

MARCH 10, 2010

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 5:36 p.m., in a Regular Meeting.

PRESENT: Commissioners Marshall Mazzucco, DeJesus, Hammer,
Onek, Pan

ABSENT: Commissioner Lee
(Commissioner DeJesus was excused at 7:50 p.m.)

APPROVAL OF CONSENT CALENDAR

- **Approval of amendment to modify the Document Protocol Appendix to include SFPD's Daily Equipment Sign-in & Out Form as a Routine Request**
- **Request of the Chief of Police to accept donation of \$1,000.00 from the television series "Trauma" for use of the SFPD's Mounted Unit**

Motion by Commissioner Onek, second by Commissioner Mazzucco to approve Consent Calendar. Approved 6-0

RESOLUTION NO. 23-10

APPROVAL OF AMENDMENT MODIFYING THE DOCUMENT PROTOCOL APPENDIX TO INCLUDE SFPD'S DAILY EQUIPMENT SIGN-IN & OUT FORM AS A ROUTINE REQUEST

WHEREAS, on July 17, 2003 the Police Commission adopted Resolution No. 44-03, commonly known as the OCC-SFPD Document Protocol, to facilitate document requests in OCC investigations. The protocol requires SFPD to provide routine documents to the OCC within three business days from the receipt of the request; and

WHEREAS, Appendix A of Resolution No. 44-03 delineates 71 documents as "routine" documents; and

WHEREAS, the SFPD and the OCC agree that SFPD's Daily Equipment Sign-Out and Sign-In Sheet should be delineated as a routine document for the purposes of the OCC-SFPD Document Protocol; and

WHEREAS, Chief of Police George Gascón and Director Joyce Hicks have signed an agreement to modify Appendix A of the OCC-SFPD Document Protocol to include the SFPD's Equipment Sign-Out and Sign-In Sheet (SFPD Form 474) as a routine document; therefore be it,

RESOLVED, that the Police Commission hereby approves the amendment modifying the Document Protocol Appendix to include SFPD's Daily Equipment Sign-Out and Sign-In Sheet (SFPD Form 474) as a routine document.

AYES: Commissioners Marshall, Mazzucco, DeJesus, Onek Pan, Hammer
ABSENT: Commissioner Lee

RESOLUTION NO. 24-10

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT DONATION OF \$1,000.00 FROM THE TELEVISION SERIES "TRAUMA" FOR USE OF THE SFPD'S MOUNTED UNIT

RESOLVED, that the Police Commission hereby approves the request of the Chief of Police to accept donation of \$1,000.00 from the television series "Trauma" for use of the SFPD's Mounted Unit.

AYES: Commissioners Marshall, Mazzucco, DeJesus, Onek, Pan,
Hammer
ABSENT: Commissioner Lee

PUBLIC COMMENT

Francisco Dicosta discussed concerns regarding actions of a former SFPD sergeant working for Lennar Corporation.

Daniel Landry discussed concerns regarding actions of a former police officer working for Lennar Corporation.

Unidentified discussed concerns regarding Tasers.

Unidentified discussed concerns regarding the attendance of an individual with a gun at a Bayview Public Meeting.

Marie Harrison discussed concerns regarding the attendance of an individual with a gun at a Bayview Public Meeting.

Unidentified discussed concerns regarding Tasers.

Emile Lawrence discussed saddles for the Mounted Unit.

Jason Tully, Pacifica resident, discussed concerns for being falsely arrested for being drunk at a rally.

Ace Washington discussed concerns regarding Lennar Corporation.

Raj discussed concerns regarding no investigation.

Ronnie Mertz discussed concerns regarding tasers and mental health.

Jonathan Rogers discussed concerns regarding use of tasers and sit and lie ordinance.

DISCUSSION ON PROPOSED “SIT AND LIE” ORDINANCE AMENDING THE SAN FRANCISCO POLICE CODE

Taken out of order.

Assistant Chief Cashman, Operations, presented the report regarding the proposed Sit and Lie Legislation amending the San Francisco Police Code.

Questions and comments by Commissioners DeJesus, Pan, Mazzucco, Hammer

Commander Dudley and Captain Barrett answered questions by the Commissioners.

Mr. Alan Schlosser, ACLU, addressed the Commission and presented a different perspective on the issue of the Sit and Lie Ordinance.

Questions and comments by Commissioners Mazzucco and DeJesus.

Ms. Laura Hurtado, Lawyers Committee for Civil Rights, addressed the Commission in regards to impact of a Sit and Lie Ordinance to the homeless and immigrants and how it can target and discriminate against different communities in the city.

Questions and comments by Commissioners DeJesus, Marshall, and Pan.

(Commissioner DeJesus departs at 7:50 p.m.)

PUBLIC COMMENT

Unidentified discussed concerns regarding sit and lie law and stated that it is unethical and unconstitutional.

Linda Chapman, Polk Gulch, discussed concerns for business owners who cannot leave and go to court to testify.

David Wagner, Harvey Milk Democratic Club, stated that this law is very vague and agreed with comments by Mr. Schlosser and Ms. Hurtado.

Michael McAllister, Haight resident, stated that he doesn't know if this law is the right course of action but it is a problem in the Haight and stated that giving the police some discretion is a good idea.

Jason Tully, prophet sent by Jesus Christ, discussed concerns.

Kevin Carroll, Fisherman's Wharf District, discussed concerns regarding businesses feeling threatened.

Aladi Baez, security guard Fisherman's Wharf, expressed support for the legislation and asked for prosecution by the office of the District Attorney.

Denise Douherty, Harvey Milk Club, Axis of Love, opposed ordinance and asked for more foot patrol officers and safety cameras.

Melvin Crump discussed concerns regarding the ordinance.

Ingrid, through an interpreter, opposed ordinance.

Corina Fomidi discussed concerns regarding how this ordinance will affect certain individuals.

Bruce Allison discussed concerns and reasonable accommodations.

Mike Paschi, law student, discussed being an advocate for the homeless.

Joey Cain, President Haight Ashbury Neighborhood Council, stated that Captain Barrett did not speak to his group and that concerns brought up were from a vocal minority group and invited the Commission to visit the Haight.

John Sugar, Haight resident, stated unconstitutional to arrest people for sitting down.

David Smith, public school teacher and Haight resident, hopes the Department changes its direction when it comes to the sit and lie ordinance.

Richard Ivanhoe, upper Haight resident, stated that he feels safe walking around the neighborhood.

Jennifer, executive director Coalition on Homelessness, stated that criminalizing the homeless does not resolve homelessness and asked that the Commission oppose this ordinance and instead come up with some solutions.

Sara, Polk Gulch, discussed concerns regarding sit and lie.

Unidentified discussed concerns and stated that foot patrols are the only solution.

Arthur Evans, Haight & Ashbury resident, stated that people causing problems in the Haight are not San Franciscans but a group of thugs who look for drugs and alcohol.

Andy Blue, SF resident, talked about the absurdity of the sit and lie law and stated that sidewalks are for people.

Colleen Rebecca, Homeless Youth Alliance, opposed sit and lie and stated that this law will affect homeless people.

Susan Scroles, upper Haight resident, stated that these people are territorial and stated that the officers need this additional tool.

Bob, Ingleside resident, supports the sit and lie law.

Unidentified stated that the sit and lie law is not worth it.

Unidentified stated that sit and lie violates the constitution.

Commissioner Marshall asked about cities that have a sit and lie ordinance. Chief Gascón explained about Seattle and stated that it has worked and is constitutional and this is the model that San Francisco is looking at. Chief Gascón explained that there are a group of people who colonizes and are impacting businesses because of the aggressive behaviors that visitors are encountering. The Chief also stated that this is not controlled by the Police Department and that it is up to the Mayor and the Board of Supervisors by initiative and that people are going to have to vote if they want to pass it or not.

REPORTS TO THE COMMISSION

a. Chief's Report

- Update on significant policing efforts by Department members

Chief Gascón reported on recent activities in the Department and introduced Chief Tabak who reported on the recent investigation regarding the controlled substance unit of the Crime Lab connected to one criminalist. Chief Tabak talked about an external audit that will be conducted that will probably conclude by the end of this month.

Comments and questions by Commissioners Mazzucco, who also asked questions left by Commissioner DeJesus, Onek, Hammer, Pan, and Marshall.

Commissioner Hammer asked the Department to come up with a dollar figure as to what it would take to bring the DNA lab up to date.

Chief Gascón stated that he will have a figure in two weeks and a report in regards to DNA backlog.

b. OCC Director's Report
- Review of recent activities

Director Hicks reported that the OCC has opened, year to date, 176 complaints and closed 146. Of the 146 cases closed, 12 or 8 percent were sustained. Director Hicks also reported that the OCC has 411 pending cases and stated that the backlog is growing due to one investigator retiring and one investigator is on family leave. Director Hicks also stated that Ms. Salazar is back after a seven-week hiatus and stated that the OCC mediated one case year to date. Director Hicks also thanked the POA for their kindness to Ms. Salazar during her recovery.

Comments by Commissioner Onek in regards to the mediation program.

c. Commission Reports
- Commission President's Report
- Commissioners' Report
Status Report
- Commission Priority List
- Status report form former Patrol Special Officer Hanley Chan regarding the sale of Beat 72

Commissioner Marshall asked the Commissioners to give him some ideas as to how to prioritize the list. Commissioner Mazzucco requested that the Disciplinary Rules and Procedures be number one on the list.

Lieutenant Reilly announced that the Department is trying to contact PSO Hanley Chan for his update.

Commissioner Onek expressed concern in regards to PSO Chan not responding and asked if the agreement can be taken back. Commissioner Onek stated that for PSO Chan to be unresponsive is unacceptable.

Commissioner Mazzucco asked that PSO Chan and/or his counsel be contacted and order them to be present and if they do not appear, they will be forfeiting the beat.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO TAKE OFF CALENDAR INDEFINITELY THE DISCIPLINARY CHARGES FILE DIN CASE NO. JWA C10-050. MEMBER INVOLVED RETIRED FRM THE DEPARTMENT, EFFECTIVE FEBRUARY 11, 2010. SAID DISCIPLINARY CHARGES WILL BE PLACED BACK ON CALENDAR SHOULD SAID MEMBER BE WITHIN THE JURISDICTION OF THE POLICE COMMISSION IN THE FUTURE

(Resolution No. 25-10)

Motion by Commissioner Hammer, second by Commissioner Pan.
Approved 6-0.

PUBLIC COMMENT

None

ROUTINE ADMINISTRATIVE BUSINESS

- a. **Commission Announcement**
- **Assignment of Disciplinary Charges filed in Case Nos. IVF C10-058, IVF C10-059, IVF C10-60, and IVF C10-061 to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner (Resolution Nos. 26-10, 27-10, 28-10, & 29-10, Assigned to Commissioner Yvonne Lee)**
- b. **Scheduling of items identified for consideration at future Commission meetings**

Lieutenant Reilly announced that the Commission will be meeting at the Grace Lutheran Church, 465 Woolsey, San Francisco, at 6 p.m., on Wednesday, March 31st.

PUBLIC COMMENT

None

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Mazzucco, second by Commissioner Onek.
Approved 5-0.

CLOSED SESSION (9:29 p.m. to 9:38 p.m.)

- a. **CONFERENCE WITH LEGAL COUNSEL – Existing Litigation Harmston, Parry, Evanson, and Lewis v. CCSF, San Francisco Superior Court Case No. 06-454955**

(PRESENT: Commissioners Marshall, Mazzucco, Hammer, Onek, Pan, Chief Gascón, Lt. Reilly,)

- b. **PERSONNEL EXCEPTION: Status and calendaring of the following pending disciplinary matters: JWA C09-128**
Item continued.

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION

Motion by Commissioner Onek, second by Commissioner Pan for non disclosure. Approved 5-0.

ADJOURNMENT

Motion by Commissioner Onek, second by Commissioner Pan.
Approved 5-0.

Thereafter, the meeting was adjourned at 9:37 p.m.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission