

DGO 5.15 – ENFORCEMENT OF IMMIGRATION LAWS

MINUTES – September 20, 2017

Attendees:

Bill Ong-Hing – Police Commission (BH)
Petra DeJesus – Police Commission (PD)
Michael Redmond – SFPD (MR)
Saira Hussain – Asian Law Caucus (SH)
Avantika Shastri – SFBar (AS)
Richard Smith – St. John's Episcopal (RS)
John Alden – DPA (JA)
Alicia Cabrera – DCA (AC)
Brian Knuecker (APOA)
Angela Chan – Asian Law Caucus (AngelaC)

Introductions

(BH) Would like to go over what was discussed in the last meeting and hoped to finalize what would be presented to the Police Commission at this meeting based on the consensus from the last meeting, however, new proposals were presented due to new legislation, which need to be discussed.

Draft version with underlined portions was draft DCA Cabrera, the Department, and Commissioner Hing put together.

Portion II A – Limited English Proficient

(SH) The line “for the purpose of enforcing immigration laws”, does that mean you will be enforcing immigration laws?

(AC) We took out “solely”, inability to speak English, because of the comments by ALC. It would be up to the department if they want to change “for the purpose of enforcing immigration laws”

(JA) – I would recommend it being taken out, unless there is an understanding for why there is a reason to ask about immigration status. Some officers may feel that they can ask about immigration status with the way this is worded.

(MR) If it is a criminal case, the officers will be asking about the crime, not the immigration status. I think it is fine if we take it out.

(BH) Section II C - We were trying to be broad regarding the “express or implied” purpose.

(AC) The prior version says, “stated purpose”. ALC would like it to be changed to “known.”

(SH) Recent bill passing, the wording says “known purpose”. Thought we would like to see it carried over from the bill to the general order.

(BH) I'm ok with that, but I feel they mean the same thing.

(AC) You can go above the state law base standard.

(MR) Express or implied is actually more strict language than "known".

(AC) What is most helpful for the officers to understand is what I think should be in the general order.

(BH) I think it will give officers more pause if it says implied.

(BH) Section D, we all agree upon

(BH) E3, for any other or similar versions

(AC) We will use the same language in E2 & E3

(BH) We added another part, Section F.

(MR) Good to have this in there in case it comes up for the officer.

(BH) 3A, emergency assistance, what is it actually? The Department provided the codes. This situation is when a federal officer has an emergency and back up is necessary by the SFPD.

(MR) Yes, the police department may have to respond and assist the community, as well as the federal officer. This clarifies for the officer what they would respond to.

(SH) We proposed something different, we would like to add, "once the situation no longer poses the threat, all SFPD members must immediately cease providing assistance to ICE/CBP

(BH) I would like the department to respond on this, and you can have time to think about it

(MR) I would be concerned that SFPD would pull out, and it could turn back into an emergency situation. I would be concerned about it.

(AC) The proposed language, and what is already in here, is similar.

(MR) It would not be in our best interest to leave. It would be up to the supervisor at the scene.

(BH) The purpose of your comment is so that SFPD doesn't assist immigration efforts?

(SH) Yes, we don't want SFPD assisting ICE/CBP when they are in assistance efforts.

(BH) If there is still a public safety issue going on, the officers should not be called on it as "assisting"

(PD) This is clearly a real emergency. If SFPD shows up, the premise is they are not assisting ICE, they are responding for a public safety issue.

(JA) It sometimes takes a while to see if the emergency is over. I think it would be hard for the officer to know when the threat is over

(MR) If the DGO is to give the officer instruction, they will relate it to an emergency.

(AS) The codes are really helpful, are there any other thoughts about when to cease the operation, just to show that we do not work with ICE/CBP

(PD) What you are really saying, is in no way can they assist ICE/CBP.

(MR) If you go down to section B/C, it says the supervisor would respond, maybe you can add something there

(AC) The supervising officer shall decide when the emergency assistance is no longer needed?

(AC) Assistance to ICE, the language assistance, we are not assisting, it should be more about public safety.

(PD) This portion is about public safety, not assisting ICE. I like adding the portion about the supervisor

(AC) We can tie the supervisor portion to part A and work on it.

(BH) Do we violate rules if we send it out to the working members?

(AC) Yes, seriatim meeting, but individual members can send you an email with their suggestions without discussing it with others

(JA) What about this? At the end of paragraph C, once the supervisor concludes the danger to public safety has been resolved, the supervisor shall seize the operation.

(MR) Seize providing assistance, because operation may mean assisting.

(AC) We will work on it.

(MR) What about emergency response.

(JA) We should switch it throughout the DGO.

(PD) Emergency response instead of assistance, providing emergency, etc.

(AngelaC) This section would not allow SFPD to arrest someone if there was an emergency response?

(MR) It does not

(PD) In no event will SFPD assist ICE/CBP and enforce immigration, something like that.

(MR) Response instead of assistance, see part E.

(BH) Page 4, B , we had a conversation, and I think this is reasonable way to implement the concerns regarding an immigration operation unknowingly to SFPD. They would have the duty to stop and report it up the chain of command. What does everyone think?

(AC) Strike this whole section and just have the section of reporting to mirror with State Law (SB54)

(BH) I think we are doing more

(Angela C) I think it is useful what is being proposed here as well as the reporting part

(AC) I'm just talking about the reporting part. The same requirements in state law.

(SH) It's only annually to the AG. I think the Commission would want to know immediately.

(SH/Angela C) How about it saying, If there is any state law that requires reporting requirements around joint task force operations, the Chief of Police will send the same report to the Police Commission at the earliest opportunity

(MR) Joint criminal operations instead of joint task force operations.

(AngelaC) Joint Law Enforcement Task Force

(SH) Maybe we should include in the DGO for officers, the understanding of the vetting portion of interagency operations.

(MR) It is included in the Inter-Agency DGO. The whole process is there.

(SH) Is there anything about immigration in the inter agency DGO?

(MR) I would have to look at the DGO, but anything that comes across my desk, I will make sure there is no inter agency immigration enforcement.

(AC) I think you are asking for a specific reference immigration enforcement in 5.14

(SH) If 5.14 is under review, maybe it can be added.

(AC) It is not in 5.14, it is referenced on page 3 and under references

(BH) What if we said, SFPD may only enter into a joint task force operation that comports with 5.14

(AC) It's already in 4A

(BH) I think it's redundant to mention it in 5.14.

(AngelaC) Add, to ensure with DGO 5.15. (Page 3A) on the bottom.

(BH) We will still say see 5.14. We will take a look at it. Any public comment? None, ok.

(MR) 5.14 references the word ALL, referencing all department general orders.

(SH) VII reporting, page 6, has been eliminated from the draft provided. I thought we spoke about mirroring the reporting requirement.

(AC) This was referencing the Sheriffs and JPD, and that would have to go before the Board of Supervisors. 12H & 12I doesn't spell out everything that has to happen for the Sheriffs, JPD. The board would have to make those decisions if there were any changes.

(SH) Would we have to go back to the board of supervisors for changes for SFPD? Everything we have does not mirror 12H & 12I. I think it makes sense to put the reporting requirements that the Sheriffs and JPD require.

(AC) The board made this amendment/policy for Sheriffs and JPD, any changes would need to go before the board. 12H & 12I does not spell out all operations of Sheriffs, JPD, PD.

(SH) None of 12H & 12I is directed toward SFPD specifically, but the Sheriffs and JPD. It does say Law Enforcement shall...

(AC) That includes SFPD

(BH) It is not mandated by 12H & 12I

(AC) No it is not, it is very specific that it is directed toward Sheriffs and JPD.

(AngelaC) I think it is valuable for the community and mirrors the Secure Communities Resolution passed by the Commission

(PD) Once a year would be good

(AngelaC) Especially since the number of detainees being presented is high. It would be good for the city to track and the public to know how many are being issued to us.

(BH) It is not mandated, but can we ask for it?

(AC) Yes, you can ask for it. PD doesn't get a lot, so the reporting would be very small. As long as everyone understands that.

(PD) It is more of a check in, even if there isn't a lot to report.

(BH) Petra, once a year ok with you? Reporting specifics

(SH) Like 12I.5

(BH) Why don't we agree to what is required by 12H & 12I, however, we will report once a year.

(BH) Any related issues? I don't know when we will get this on the agenda. Hopefully in a month or two. We will report on the consensus of the working group. I am not sure if we need another working group meeting, however, I may call us together again, to see how the community feels about the update, and more outreach via the police department.

Adjourned