

MAY 18, 2011

**JOINT MEETING WITH THE
HUMAN RIGHTS COMMISSION**

The Police Commission, along with the Human Rights Commission (HRC), met in Room 250, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:35 p.m.

PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Slaughter, Human Rights Commissioners Sweet, Mohajer, Chung, Chan, Pier, Ruiz, Keleher, Mavis, Turman, and Lee

Commissioner Mazzucco introduced Chief Suhr who introduced his Command Staff. Present were Commanders Tong, Militello, Ali, Biel, Corriea, Tomioka, Deputy Chiefs Schmitt, Dudley, Cashman, and Shinn.

PUBLIC COMMENT

Ray Hartz, SF Open Government, discussed concerns regarding public comment. Emile Lawrence discussed ethnic crimes and profiling by the SFPD.

Mr. Harris discussed the homicide of his brother and comments made by the media relations of the SFPD and went on to ask if the video of his brother's homicide be used to help identify the suspect involved.

Eric Caine discussed concerns regarding complaint filed with the OCC and would like a letter from the OCC.

Clyde addressed the commission regarding the actions by the public defender.

**SAN FRANCISCO POLICE DEPARTMENT'S RESPONSE TO CONCERNS RAISED BY THE
HUMAN RIGHTS COMMISSION'S SEPTEMBER 23, 2010 HEARING REPORT,
"COMMUNITY OF SURVEILLANCE, RACIAL AND RELIGIOUS PROFILING OF ARAB,
MIDDLE EASTER, MUSLIM, AND SOUTH ASIAN COMMUNITIES AND POTENTIAL
REACTIVATION OF SFPD INTELLIGENCE GATHERING," ADOPTED FEBRUARY 24, 2011**

Commissioner Mazzucco gave a brief introduction and overview of tonight's meeting.

Chief Greg Suhr briefed the Commission as to the SFPD's practices and policies. Chief Suhr stated that he worked with Captain Mahoney and his command staff as to drafting a bureau order. Chief Suhr went on to read excerpts from the Department's bureau order.

Bureau Order No. 2011-07, dated 5/18/11, Subject: Joint Terrorism Task Force, Issued to: All Members, Operations Bureau, states as follows:

"The San Francisco Police Department (Department) is responsible for protecting the lives, property, and rights of all people, through collaborative partnerships with the community and other agencies. The Chief of Police (Chief) must constantly reprioritize and rebalance the allocation of resources to respond to critical crime prevention and law enforcement needs in the City. With the many demands placed on its finite resources, the Department recognizes the need for federal, state, and local agencies to coordinate and collaborate with both information and resources.

It is the responsibility of the Federal Bureau of Investigations (FBI) to prevent, investigate, and respond to terrorism in the United States. The FBI has established local Joint Terrorism Task Forces (JTTF) to share resources and coordinate among other federal, state, tribal, and local governments. It is the policy of the Department to help prevent and investigate acts of terrorism, protect civil rights and civil liberties under United States and California law, and promote San Francisco as an open and inclusive community by participating in the FBI Joint Terrorism Task Force.

The Chief may assign SFPD officers to work on JTTF investigations that comply with the requirements stated above regardless of whether or not the investigation is based in the City & County of San Francisco. SFPD officers shall work with the JTTF only on investigations of suspected terrorism that have a criminal nexus. In situations where the statutory law of California is more restrictive of law enforcement than comparable

federal law, the investigative methods employed by SFPD officers working on JTTF investigations shall conform to the requirements of such California statutes. While cross-designated and deputized as federal officers for purposes of their JTTF assignments, when not operating in a covert or undercover capacity SFPD officers shall always identify themselves to members of the public as SFPD officers.

To ensure access to information necessary to manage and supervise SFPD officers, the Chief (and their designee) will seek clearance at the Top Secret/Secure Compartmentalized Information level and will participate in JTTF Executive Committee meetings. The Department understands that the FBI SAC or designee needs the ability to direct the operational and day-to-day work of SFPD officers who work with the JTTF. However, the Chief (and/or their designee) will review quarterly all investigations to which SFPD officers are or have been assigned. That said, SFPD officers who work with the JTTF remain in the chain of command and under the supervision of SFPD and must comply with Department policies at all times. Within 30 days after any change in personnel in the positions of the DGO 8.10 assigned Police Commissioner, Chief of Police, FBI SAC for the San Francisco Field Office, or United States Attorney for the Northern District of California, the Chief or his designee shall ensure that the provisions of this Order are presented to all new personnel.”

Commissioner Mazzucco thanked the Chief for issuing the Bureau Order and explained that Airport TSAs does not come under the jurisdiction of the SFPD.

Commissioner Michael Sweet, HRC Chair, thanked the Police Commission for sharing its meeting with the HRC and went on to thank people involved in putting together this meeting and went on to talk about events that led to this joint meeting.

Director Theresa Sparks, HRC, addressed the Commissions and thanked the Police Commission for having this joint meeting. Director Sparks went on to thank the stakeholders who participated in the process that led to this joint meeting. She went on to talk about the hearing held on September 23, 2010 and the report adopted on February 24, 2011 and its recommendations.

Veena Dubal, Asian Law Caucus, addressed the Commissions and presented their report.

John Crew, ACLU, addressed the Commission and outlined some solutions after giving a brief history of SFPD intelligence gathering practices and reforms. He recommends that there be a transition from the original MOU and talked about the “Portland Solution.” He asked that the Department give the FBI 60 days notification that the Department is transitioning from the MOU.

(The Commission took a brief break from 6:50 p.m. to 7:00 p.m.)

Commissioner Mazzucco explained that he did meet with the FBI

HRC Commissioner Mavis stated that it is still difficult for him to understand and talked about concerns about whether the 2007 MOU is in conflict with city values and it is difficult to understand if the bureau order addresses these conflicts. He stated that a great deal of study is still needed.

HRC Commissioner Chan asked the Chief some questions in regards to the bureau order and asked how many members of the department are assigned to the JTTF. Chief Suhr stated that there are two members assigned to the JTTF. Commissioner Chan asked if the bureau order can be amended to add language from DGO 8.10. Chief Suhr stated that the intent of the bureau order was to close the gaps with DGO 8.10.

Commissioner DeJesus asked Mr. John Crew about Homeland Security. Mr. Crew stated that Chief Suhr has addressed the matter. Commissioner DeJesus commended the HRC, the ACLU, Asian Law Caucus, and Chief Suhr for acting quickly and stated that to move forward the DGO needs to be solidified and put in writing.

Commissioner Slaughter asked about the chain of command and compliance to DGO 8.10. Mr. Crew replied that the problem is in the MOU and that the FBI will enforce what is in the MOU and stated that he doesn't think that the Chief has authority over the special agent in charge of the FBI.

Commissioner Kingsley asked what is the difference between an MOU-based relationship as to resolution-based relationship. Mr. Crew explained that the MOU provides for deputization for officers when working with the FBI which gives them the authority to exercise federal powers, but in a resolution-based they will not be deputized and exercise local power and again recommended that the Department notify the FBI that the Department will be transitioning within 60 days of doing a resolution.

HRC Commissioner Chung asked Director Sparks about the continued relationship with the FBI. Director Sparks explained that the HRC have been trying to gather independent information from all the stakeholders to get some type of resolution that is acceptable to everyone. Commissioner Chung would like to address concerns about fear of being profiled. Director Sparks stated that as the HRC is talking with all the stakeholders to get input and to come back with a recommendation to move forward.

HRC Commissioner Kelleher asked Chief Suhr if there is an obstacle as to developing a resolution. Commissioner Kelleher asked if the resolution will reflect the 2002 MOU. Mr. Crew stated that officers should exercise local power rather than federal power. Director Sparks stated that the resolution in Portland was a City Council resolution.

PUBLIC COMMENT

Emile Lawrence stated that San Francisco is not Portland and concerns about the FBI not being invited to the meeting and stated that he would like the crime rate of SF be lowered.

Ray Hartz, SF Open Government, addressed the Commission regarding relationship between the SFPD and the various communities.

Unidentified, National Organization, discussed concerns regarding the JTTF MOU and unwarranted scrutiny by the FBI of Arabs and Muslims.

Nadia, Student Vice President National Lawyers Guild, stated that what needs to be clear is that the bureau order does not supersede the MOU and it is not clear how much information can be accessed.

Freid Seik discussed experience with the FBI to do civil rights work and stated that as a trainer the key factor is trust.

Hana Sen works in San Francisco and came from the Washington area where she was a trainer in deputizing federal law enforcement officers and expressed support for the solution recommended by the ACLU and the Asian Law Caucus.

Michael Flynn, President National Lawyers Guild, stated it is important to have protection and liberty and needs strong oversight by the Police Commission and asked that the Portland Solution be adopted.

Nia Bornia stated that she worked with two cases regarding FBI cases and stated that the SFPD wants to be involved in illegal use of informants and technology.

Abdul Saman, originally from Yemen, stated he was approached by the FBI after writing a letter to former Chief of Police Gascón and discussed concerns of being harassed for their race and ethnicity and urged the Commission to act to end this tragedy.

Sadi Hasim asked that the Department support the Portland solution and discussed concerns about fear of members going to the mosque for fear of being watched and concerns of the FBI not being present at tonight's meeting.

Niki, attorney, read a quote from a Persian king and concerns about the communities feeling targeted in their own country.

Hussein Adasi discussed concerns regarding experience with the FBI and talked about a friend's experience with an airport TSA and concerns about living in fear for his family.

Vera Hale was very pleased to see the HRC report and discussed concerns of problems in the airport.

Leila Metta stated that the actions of the FBI have eroded the communities' trust and instead they feel profiled and encouraged the resolution option to protect individual's civil rights.

Unidentified congratulated Chief Suhr and stated that he is here because he is interested and went on to talk about profiling.

Sarah Beilu explained that the FBI was invited to tonight's meeting but declined and talked about that in her light to work she represents clients that have been visited by the FBI and concerns of agents not providing their names and asked that the Commission move into a resolution concept.

Mina Lavin, advocate for human rights, talked about community organizations being harassed by the FBI.

Hala Deen, (through translator), cab driver, talked about being harassed by the FBI and a 2009 incident with the SFPD searching his car and asked the Commission to help stop these abuses.

Commissioner Mazzucco thanked everybody for their hard work and thanked the community for their comments and stated that the Commission will not tolerate any kind of discrimination. He went on to thank Mr. Crew and Ms. Dubal for their presentations. He also thanked the Human Rights Commission.

Commissioner DeJesus thanked everyone for their participation and would like to follow up with the resolution aspect to achieve that level.

HRC Commissioner Sweet thanked the Police Commission for sharing the meeting and thanked Director Sparks and Zoe for their work and went on to thank everyone for coming tonight.

Commissioner Chan thanked everyone for attending and the HRC for their very detailed questions and Director Sparks and Commissioner Mazzucco for their hard work.

Motion by Commissioner Slaughter, second by Commissioner DeJesus.
Approved 6-0.

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

Lieutenant Timothy Falvey
Secretary
San Francisco Police Commission