

FEBRUARY 21, 2018

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.

PRESENT: Commissioners Mazzucco, Marshall, DeJesus, Melara, Hing, Hirsch
ABSENT: Commissioner Turman

ADOPTION OF MINUTES

- **For the meeting of February 7, 2018**

Motion by Commissioner Melara, second by Commissioner Hirsch.
Approved 6-0.

Public Comment
None

CONSENT CALENDAR

- **SFPD/DPA Document Protocol Quarterly report, 4th Quarter 2017**

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

Public Comment
None

REPORTS TO THE COMMISSION

- a. **Chief's Request**
- **Report on recent Police Department activities, including major events, weekly crime trends, including an update regarding Assembly bill 953, "Racial & Identity Profiling Action of 2015," and announcement**
 - **Presentation of the Limited English Proficiency Annual Report, FY 2016/2017**
 - **Presentation of the Department's Collection and Analysis of Sexual Assault Kit Evidence and Reporting of Results to Sexual Assault Victims Report, per Commission Resolution 16-28, adopted April 20, 2016**
 - **Presentation of the Audit of Electronic Communication Devices for Bias, 4th Quarter 2017**
 - **Presentation regarding Strategic Planning 1.0**

Chief Scott reported on crime trends and statistics. The Chief spoke of a homicide last week which resulted in an officer-involved shooting.

The Chief talked briefly about the strategic planning and how it came about. Deputy Chief Connolly gave a brief overview of the Strategic Planning 1.0. Chief Connolly read the SFPD Strategy Statement: "SFPD stands for safety with respect for all. We will: Engage in just, transparent, unbiased, and responsive policing; Do so in the spirit of dignity and in collaboration with the community; Maintain and build trust and respect as the guardian of constitutional and human rights."

Commander Lazar presented the Limited English Proficiency Annual Report, FY 2016/2017.

Director Sanchez, Forensic Services, and A/Captain Pera presented the Sexual Assault Kit Evidence Annual Report.

Commander Walsh presented the Audit of Electronic Communication Devices for Bias, 4th Quarter 2017.

Chief Scott then gave an overview of Assembly Bill 953, "Racial & Identity Profiling Action of 2015."

- b. DPA Director's Report**
- Report on recent DPA activities, and announcements
 - Presentation of the 2017 1st Amendment Compliance Audit of SFPD Records pursuant to Department General Order 8.10
 - Presentation of the DPA's 2016 Annual Report
 - Presentation of Statistical Reports: Summary of Cases Received, Mediation of Complaints, Adjudication of Sustained Complaints for November & December 2017 and January 2018, and Companion Reports

Director Henderson gave a brief update in regards to staffing and reported that his new staff have started this week. He also spoke of the DPA's budget and what issues need to be addressed.

Director Henderson then presented the 2017 1st Amendment Compliance Audit of SFPD Records pursuant to DGO 8.10.

Director Henderson spoke briefly of the 2016 Annual Report and the statistical reports.

- c. Commission Reports**
- Commission President's Report
 - Commissioners' Reports

Commissioner Mazzucco talked briefly of assaults against officers and talked about the justice system. Commissioner Mazzucco commended Captain Fabbri of the Tenderloin District.

Commissioner DeJesus spoke in regards to the budget for the Commission website. Chief Scott explained that the Commission is part of the roll out.

- d. Commission announcements and scheduling of items identified for consideration a future Commission meetings**

Sergeant Kilshaw announced that there is no meeting next week. The next meeting will be on March 7th.

Public Comment

Ace Washington spoke Black History Month.

Ms. Paulette Brown spoke of her son's case and asked that there be a venue to post children's posters and how she has to wait for justice for her son.

Diana Tehada, advocate SF Women Against Rape, spoke on behalf of her survivors and LEP. She talked about an incident where her client was falsely arrested because the officers did not take the time to talk to her because she was undocumented and did not speak English.

Ana Regale, LEP Working Group member, spoke that there is still a lot of work to be done and spoke of an incident where an officer took a report without asking for an interpreter resulted in an inaccurate report.

Beverly Upton, SF Domestic Violence Consortium, spoke of how undocumented victims are treated by their perpetrators and spoke of the danger of wrongful arrests. S

PRESENTATION OF THE SFPD/DPA REPORT ON GENERAL ORDERS/POLICY PROPOSALS "SPARKS REPORT," 3RD AND 4TH QUARTER 2017

Captain Moore, Sgt. Buckner, and Ms. Marion presented the SFPD/DPA Report on General Orders/Policy Proposals "Sparks Report" 3rd and 4th Quarter 2017.

Public Comment

Ace Washington spoke of racism and corruption.

DISCUSSION REGARDING DRAFT DEPARTMENT GENERAL ORDER 5.15, "ENFORCEMENT OF IMMIGRATION LAWS," FOR PURPOSES OF ENGAGING IN THE MEET-AND-CONFER PROCESS WITH THE POLICE OFFICERS ASSOCIATION

Commissioner Hing thanked Commissioner DeJesus and the working group members who worked on this draft DGO.

Motion by Commissioner Hing to adopt draft DGO 5.15 with the corrections, second by Commissioner Melara. Approved 6-0.

Public Comment

Maricel Lasparza thanked the Commissioners, the working group, and the Department for their collaboration and help to verify information regarding ICE.

Sirah, Asian Law Caucus, spoke of language on section and joint operations with ICE.

Jay spoke of joint task force operations and collateral arrests.

AYES: Commissioners Marshall, DeJesus, Melara, Hing, Hirsch, Mazzucco

RESOLUTION 18-11

APPROVAL OF DEPARTMENT GENERAL ORDER 5.15, "ENFORCEMENT OF IMMIGRATION LAWS," DRAFT POLICY FOR THE DEPARTMENT TO USE IN MEETING AND CONFERRING WITH SAN FRANCISCO POLICE OFFICERS ASSOCIATION

RESOLVED, that the Police Commission hereby approves draft dated 02/08/18, as amended, of Department General Order 5.15, "Enforcement of Immigration Laws," Draft Policy for the Department to use in meeting and conferring with the San Francisco Police Officers Association. Department General Order 5.15, "Enforcement of Immigration Laws," Draft Policy, dated 02/08/18, as amended, states as follows:

ENFORCEMENT OF IMMIGRATION LAWS

The purpose of this order is to establish policies regarding the San Francisco Police Department's role in the enforcement of immigration laws and cooperation with U.S. Immigration and Customs Enforcement ("ICE"), U.S. Customs and Border Protection ("CBP") or successor agencies whose role is to enforce immigration laws, in conformity with state and federal laws and San Francisco Administrative Code Chapters 12H and 12I.

I. POLICY.

It is the policy of the San Francisco Police Department to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation among residents, City officials, and law enforcement, and to ensure community security. It is also Department policy, consistent with its obligations under state and federal law, to adhere to San Francisco Administrative Code Chapters 12H and 12I. These Chapters generally prohibit the use of City resources to assist in the enforcement of federal immigration laws, except as required by federal or state law.

II. STATE AND LOCAL LAW.

In accordance with Chapter 12H and state law, members of the Department shall, in performing their official duties, adhere to all of the following:

A. DETENTION: Members shall not stop, question, or detain any individual because of the individual's national origin, foreign appearance, immigration status, or who are Limited English Proficient. (see S.F. Administrative Code section 91.2; DGO 5.20, Language Access Services, 5.03, Investigative Detentions.) Members shall not inquire into an individual's immigration status.

B. DOCUMENTS: In the course and scope of their duties e.g., traffic enforcement, investigations, and taking reports, members shall not require individuals to produce any document to prove their immigration status. (see DGO 5.06)

C. ASSISTING ICE/CBP: Members shall not cooperate with or assist ICE/CBP in any investigation, detention, or arrest procedures, public or clandestine, where in any such instance the express or implied purpose is the enforcement of federal immigration laws.

D. INFORMATION GATHERING/DISSEMINATION FOR IMMIGRATION ENFORCEMENT PURPOSES:

1) **Release Status/Confidential Information for immigration enforcement purposes.** Members shall not request information about, or disseminate information, regarding the release status of any individual, or other "Personal Information" including but not limited to date, time, or location or any other confidential, identifying information such as home, work, or family or emergency contact information, except as required by federal or state law. Members shall not threaten to release any personal information to federal immigration authorities or threaten individuals with deportation or removal proceedings.

2) **Benefits, Services, or Opportunities.** The Department shall not include on any application, questionnaire, or interview form it uses in relation to benefits, services, or opportunities provided by the City and County of San Francisco, any questions regarding immigration status other than those required by federal or state law.

E. ICE/CBP DETAINERS/ADMINISTRATIVE (CIVIL) WARRANTS: Members shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, solely on the basis of an administrative (civil) warrant, prior deportation order, or other civil immigration document that only addresses alleged violations of the civil provisions of immigration laws. Members shall not place an administrative (civil) immigration hold or detainer on an individual who is in custody. National Crime Information Center ("NCIC") or California Law Enforcement Telecommunication System ("CLETS") warrant responses currently make clear whether the warrant is administrative (civil) or criminal.

Members shall adhere to all of the following when reviewing or examining outstanding warrants in the NCIC or CLETS system. Members:

- 1) Shall contact the Sheriff's Central Warrant Bureau ("CWB") to confirm any warrant before taking action on the warrant.
- 2) Shall not enforce federal administrative (civil) warrants for arrest (currently Department Homeland Security ("DHS") Form I-200) or for removal/deportation (currently DHS Form I-205 or any other or similar versions of these forms).
- 3) Shall not enforce Administrative Immigration Detainer – Notice of Action (currently DHS Form I-247A, former forms I247-D, I-247N, and I-247X, or any other similar versions of these forms).
- 4) May enforce criminal warrants after consulting with CWB and confirming the criminal warrant.
- 5) Shall record the name of the individual from CWB staff who confirmed the criminal warrant in the incident report. (See DGO 6.18, Warrant Arrests).

F. TRUTH ACT

If an individual is in SFPD's custody and a member receives "any ICE hold, notification, or transfer request, [the member] shall provide a copy of the request to the individual" pursuant to Cal. Govt. Code section 7283.1(b). The member shall notify the individual that SFPD will not comply with any ICE hold, notification, or transfer request.

III. PROVIDING AN EMERGENCY RESPONSE TO ICE/CBP.

A. ICE/CBP REQUESTS FOR AN EMERGENCY RESPONSE: Members may provide an emergency response to ICE/CBP to the same extent members would respond to an emergency to any other law enforcement agency. For example, 10-25, Code 3, respond as back-up; and 406, officer needs emergency help. Generally, these calls require an emergency response. Members may provide an emergency response when the Officer-in-Charge determines there is an emergency posing a significant and immediate danger to public safety or to the ICE/CBP agents. The Officer-in-Charge shall determine when emergency response is no longer needed.

B. DUTIES OF MEMBERS: Members providing an emergency response to ICE/CBP shall immediately notify their supervisor and complete an incident report describing the reasons for their assistance. In no event shall members assist ICE/CBP with the enforcement of federal immigration laws, except as required by federal or state law.

C. DUTIES OF SUPERVISORS: When notified that a member is providing an emergency response to ICE/CBP, supervisors shall immediately respond to the location and ensure that such assistance is warranted.

D. TRANSPORTATION: Members shall not assist ICE/CBP in transporting individuals suspected solely of violating federal immigration laws.

E. ASSISTANCE: Members shall not provide assistance to ICE/CBP agents for routine ICE/CBP operations, investigations, or raids. If ICE/CBP requests assistance that does not amount to an emergency response as outlined in this section, members shall follow the protocols listed for Interagency Operations (see DGO 5.14, Interagency Operations).

IV. ASSISTING OTHER LAW ENFORCEMENT AGENCIES AND FOREIGN GOVERNMENT.

A. INTERAGENCY OPERATIONS: If ICE/CBP requests assistance with a planned, unplanned, or spontaneous operation, members must obtain approval from the member's Assistant Chief to ensure compliance with this DGO. (See DGO 5.14, Interagency Operations.)

B. JOINT CRIMINAL OPERATIONS: Members may continue to collaborate with other federal, state, and local law enforcement agencies on matters other than the enforcement of immigration laws, with approval of the member's Assistant Chief, to protect public safety and participate in joint criminal investigations that are permitted under Department policy or applicable city or state law. When a member becomes aware that the criminal investigation involves the enforcement of immigration laws, the member shall:

- 1) Notify a Supervisor; and
- 2) Cease operations if doing so would not pose a risk to the officers or the public;
- 3) Suspend Interagency Operations; and
- 4) Document in a memorandum the factual circumstances surrounding the incident and route through the chain of command, to the Chief's Office.

The Chief of Police shall report to the Commission at its earliest opportunity, information about the Joint Criminal Operation where the criminal investigation also included the enforcement of immigration laws. The Chief's report may not include information that would compromise an on-going criminal investigation, or a related investigation, or endanger the safety of individuals or members.

The Chief of Police shall simultaneously submit to the Commission and the Department of Justice any reports required for Joint Law Enforcement Task Forces under state law, including Cal. Government Code section 7284.6.

C. ASSISTING FOREIGN GOVERNMENT: Members shall not assist or cooperate with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State, or Federal criminal laws. (See DGO 8.10, Guidelines for First Amendment Activities.) Any assistance or cooperation with a foreign government must be approved by the member's Assistant Chief. (See DGO 5.14, Interagency Operations.) Members requesting approval of the Interagency Operation shall notify the Officer-In-Charge ("OIC") of the Special Investigations Division ("SID") who will evaluate whether the U.S. State Department should be notified of the assistance or cooperation.

V. DEPARTMENT BULLETINS. Department Bulletins describing current versions or relevant examples of DHS forms and the most current samples of NCIC or CLETS print-outs of both administrative (civil) and criminal warrants will be issued as necessary.

VI. COMPLIANCE WITH OTHER STATE OR LOCAL LAWS. Nothing in this General Order prohibits members from performing their duties in enforcing state and local laws.

VII. ANNUAL REPORT. By no later than January of each year, the Chief shall provide to the Police Commission a written report on the following information:

- (1) a description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, including but not limited to the number of civil immigration detainers, notification requests, or other types of communications; and
- (2) a description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including but not limited to any Department's responses to inquires as described in subsection VII(1) of this DGO.

References

DGO 5.03, Investigative Detentions
DGO 5.06, Citation Release
DGO 5.14, Interagency Operations
DGO 6.18, Warrant Arrests
DGO 8.10, Guidelines for First Amendment Activities
S.F. Administrative Code 91
S.F. Administrative Code 12H
S.F. Administrative Code 12I
Cal. Govt. Code section 7283.1

AYES: Commissioners Mazzucco, Marshall, DeJesus, Melara, Hing, Hirsch
ABSENT: Commissioner Turman

PUBLIC COMMENT

Ms. Paulette Brown spoke of her son and asked for a venue to post bulletins on buses. She then showed names of perpetrators who murdered her son. She asked that something be done.

ADJOURNMENT

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

Thereafter, the meeting was adjourned at 7:20 p.m.