

AUGUST 24, 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 5:47 p.m., in a Regular Meeting.

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

PUBLIC COMMENT

Francisco DeCosta announced that Captain Bruce of the Bayview has retired and commended the Captain for his work with the youths in the Bayview.

Patricia Atolic, Police Observers Working to Effect Reform (POWER), discussed concerns regarding the case of Officer Nelson.

Resident of Western Edition discussed concerns regarding not getting immediate response from the police.

DISCUSSION AND POSSIBLE ACTION TO RE-CALENDAR THE DISCIPLINARY CHARGES FILED IN CASE NO. C03-118 JWA AND ASSIGN THEM TO AN INDIVIDUAL COMMISSIONER FOR TAKING OF EVIDENCE ON A DATE TO BE DETERMINED BY THE COMMISSIONER

(Assigned to Commissioner Keane, Resolution No. 58-05)

Taken out of order.

Motion by Commissioner Chan, second by Commissioner Keane to recalendar disciplinary charges filed in Case No. C03-118. Approved 5-0.

The Commission recessed from 6:00 to 6:12 p.m.

CHIEF'S REPORT

a. Update on significant policing efforts by Department members

Chief Fong stated that there are two update reports tonight. One is the Auto Theft update and secondly, Captain Keohane will give an update on the revision of General Order 3.19, Early Warning System. Chief Fong stated that the DGO will be calendared for the first week in September for a more comprehensive presentation.

Lieutenant Mike Biel, Auto Detail, described the duties and responsibilities of the Auto Detail. Auto Detail investigates auto theft and auto burglary. Lt. Biel stated that the average is 7500 cars stolen per year. The Auto Detail recovered 94 percent of vehicles that were stolen.

Commissioner Chan asked about a new technology which uses infra red scan of license plates and how much per car to deploy this technology. Lt. Biel stated that somewhere between \$17,000 to \$20 thousand per vehicle.

Commissioner Chan asked about the export of stolen cars and asked if this is a problem in San Francisco. Lt. Biel stated that it is a problem in San Francisco but it is exported out of Oakland. Lt. Biel stated that he cannot comment on the investigation because it is ongoing.

Commissioner Sparks stated that several years ago she had a car stolen and it was recovered but she was not notified for at least a couple of weeks after it was recovered which substantially increased the storage fees. Commissioner Sparks asked what is the process that the Department uses in notifying owners of car once they're recovered and how many times are they

contacted. Lt. Biel explained that when a car is recovered on the street, the owner is contacted, if the phone number is available for that owner, they are contacted immediately. They are given 30 minutes to come to the location to pick up their vehicle. If they are unable to respond, the vehicle is towed and then they are notified by mail that their vehicle has been recovered. The vehicle is kept continually by the tow company and there will be continued notifications until the owner picks up his vehicle.

Captain Keohane gave a brief update on the progress the Department is making in addressing DGO 3.19, Early Warning System. The Department is proposing that from the weekly morning reports from the OCC, commanding officers will forward those immediately to the first line supervisor of the officer whose responsibility will be to put those notifications in the member's PIP file and/or personnel file immediately. As they put this in the file, they will know firsthand when the person has reached that threshold. It will be their responsibility to notify the commanding officer and at this time the appropriate counseling and/or performance review session will take place. The Department will still rely on the quarterly reports from the OCC as a control measure to insure that those performance evaluations and/or counseling sessions have occurred.

Captain Keohane stated that the Commission will have this document in the first week of September for a more thorough review.

Captain Keohane talked about the new order, Early Intervention System, the Department meets biweekly with the committee to discuss the direction the Department wishes to take this. On the alternate week, the Department meets with the POA to discuss where it's going and to get feedback on their issues. Captain Keohane stated that he's been in touch with the ACLU and have been keeping them apprised of where the Department is heading with the order. He's also been keeping Director Allen informed, of not only the past order, but the current order.

Commissioner Sparks asked what is the date of having the revision of the current Early Warning System in operation. Captain Keohane stated that copies have been provided to the OCC and the POA. He will address the Command Staff tomorrow afternoon and should be in front of the Commission for discussion in two weeks.

Commissioner Sparks asked reports of the Early Warning System. Director Allen stated that he has delivered the most current to the Commission and will deliver the information on a disk to the commanders so that information can be distributed. Director Allen stated that the old system is being used now and they are up to date. Captain Keohane explained that the morning reports are going to the stations and they are placed on the member's PIP files. Captain Keohane explained that the orders are going into the members PIP filed but there is no written order to initiate the performance review at this time. This is what this new order will generate so that it will be more timely.

PUBLIC COMMENT

Malaika Parker, Bay Area Police Watch, asked for what's going on with the Chase Policy because of a chase that happened in the Fillmore.

Marylon Boyd, Campaign for Justice for Cammerin Boyd, asked if the new technology that Lt. Biel had talked about would prevent unnecessary police chases.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Director Allen explained that in light of recent charges that they filed,

their policy analyst is looking at the pursuit policy now.

Commissioner Renne asked for information requested by the Commission in regards to cases where the statute to limitations have not been met. Director Allen stated that he will get the information to the Commission.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED GENERAL ORDER 3.10, "FIREARM DISCHARGE REVIEW BOARD"

Commissioner Renne stated that the Commission received a letter from the OCC and the ACLU asking that this item and the following item be continued when the full Commission will be present.

Motion by Commissioner Keane, second by Commissioner Sparks to continue this item. Approved 5-0.

Commissioner Sparks asked the City Attorney to meet with the OCC to explain what the changes are.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED GENERAL ORDER 8.11, "OFFICER-INVOLVED SHOOTINGS"

Motion by Commissioner Keane, second by Commissioner Sparks to continue this item. Approved 5-0.

PUBLIC COMMENT

None

COMMISSION ANNOUNCEMENTS

Sergeant Reilly announced that the Commission will hold its community meeting in the Ingleside District, James Denman Middle School 241 Oneida Avenue, San Francisco, at 6 p.m. on August 31, 2005.

PUBLIC COMMENT

None

SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS

Commissioner Sparks asked that the OCC report on every policy that's pending every week so that the Commission can be kept up to date.

Commissioner Chan would like an update from the Command Staff as to what steps are being taken in moving the crime lab from Hunters Point.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE RECOMMENDATION OF THE CHIEF OF POLICE AND IMPOSE DISCIPLINE IN THE MATTER OF OFFICER ANTHONY D. NELSON (FILE NO. C04-074 EGF)

Taken out of order.

Commissioner Renne announced that Commissioner Orr-Smith is ill and Commissioner Marshall is detained and there is no quorum to hear this matter at this time. Commissioner Keane will not be present on September 7th. Commissioner Renne stated that this item will be continued on September 14th and would like to hear from both counsels their argument on whether or not this Commission can consider the following evidence in terms of imposing discipline. The evidence falls into three category. (1) The first category will be evidence that were proffered at the Commission hearing but was put in a sealed transcript. (2) The OCC multiple card that provides the incidents in which Officer Nelson was involved. (3) The use of force logs that were not introduced as evidence before the Commission last week.

Commissioner Renne asked that the arguments that she would like the Commission to hear are whether or not those items can be considered as evidence, all three categories whether they can be considered into evidence and if so, whether or not the OCC would intend to proffer them into evidence in terms of determining appropriate discipline for Officer Nelson on the charge that was sustained by the Commission. That will be scheduled for September 14th, and if the parties wishes to present written materials to the Commission prior to that time, those materials be submitted in sufficient time before September 14th.

Commissioner Keane recollects, as hearing officer, that the use of force logs were offered and received as evidence as exhibits. The use of force logs for the whole day was not admitted but the use of force logs as they related to the incident at 4th and Market, having to do with Officer Nelson, those were admitted into evidence.

Commissioner Renne stated that there is no quorum so that it cannot be discussed.

Commissioner Keane, in order to clarify the record, stated that there is a sealed portion of the transcript of the matter of Officer Nelson which is clear from the transcript itself that all the Commissioners were given that he sealed part of the transcript and that was an in-chamber discussion after a proffer by Ms. Leff of matters relating to Officer Nelson's disciplinary record. He went through all of those matters very carefully with counsel and they were being offered on the issue of whether or not any prior activities of Officer Nelson were relevant to the charge against him. Commissioner Keane stated that he made a decision that two of those, which Ms. Leff referred to in her arguments last week, that two of those matters having to do with uses of batons were relevant on the question of prior similar activities. As to the other remaining material having to do with Officer Nelson's personnel record, nothing in there, in Commissioner Keane's judgment, was relevant to the charge against him. Rather than have it in an open transcript, he sealed that portion of it.

Commissioner Keane stated that in regard to the hearing that he conducted with both counsel and with Officer Nelson, all of that was openly done on the record with the exception of that one portion that was sealed but it's very clear from the transcript of the record that we have a sealed portion.

Commissioner Renne suggested that all the Commission reread the transcript and consider what ought to be considered relevant for purposes of a disciplinary hearing.

Thereafter, the meeting was adjourned at 7:02 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission