they feel that they need fresh eyes. Director Allen stated that the OCC has finished its investigation.

Commissioner Veronese stated that a couple of things have changed since Kroll and since Prop H has passed OCC can file their own charges. He recommends that the Commission does not see the Kroll investigation.

Commissioner Keane stated that he agrees with Commissioner Veronese. In light of the fact that Kroll is not taking a neutral stance towards the OCC and would move to terminate the contract.

Commissioner Sparks stated that it is a new day under Prop H and would like to see the report coming to the Commission rather than the Chief. She states that more information is better and it gives the Commission more information to work with and would prefer that this contract be maintained and that information be presented to the Commission instead of the Chief.

Director Allen wanted to explained that sustained reports are not turned over to the Commission. It is turned over to the Chief.

Commissioner Chan asked what is the terminations obligations in the contract. Ms. Morley stated that Section 21 of the contract has the option to terminate the agreement and the city is required to give notice of that and that there are certain obligations and rights of the parties primarily on how costs owing to the contractors are determined. Commissioner Chan asked if it is the position of the command staff that Kroll will still be useful. Captain O'Leary stated yes.

Representative from Kroll stated that it is close to the half way mark. She stated that the SF office is not involved in this project and it is the New York office that is involved.

Commissioner Marshall asked about comments regarding the letter. She stated that Kroll did not want to seem condescending or presumptuous in any way.

Commissioner Keane stated that what was puzzling is that a neutral agency felt it necessary, at interim stage, to come out with the kind of

criticism, particularly to the OCC, this would not seem to be the way to go about it. This case is sensitive and it ripped a department apart, a city apart. She explained that her firm have been maintained because of its independence and professionalism and would think that the same has been applied here. She stated that the author of the letter should address the Commission.

Commissioner Renne asked if it is possible that Kroll can do the report after the Commission's disciplinary hearing because the Commission wants all information they can get but there is limits to evidence the Commission can hear. She stated that Kroll will get back to the Commission.

#### PUBLIC COMMENT

Sgt. Mike Serujo, LPOA, discussed the Kroll contract. He stated that he has been listening to the arguments and comments brought by the Commission. He stated that he agrees with Commissioner Sparks to have more information and asked why not see how mistakes can be corrected.

Commissioner Renne asked if there was a report and this Commission were to read, is it possible that the Commission could be subject to a claim of bias because it is something outside the evidentiary hearings that the Commission will be considering. Ms. Morley stated that it is possible and that it will be good to have a written opinion.

Commissioner Keane withdraws motion for purpose to continuing it.

Commissioner Chan thinks that there should be guidance from the city attorney regarding the report and would like to continue the matter for at least a week or two.

Motion by Commissioner Chan to continue. Second by Commissioner Veronese. Approved 6-0.

#### COMMISSION ANNOUNCEMENTS

- a. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-062 JWA**  
(Assigned to Commissioner Peter Keane, Resolution No. 71-04)
- b. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-126 JWA**  
(Assigned to Commissioner Joe Veronese, Resolution No. 72-04)
- c. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-199 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 73-04)
- d. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-120 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 74-04)
- e. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-121 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 75-04)
- f. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-122 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 76-04)
- g. **Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-123 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 77-04)

- h. Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-124 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 78-04)
- i. Notice of assignment and setting of date for hearing on disciplinary charges filed in Case No. C04-125 JWF**  
(Assigned to Commissioner Louise Renne, Resolution No. 79-04)
- j. Scheduling of items identified for consideration at future Commission meetings**

Commissioner Renne asked that cases be heard en banc.

Commissioner Keane asked that before the Commission takes action, he stated that he may have to recused himself in regards to this case because he was requested by then Chief Sanders to be his defense attorney and had some privileged conversation with Chief Sanders and because of that, he had asked the city attorney to give him an opinion as to whether or not he should recuse himself and Commissioner Keane stated that, until the city attorney comes back with the opinion, he will temporarily recused himself.

Motion by commissioner Chan, second by Commissioner Veronese to recused Commissioner Keane temporarily. Approved 6-0.

#### **PUBLIC COMMENT**

None

Commissioner Sparks asked that the September district meeting be held in the Mission Station. Second by Commissioner Veronese. Approved 6-0.

Commissioner Keane asked that the Richmond district be considered.

Commissioner Chan asked that translation be provided.

#### **PUBLIC COMMENT**

Meesha Irizarry, Idriss Stelley Foundation, asked that the Commission exercise extreme caution upon meeting in the Mission and discussed concerns about meeting in non exclusive community to be able to express their feelings as well.

Marylon Boyd, Campaign for Justice for Cammerin Boyd, would like to recommend that the Commission have a meeting in the Western Edition. She asked for a status report as to what is being done to bring justice to her son. She stated that she has not had an incident report and would like to know when it will be done. She asked the Commission to bring efforts on the part of the community that they make efforts to determine whether the officer should be prosecuted for shooting her son.

Malaika Parker, Bay Area Police Watch, talked about an article in the Bay Area Guardian regarding OIS incidents that are pending and the need for an independent investigation and stated that there needs to be an independent investigation on how this department can improve.

Alan White regarding an article in the paper and stated that there are certain areas of fairness and discussed concerns about the OCC and hopes that the Commission would ask the OCC if they have procedures in place and stated that the cops deserved a better break than this.

Unidentified, discussed concerns regarding permits and limousines and asked that police officers help in dealing with limousines.

Ernestine Weiss discussed concerns regarding customer service. She asked for better management at Central Station. She stated that she does not want excuses, she wants action.

Sgt. Michael Serujo, LPOA, discussed cases assigned earlier to the

Commission and stated there has been several investigations and numerous interviews and depositions. He asked the Commission that these cases be decided as quickly as possible and, for the sake of the officers and their families, please complete these cases as quickly as possible.

Thereafter, the meeting was adjourned at 8:30 p.m.

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Lieutenant Edward Geeter  
Secretary  
San Francisco Police Commission

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