

APRIL 20, 2011

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 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Hammer, Kingsley,
Slaughter

ABSENT: Commissioner Chan

(Commissioners Marshall and Hammer arrived at 5:43 p.m.)

CONSENT CALENDAR

- **Police Commission Report of Disciplinary Actions, 1st Quarter 2011**

Motion by Commissioner DeJesus, second by Commissioner Slaughter.
Approved 4-0. (Received & filed)

**DISCUSSION REGARDING THE PSSG GROUP RECOMMENDATIONS AND THE PATROL
SPECIAL OFFICERS ASSOCIATION'S RESPONSE**

Taken out of order.

Commissioner Mazzucco gave a brief overview about Patrol Special Officers and the findings by the PSSG group.

Lieutenant Henry Parra, Patrol Special Officer Liaison, presented the Department's report. Lt. Parra talked about range qualifications, 18-hour training at the Police Academy, and their compliance with turning paperwork in.

Commissioner Mazzucco asked how many patrol specials. Lt. Parra stated that there are a total of 27 patrol specials with 18 assistants and 9 beat owners.

Commissioner Hammer talked about the perception of tension between the SFPD and the patrol specials. Commissioner Hammer also asked about the application process. Lt. Parra explained that there is a checklist established by the Commission and those paperwork have to be submitted and went on to explain the application process. Lt. Parra stated that there are two packets that are going through the process right now.

Commissioner DeJesus asked about the client's list and confidentiality issue. Commissioner DeJesus stated that the Commission needs to talk about the client's list and fees. PSO Byard suggested integrating client's list in the individuals patrol special officers' personnel files so that it stays confidential.

Commissioner Hammer stated that there should be an oversight, at least level 3 training, and updating the rules.

Commissioner Slaughter asked about liability insurance and asked if the city is named as the insured in those policies. PSO Byard stated that these are the information that Lt. Parra was talking about information requested by the Department that will be turned in by the end of May. Commissioner Slaughter expressed concern regarding compliance by the Patrol Specials since this report have been out since August.

Commissioner Marshall stated that what he is looking for in this discussion is what the controller's report recommended and stated that he hopes that the speakers will address the issues discussed in the controller's report.

PUBLIC COMMENT

Ann Grogan addressed the Commission and thanked Lt. Parra for working with the patrol specials and thanked the Commission for spending time into looking into the program. She stated that Officer Byard respond to disturbances. She went on to talk about the Cincinnati PD.

Andrea Aiello, Castro Business Group, described how they use patrol specials in their area.

Ken Craig express support for patrol specials and asked the Commission to read and cross check the PSSG report for accuracy and asked to meet with members of the public. He went on to talk about the history of patrol specials.

Peter Alexander Chernov expressed concerns about patrol specials and talked about the constitution being denied.

Tom Silhurst stated that patrol specials violates the 14th Amendment and discussed concerns regarding compliance by the patrol specials.

Jamie Whittaker, Rincon Center neighborhood, stated that patrol specials are needed in new neighborhoods like the Rincon Center and stated that there is a need for patrols to keep an eye on neighborhoods.

Ray Hartz, SF Open Government, stated that none of the comments addressed issues that were raised like insurance coverage and fees and stated that there is a lack of professional conduct within the patrol specials.

Emile Lawrence talked about the city budget and stated that patrol special program should be expanded.

Barbara Growth stated patrol specials do not cost city money and stated that the city do not need high paid brass.

Ernest Tacchihara, Patrol Special, expressed support for his merchants and talked about support for the city and stated that patrol specials do many things that are not known.

Jon Gray, applicant for patrol special, submitted a letter and stated that he applied to take over for Jane Warner but does not know what happened to his application and asked the Commission to embrace the patrol specials.

Commissioner Kingsley asked how would services be different if patrol specials are not part of the SFPD. PSO Byard stated that it will cost more for the clients, patrol specials would need to get a state's license and uniforms need to be changed.

Commissioner Slaughter asked Chief Shawyer for the command staff's view of patrol specials and would like a sense of how the Chief and the command staff feels about patrol specials. Chief Shawyer stated that the Chief Godown's concern is that patrol specials abide by the rules.

Commissioner Slaughter asked for a substantive report from the Chief and the command staff to see if this is a good program and if they agree with the proposals from PSSG, should there be a Charter change. Chief Shawyer stated that the Department will be happy to respond to those questions.

Commissioner Marshall asked where do the Commission go from here.

Commissioner Mazzuco stated that he would like Lt. Parra to asked the patrol specials to have their proof of insurance to be in by Friday, 5 p.m., and how many patrol specials do we have, active patrol specials, by Wednesday, and would like to know who owns the beats, when was the last time beat has be sold and for how much. Commissioner Mazzuco stated that he is doing this for compliance and asked the Chief to talk to his lieutenants and sergeants to have patrol specials report at the beginning of his/her watch for uniform inspection and vehicle inspection to make sure they are in compliance.

Commissioner Kingsley asked about OCC complaints and was informed that patrol specials do not come under the OCC jurisdiction. Lt. Parra explained that as of now there are nine Internal Affairs investigations; two cases are with the Police Commission and one recently sent back to the Chief's level.

Commissioner Hammer explained the report is to shut the program down but stated that he does not agree with the report and stated that he is here in memory of Jane Warner. He suggested a complete restart of the program, update the rules, and set a start date as to when to implement the rules.

Commissioner DeJesus stated that there are regulations already in place and those regulations need to be followed.

Commissioner Mazzucco asked the Department to enforce the compliance of patrol specials and asked the patrol specials to get in compliance or otherwise there will be a Charter amendment.

Commissioner Slaughter stated the Department has to get on top of this and the Department should look at the rules to make sure they are the right rules and recommend proposals to the Commission.

Commissioner Marshall stated that he's gone down this road before and there is still non compliance and stated that he is skeptical.

Patrol Special Byard stated that training they received were paid by the patrol specials and stated that they have no problem getting additional training.

Commissioner Mazzucco expressed frustration and stated again that compliance is the main factor.

Commissioner Hammer stated that it is incumbent with the patrol specials and their supporters, to get together, look at the rules, and come up with the proposed set of rules.

(The Commission recessed from 7:38 p.m. to 7:46 p.m.)

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

Ray Hartz, SF Open Government, disagrees with the President in denying public comment.

Jamie Whittaker stated that items should be taken in order.

Marlon Crump stated that public comment should be taken.

Unidentified stated that schedule should be followed.

VOTE ON WHETHER TO HOLD CLOSED SESSION

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

CLOSED SESSION (7:53 p.m. to 8:50 p.m.)

PERSONNEL EXCEPTION: Assignment of an Appeal of the Chief's suspension filed in Case No. ALW D10-235 to a Commissioner for taking of evidence on a date to be determined by the Commissioner (Assigned to Commissioner R. James Slaughter, Resolution No. 11-42)

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Hammer, Kingsley, Slaughter, Lieutenant Falvey, Deputy City Attorney Blits, Chief Shawyer)

PERSONNEL EXCEPTION: Discussion and possible action to issue subpoenas in regards to disciplinary case no. KMO C10-032

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Hammer, Kingsley, Slaughter, Lieutenant Falvey, Deputy City Attorney Blits, Chief Shawyer)

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

PERSONNEL EXCEPTION: Hearing on an Appeal of the Chief's Suspension and possible action to sustain or not sustain the Chief's discipline as filed in Case No. KMO D10-188 (Resolution No. 11-43)

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Hammer, Kingsley, Slaughter, Lieutenant Falvey, Deputy City Attorney Blits, Chief Shawyer, Attorney Burrell)
(No Court Report present)

Motion by Commissioner Hammer, second by Commissioner Slaughter to recuse Commissioner Mazzucco. Approved 5-0.

PERSONNEL EXCEPTION: Status and calendaring of pending disciplinary cases

No discussion.

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

Motion by Commissioner Hammer, second by Commissioner Kingsley for non disclosure. Approved 5-0.

PUBLIC COMMENT

Marlon Crump read a letter to Mayor Lee in regards to Commissioner Marshall and asking for his resignation.

REPORTS TO THE COMMISSION

- a. Chief's Report**
 - **Report on crime statistics**
 - **Presentation of the 1st Quarter 2011 FDRB Findings & Recommendations**
 - **Presentation of the OIS Investigation Status Summary**

Chief Shawyer gave a brief report on crime statistics.

Sergeant Nevin and Inspector Tomioka presented the FDRB report and the OIS status summary.

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

Director Hicks gave a brief statistical report in regards to mediation.

- c. Commission reports**
 - **Commission President's report**
 - **Commissioners' reports**
 - **Update regarding review of disciplinary process**

Commissioner Kingsley reported that she and Commissioner DeJesus met with the POA in regards to the disciplinary hearing process and talked about a Charter amendment in regards to the disciplinary process and stated that May 24th is the deadline for submitting a proposal for an amendment for the November ballot. Commissioner Kingsley stated that the Charter amendment would be that "the Department or the Chief would have full authority to decide all penalties through termination. If an officer wishes to appeal, the Police Commission would hear the appeal. Cases that come through the OCC will be handled as presently with sustained cases being forwarded to the Chief, the Department, and the Director having the power to refer a sustained case directly to the Commission."

Commissioner Marshall suggested having this agenda item for discussion.

Commissioner Slaughter expressed concern in that in order to get a Charter amendment and get a consensus required from all the parties involved involving all the issues that would have to be addressed and getting something on by May 24th is not going to happen because you have to get everybody from the POA, the Department, the Mayor's Office, the Board of Supervisors, and the stakeholders to agree.

Commissioner DeJesus stated that she was in one meeting with the POA and there was no discussion about a Charter amendment. She stated that the discussion was how to revise the procedure kind of like an early intervention system and went on to talk about Prop H. She stated that this is kind of premature as the Commission have not discussed a Charter amendment.

Commissioner Hammer moved to continue this item until all seven Commissioners are present for discussion.

Commissioner Slaughter stated that the discipline process as it stands now is flawed and it's not fair to anybody and stated that the Commission should have an open and honest discussion about it.

Commissioner Kingsley stated that part of this discussion has to be discussed on closed session and proposed that part of the discussion will be in open session and agendized a separate closed session for further discussion.

Commissioner Marshall stated that the Commission have not discussed this item and proposed to agendized this item for discussion.

d. Commission Announcements and scheduling of items identified for consideration at future Commission meetings

Lieutenant Falvey announced that the Human Rights Commission would like to have the joint meeting on May 11th. Commissioner DeJesus will not be present at that time and stated that she would like to be present for the joint meeting.

Commissioner Hammer asked to agendized next week a discussion for possible revisions to DGO 2.07 and asked that the Procedural Rules Governing Trial of Disciplinary Cases revision be moved to next week.

Commissioner Kingsley would like community policing on the agenda for discussion.

PUBLIC COMMENT

Unidentified would like a community policing model rather than Compstat when it comes to crime statistics and went on to support patrol specials.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED POLICE COMMISSION PROCEDURAL RULES GOVERNING TRIAL OF DISCIPLINARY CASES

Put over to next week.

ADJOURNMENT

Motion by Commissioner Hammer, second by Commissioner Slaughter.
Approved 4-0.

Thereafter, the meeting was adjourned at 8:56 p.m.

Lieutenant Timothy Falvey
Secretary
San Francisco Police Commission

1071/rct

