

**FEBRUARY 23, 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 5:30 p.m., in a Regular Meeting.

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

**CLOSED SESSION:** Taken out of order

**PUBLIC COMMENT ON ALL MATTERS PERTAINING CLOSED SESSION – DISCIPLINARY CASES, INCLUDING PUBLIC COMMENT ON VOTE WHETHER TO HOLD CLOSED SESSION**

None

**VOTE ON WHETHER TO HOLD CLOSED SESSION**

Motion by Commissioner Chan, second by Commissioner Hammer. Approved 7-0.

**CLOSED SESSION – DISCIPLINARY CASES (5:30 p.m. – 5:35 p.m)**

**a. PERSONNEL EXCEPTION: Discussion and possible action to issue Police Commission subpoena in the matter of Case Nos. D08-013 & C08-014**  
(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Hammer, Slaughter, Lt. Falvey, Deputy City Attorney Porter, Risa Tom, Attorney Alden)  
Motion by Commissioner Hammer, second by Commissioner Marshall. Approved 7-0.

**b. PERSONNEL EXCEPTION: Discussion and possible action to issue Police Commission subpoena in the matter of Case No. C11-001**  
(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Kingsley, Hammer, Slaughter, Lt. Falvey, Deputy City Attorney Porter, Risa Tom, Attorney Alden)  
Motion by Commissioner Hammer, second by Commissioner Marshall. Approved 7-0.

**c. PERSONNEL EXCEPTION: Status and calendaring of pending disciplinary cases**  
Put over.

**OPEN SESSION**

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

Motion by Commissioner Marshall, second by Commissioner Chan for non disclosure. Approved 7-0.

**DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE THE CHIEF OF POLICE TO DEVELOP A PROPOSAL FOR MODIFICATIONS OF DEPARTMENT GENERAL ORDERS 5.01, "USE OF FORCE," AND DEPARTMENT GENERAL ORDER 10.02, "EQUIPMENT," TO INCLUDE THE USE OF CONDUCTED ENERGY DEVICES (CED) ("TASER"), AND TO DEVELOP PROPOSED POLICIES, PRACTICES, TRAINING AND IMPLEMENTATION PROGRAMS CONSISTENT WITH PROFESSIONAL BEST PRACTICES AND CONTEMPORARY TECHNOLOGY, RELYING UPON RECOMMENDATIONS FROM THE DEPARTMENT OF JUSTICE'S OFFICE OF COMMUNITY ORIENTED POLICING SERVICES AND THE POLICE EXECUTIVE RESEARCH FORUM, SUBJECT TO THE FINAL APPROVAL OF THE POLICE COMMISSION**

Commissioner Mazzucco introduced this item and explained that in 30 days the Department will come back with a recommendation on a less lethal weapon to report back to the Commission. Commissioner Mazzucco also asked Commissioners Slaughter and Chan to work with the Department regarding this issue.

Commissioner Hammer talked about how the Department can change its tactics to avoid use of force and what is the best tools and proposals to put forward as a pilot program. The Department will then report back in 30 days to the Commission.

Chief Godown asked for permission to research lethal weapons and come back in 30 days with a specific weapon and then 3 to 6 months to come back with a feasible weapon.

Commander Mahoney presented the proposal to equip members with CED.

Roll play presented by the Department.

Commander Mahoney introduced Mr. Chuck Wexler, PERF, who talked about PERF's recommendation to use Tasers. Mr. Wexler recommended that the Department start a pilot program to study this weapon.

Sheriff Mike Hennessey addressed the Commission and stated that the Sheriff's Department have used tasers for eight years and have discharged it 14 times. Sheriff Hennessey stated that the red dot is enough to force compliance. Sheriff Hennessey stated that all deputy sheriffs have one and all deputies have to be trained and supervised in order to use tasers. Sheriff Hennessey stated that it is a very effective tool for the Sheriff's Department.

Commissioner DeJesus commented that there is a difference with dealing with individuals in confined space as to individuals on the street.

Ms. Christine Deberry, Mayor's Office Deputy Chief of Staff, expressed the support of the Mayor's Office for the Department to use tasers.

Sgt. Joe McCloskey, Tenderloin, addressed the Commission and described an incident where officers encountered a violent individual.

Officer Matt Friedman, Mission, described an incident where he was involved in a confrontation in Garfield Park with a violent individual.

Officer Jason Lai, Central, described an incident of a domestic violence against a child and a confrontation with a violent suspect where it took 8 officers to subdue the suspect.

Officer Dan Laval, Tactical instructor including firearms and less lethal firearms, showed the Commission the size of less lethal firearm to show the size and bulk of the weapon as compared to a taser.

Lieutenant Lea Millitello, Pride Alliance, addressed the Commission and asked the Commission to allow the officers to have the use of CED device.

Officer Hector Basurto, SF Latino POA, addressed the Commission and asked the Commission to allow the officers to have the use of CED device and talked about the benefit of having this extra tool for the officers.

Sergeant Paul Yep, Asian POA, asked the Commission to look for additional tool to fill the gap between a firearm and a baton.

Officer Kevin Martin, POA, addressed the Commission and asked the Commission to consider having another tool in the tool box.

Commissioner DeJesus asked Mr. Wexler as to how to use this weapon when there are so many restrictions in order to use CEDs.

Commissioner Mazzucco asked if officers can use tasers at fleeing suspects.

Commissioner Marshall asked what is it about tasers that bother people more than guns.

Commissioner Chan introduced Mr. John Burris to address the Commission. Mr. Burris talked about death cases and potential for abuse in the use of CEDs.

Ms. Barbara Attard addressed the Commission about her experience with Tasers in the city of San Jose.

Mr. Burton, Los Angeles Attorney, first attorney to sue Taser International, addressed the Commission and showed a short power point presentation.

Ms. Reena, Amnesty International, addressed the Commission regarding concerns of arming SFPD officers with Tasers.

Dr. Zian H. Tsang, UCSF, presented a short research summary in the study of Tasers.

Mr. Alan Hopper, ACLU Police Practices Director Northern California, played a short video presentation regarding use of Tasers and recommended that the Commission not act on this until the Department's CIT program is in place.

Director Joyce Hicks, OCC, addressed the Commission and stated that no weapon could replace sound tactics and recommended that the Department enhance its tactical skills training and provide communication skills to de-escalate events.

#### PUBLIC COMMENT

Denzel, retired postal service worker, would like the Department to get every tool to combat criminals.

Meesha Irizarry addressed the Commission and discussed the Oscar Grant incident and an incident in San Jose.

Dale, National Alliance on Mental Health, agreed with ACLU that Taser and mental health are not separate issues and discussed concerns about the budget and CIT should be implemented first.

Emil Lawrence addressed concerns of the cost factors to fund Tasers.

Pamela Fisher, National Alliance on Mental Illness, the CIT and Tasers cannot be separated and urged the Commission vote against the Taser.

Unidentified urged the Commission to oppose Tasers.

Karen Cunnan, National Lawyers Guild, urged the Commission to oppose Tasers and stated the presentations lack the human issue.

Kate, San Francisco resident, discussed concerns regarding cost of Tasers.

Unidentified, brother of homicide victim, stated that one of the cause of mental illness is injustice and hopes that something be done.

David Wagner, former President Harvey Milk Club, stated that community opposition has not changed in opposition to Tasers.

Francisco, Executive Board National Lawyers' Guild, opposed Tasers and opposed amendment to go forward tonight and concerns of funding Tasers.

Jesse Collins discussed concerns that when officers respond, policies will not be followed and urged the Commission not to vote.

Julian Davis discussed concerns regarding use of funding for studying the use of Tasers.

Unidentified discussed concerns regarding the use of Tasers.

Unidentified discussed concerns regarding anecdotes versus facts.

Unidentified discussed concerns regarding the use of Tasers.

Eva discussed concerns regarding the use of Tasers in community of color and asked that the Commission do not move forward in the implementation of Tasers.

Michael Flynn, National Lawyers' Guild, discussed his opposition to Tasers and that tasers tend to cause more deaths.

Katherine Lynch Sherman opposed Tasers because they are more dangerous than guns.

Danicia stated that this is not just a tool in the tool box but a weapon used against the community.

Dr. Paul Quick stated that severe injuries to officers increased with the implementation of CEDs.

Unidentified opposed Tasers because what she saw from the presentation is the officers do not use common sense.

Cherry talked about beat cops keeping the peace in neighborhoods without Tasers and discussed concerns in funding Tasers.

George Sheeman, Long Beach, discussed concerns regarding “street justice” use of Tasers.

Cynthia Munos discussed concerns regarding use of Tasers against communities of color and asked that Tasers not be implemented but instead talk to the communities.

Unidentified asked where will the money for Tasers come from and what will be sacrificed first.

Carol Harvey, speaking for James, asked that the Commission reject the proposal and discussed an incident involving the shooting of an individual on a wheelchair.

Kelly Rebecca, Homeless Youth Alliance, discussed concerns about the use of Tasers against youth and concerns that non lethal situation might turn into lethal situations with the use of Tasers.

Monica Morales, Community Against Violence, discussed concerns regarding individuals of domestic violence and the use of Tasers against these individuals.

Richard Coche urged the Commission to vote no because Tasers can cause non lethal force to deadly force.

Lee Worbach discussed the incident involving Gary King, Jr. in Oakland and the killing of young men in Oakland.

Marlon Krump discussed concerns regarding having the community wait for public comment and opposes Tasers.

Josh, Tenderloin neighborhood, discussed concerns regarding inappropriate use of Tasers and funding for it.

Ann Garrison, journalist, discussed San Francisco culture.

Cynthia Lee discussed concerns regarding use of Tasers on individuals under medication.

Tim Phillips, National Lawyers’ Guild, discussed concerns regarding use of Tasers.

Barbara Lopez regarding disproportionate use of Tasers on communities of color and individuals under the influence of drugs.

Barbara Growth discussed concerns.

Unidentified asked the Commission not to vote for Tasers and go in the best interest of the public.

Salvador discussed concerns.

Unidentified asked that the Commission do not go forward until completion of mental health training of the officers.

Bob Westor, Mental Health Working Group, discussed community engagement and stated that he does not want Tasers in the community.

Madeleine Williams do not want Tasers in the community.

Robert discussed concerns regarding Tasers and that there are other safer methods.

Unidentified common sense is needed and de-escalation skills are needed instead of Tasers.

Carl Start, writer, asked if public safety and officers safety does not improve with Tasers, could this tool be useful.

Unidentified discussed concerns that Tasers do kill and that the City cannot afford the injuries it will cause and asked to give the CIT model a chance to work.

Commissioner Chan stated that community input needs to happen and research and talk to doctors who are independent; explain where money is coming from for training, lawsuit, liabilities; use of force, when to use this weapon; include the OCC with proposal; CIT program be up and running and that training be in place; defibrillators are made available; and cannot give money to Arizona; study on communities of color.

Commissioner Kingsley thanked the presenters and the public and asked the Chief where the Department is at at this time. Chief Godown asked to research less lethal options including Tasers and stated that as Chief he has an obligation to keep the officers safe and what he’s asking is to research the feasibility of a less lethal option.

Commissioner Marshall would like some kind of clarity and would like to know what the Commission is voting on.

Commissioner Mazzucco is to look at CED devices and to investigate other devices as part of pilot program and to authorize the Chief to start looking at tasers along with working with OCC, Commissioners, working group, to see if this is the

appropriate tool and to figure out what is out there for the officers to use and to deal with implementation of the program including ground rules for use of tasers and/or other devices.

Commissioner DeJesus asked to talk about the budget and what is the priority for the department and would like to know where the money is coming from and if Taser International is giving this for free. Commissioner DeJesus also stated that this is inconsistent with the CIT Training that the Commission voted for and concerns about coming back in 30 days.

Commissioner Hammer stated the goal is not to use force unless necessary and stated that there are three different parts that are crucial: (1) CIT, (2) the use of tactics in San Francisco and use of force, and (3) his motion.

Commissioner Slaughter discussed concerns with the 30 days and what will happen and that if the motion passes, that 30 days may not be enough time and suggested 60 or 90 days to figure out if there is a less lethal weapon that the Department wants to proposed.

Commissioner Hammer read his motion, "to authorize the Chief in conjunction with OCC and two members of the Police Commission to develop a proposal for modifications DGO 5.01, "Use of Force," and Department DGO 10.02 to develop a proposed pilot program with specific proposed policies and guidelines on their use for conducted energy devices and to investigate, evaluate all other less than lethal devices and to require the Chief of Police, the OCC, and the two Commissioners report back to the Commission with their findings within the time that you think is reasonable."

Commissioner Mazzucco suggested 60 days for the Department to come back to the Commission with what weapon they are going to look at.

Commissioner Kingsley proposed an amendment to the motion and that is after the language that says relying upon recommendations from the Department of Justice Office of Community Oriented Policing Services and PERF essentially, to add the language, "and consultation with communities of colors, mental health professionals, LGBT, and other key segments of the community and to set forth proposed costs and funding for all of the above with the implementation of the proposed plan subject to the final approval."

Commissioner Hammer accepts Commissioner Kingsley's amendment.

Commissioner Slaughter asked that there should be 90 days to do the job and for the OCC, the community, and the Commission to go out and look at the issue and supports the motion but to have 90 days to come back which of the less lethal would be appropriate.

Commissioner Kingsley stated that there needs to be more dialogue on this topic with everybody, and if approved as a body, dialogue is still needed and asked the public not to be discouraged.

Commissioner DeJesus stated that she does not support this resolution and stated that this resolution is a soft pitch way to put tasers in.

Commissioner Chan added an amendment that tactics be improved; and that research be based on independent studies; and whatever is proposed, implementation of a pilot after CIT Unit has been trained and is up and running.

Commissioner Slaughter expressed concerns about the third amendment by Commissioner Chan and opposed of making it contingent upon another program and stated that the Department can accomplish what is needed and want by having officers involved meet the CIT and mental health and de-escalation tactics training.

Commissioner Mazzucco stated that we owe it to the community and the officers to keep them safe and give them another option and asked to have faith with the officers and department.

Motion by Commissioner Hammer to authorize the Chief of Police in conjunction with the Office of Citizen Complaints and two members of the Commission to develop a proposal for modifications to Department General Orders 5.01, "Use of Force," and Department General Order 10.02, "Equipment," and for proposal for a pilot program for the use of Conducted Energy Devices with specific proposed policies and guidelines for their use and to investigate, evaluate other less than lethal weapons, to develop these proposals in consultation with communities of color, mental health professionals, LGBT, and other key segments of the community and set forth proposed costs and funding for all of the above with implementation of proposed plan; also, to direct the Chief of Police, in conjunction with the Office of Citizen Complaints and two members of the Police Commission to review and make recommendation on changes to the San Francisco Police Department tactical training regarding use of force; and, for the Chief of Police, the OCC and two commissioners to report back to the Commission with their findings within 90 days. Second by Commissioner Marshall. Approved 6-1.

AYES: Commissioners Mazzucco, Marshall, Hammer, Kingsley, Slaughter, Chan

NAYS: Commissioner DeJesus

#### **RESOLUTION NO. 11-28**

#### **APPROVAL TO AUTHORIZE THE CHIEF OF POLICE TO DEVELOP A PROPOSAL FOR MODIFICATIONS OF DEPARTMENT GENERAL ORDERS 5.01, "USE OF FORCE," AND 10.02, "EQUIPMENT," AND TO INVESTIGATE AND EVALUATE CONDUCTED ENERGY DEVICES AND ALL OTHER LESS LETHAL WEAPONS AND RECOMMEND A PROPOSAL FOR A PILOT DEPLOYMENT PROGRAM**

RESOLVED, that the Police Commission hereby approves to authorize the Chief of Police, in conjunction with the Office of Citizen Complaints and two members of the Police Commission, to develop a proposal for modifications of Department General Order 5.01, "Use of Force," and Department General Order 10.02, "Equipment," and to investigate and evaluate Conducted Energy Devices and all other less lethal weapons based on independent scientific research and to develop and recommend a proposal for a pilot deployment program with specific proposed policies and guidelines for their use.

Further, to develop these proposals in consultation with communities of color, mental health professionals, LGBT and other key segments of the community and to set forth proposed costs and funding for the proposed plan.

Further, to direct the Chief of Police, Office of Citizen Complaints and two designated members of the Police Commission to report back to the Commission with their findings and recommendations within 90 days.

Also to direct the Chief of Police, Office of Citizen Complaints, and two members of the Commission to review and make recommendations to the Commission on changes to the Police Department's tactical training regarding the use of force within 90 days.

Deployment of a pilot program is subject to prior approval by the Commission.

AYES: Commissioners Mazzucco, Marshall, Chan, Hammer, Kingsley, Slaughter

NAYS: Commissioner DeJesus

#### **VOTE TO ELECT WHETHER TO HOLD CLOSED SESSION**

Motion by Commissioner Slaughter, second by Commissioner Hammer.  
Approved 7-0.

**CLOSED SESSION** (11:40 p.m. to 11:50 p.m.)

#### **PUBLIC EMPLOYEE APPOINTMENT: Chief of Police**

(PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Chan, Hammer, Kingsley, Slaughter, Lieutenant Falvey, Lieutenant Reilly, Risa Tom)

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

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Motion by Commissioner Marshall, second by Commissioner Slaughter for non disclosure. Approved 7-0.

**ADJOURNMENT**

Motion by Commissioner Hammer, second by Commissioner Kingsley. Approved 7-0.

Thereafter, the meeting was adjourned at 11:55 p.m.

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Lieutenant Timothy Falvey  
Secretary  
San Francisco Police Commission

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