

DGO 5.15 – ENFORCEMENT OF IMMIGRATION LAWS

MINUTES – AUGUST 07, 2017

Attendees:

Petra DeJesus – Police Commission (PD)
Bill Ong-Hing – Police Commission (BH)
John Alden – DPA (JA)
Marisela Esparza – SFILN (ME)
Angela Chan – Asian Law Caucus (AC)
Saira Hussain – Asian Law Caucus (SH)
Jill Menning – SFPOA Attorney (JM)
Val Kirwan – SFPOA (VK)
Carole Conn – SFBar (CC)
Avantika Shastri – SFBar (AS)
Brian Kneucker – APOA (BK)
Jehan Laner – Pangea Legal Services (JL)
Esperanza Cuautle – Pangea Legal Services (EC)
Alicia Cabrera – DCA – (AC-DCA)

On July 05th, Police Commission meeting, adopted new language to DGO 5.15. Primary focus of working group. There was not a lot of notice of the changes and there were issues that came up before that meeting and in public comment, therefore, the Commission decided to create a working group to see if additional changes and recommendations are needed. There may be other related issues that the group may raise, as long as it relates to the sanctuary ordinance.

Introductions of working group participants and various organizations represented.

Purpose Statement of working group will be posted on line. Read to working group.

(BH) Brief history of DGO 5.15 prior to July 05, 2017. Spoke to Chief William Scott's statement read at Police Commission meeting on July 05, 2017. Spoke about philosophy of Chief Scott's message which he believed reflected the commitment to the philosophy of the sanctuary ordinance as well as the need of community trust of the SFPD. Requested (SH) discuss the changes made to Sanctuary Ordinance 12H & 12I prior to 2016.

(SH) 12H& 12I, prior to 2016, (12H) had an acceptance for somebody who was arrested or convicted of a felony, that person could be reported to immigration, that part was taken out of (12H). (12I) it only dealt with immigration holds, someone could not be held more than 48 hours.

(BH) Worked with City Attorney's office on revisions which were adopted on July 5, 2017 by Commission. Requested DCA Alicia Cabrera discuss changes.

(AC-DCA) Changes that were made were to update the outdated DGO from 1989 to reflect (12H & 12I) as it exists in the last amendment of 2016 by the Board of Supervisors. Also incorporating the department bulletins that have kept the department updated. There were so many versions of 12H & 12I that have been updated since 1989.

(BH) Can you describe what a Department General Order and Department Bulletin are?

(AC-DCA) DGO is adopted by the Commission, to set policy.

(BH) DGO's are policies and bulletins are the instructions to the field, and have expiration dates?

(AC-DCA) Bulletins expire every 2 years. Handles by Written Directives

(BH) Department Bulletins can also describe training and the form the training will take place?

(AC-DCA) Yes, they do

(BH) Working group can digest materials and ask questions and add to materials provided

(BH) Free SF submitted proposal prior to July 5, however, entire working group is allowed to submit changes.

(JA) How the DGO could be changed, I would have some specific things to add

(BH) Can you explain to group how an issue regarding a violation to the DGO would come to DPA or Internal Affairs Division?

(JA) If there is a complaint, an internal investigation is made, did officer follow policy. We look at two things, the officer had a lack of training or did not follow policy. We also see if policy has flaws. We pass this information to the department. We track to see if the policy is working or not. Sometimes we hear from officers that they have not been trained properly on some of the policies or they were written unclear and the officers don't understand them. We are looking for ideas on how to improve DGO's.

(Unknown female) If there is a proposed recommendation because a policy is unclear, what happens?

(JA) DGO 3.10 describes process of revisions to DGO's. We provide feedback from DPA at this time.

(BH) Any public comment? None

(BH) Proposal from Free SF

(SH) We also wrote a memo to the Chief prior to July 5, I am happy to send that out to the working group

(SH) Section 2A, recommended language used for DGO 5.20 be also used in DGO 5.15. In verbiage used "solely", request it be removed, because someone's national origin or foreign appearance should not trigger SFPD to stop and question someone.

(SH) Section 2B, suggested a short statement to be added to state, members are reminded they shall accept a City of San Francisco Municipal Identification Card when requiring members of the public to show proof of identity.

(BK) What type of circumstances would an officer be dealing with for 2B recommendation

(SH) Any time asking for identification, a SF Municipal Identification Card is acceptable. Referred to bulletin created by former Chief, Heather Fong.

(BK) The i.d. card should replace the driver's license, or just to identify someone?

(AC) No, for proof of identification.

(SH) Section 2C, Change "the" to "a"

(SH) Section 2D, regarding release date or time, match language which comes from SF Admin Code 12H, which links to 12I, to include release date or time.

(JA) Some of the detentions are brief, you could have somebody who is being stopped for a minor stop, the officer checks for warrants and holds, sometimes the holds show up as a return and are hard to understand. Part of the goal of "release date or time", isn't conveyed to ICE, you may want to also include they cannot convey to ICE where the initial detention is being made.

(Unknown Female) How does a police officer confirm the warrant and what type of hold it is?

(JA) Officer has the ability to get information. It's been an experience that the databases are not always clear. If something needs to be followed up, or an officer doesn't understand, they could call central warrants bureau or speak to a supervisor.

(AC) DGO 5.15, page 2, it is laid out and clear what the officer is to do if they are unclear. It specifically outlines what they are to do, so there is no room for ambiguity.

(JA) Training and experience of officers is new to study since new DGO only adopted for a month.

(AC-DCA) Someone from department should speak to historical training of department.

(JA) Civil administrative warrant training needs to be addressed, past training has not been enough.

(BH) Addressed to Sergeant, Let's get someone from department to address training at next meeting.

(BK) Addressing section E1 & E2, when officer calls CWB, it should be made clear by CWB of what kind of warrant it is.

(Unknown female) – Administrative vs Criminal warrant, there is a bulletin that addresses this. Unknown if that guidance is being done. Sheriffs provided some information regarding confirming these types of warrants and what the Sheriff should communicate to officer.

(BH) Deputy Chief Moser, let's see if he can come speak about the training.

(BK) Sheriff/CWB someone from there come speak as well? What they can review with us about warrants?

(PD) Can we go back to Section 2D , regarding release status, if you want to add specific language, perhaps it should be more broad and state, including but not limited to date, time, and location.

(JA) Not just when released, when/where, how being held? Officers may be confused

(BH) DCA Cabrera, do you agree?

(AC-DCA) What is being suggested by (PD) is consistent which is what is in (12I)

(SH) Section 2D, regarding threat. Would like the verbiage added that members shall not threaten to release any personal information about an individual to federal immigration authorities.

(BH) Unclear why it got deleted. Have to see why it was.

(SH) Section 2E, add forms that are used by DHS.

(JA) Has anyone asked the Sheriff's if they are aware of all of these forms?

(SH) Section 3A regarding "emergency assistance". It seems unclear. What constitutes an emergency situation? What elements meet that standard? Asking for clarification.

(BK) Clarification regarding this would be very helpful for officers.

(BH) The red lined version, there is a section that discusses some emergency matters, but we need clarity. Seems like a training issue. DC Moser could speak on this.

(BH) Lt. Dangerfield gave some good examples of emergencies, maybe he can speak to this.

(SH) Section 3B – ICE has clearly stated that immigrants should be frightened of collateral operations. Spoke of incident which happened in Santa Cruz. Oakland has cut ties with JTTF. Recommend all operations with SFPD are reported

(BH) Is your concern better addressed before the Board of Supervisors?

(SH) I think the working group should also think about this

(TE) I do not agree, DGO 5.10 is not about DGO 8.10. We are not Santa Cruz or Oakland. Our policies are very strict. Not having a JTTF is dangerous for our city.

(PD) Making the MOU available, can we post it, we have done that before. They are asking for reports between the task force and ICE. The investigation itself is confidential.

(AC) Has this joint operation turned into an immigration raid or not? That is what we want tracked and reported. Not seeking details of operation.

(Unknown female) What are the differences in our policies between SFPD and Oakland and Santa Cruz?

(TE) We have 8.10 and very strict policies. We don't want to lose trust of public. We have great checks and balances. I don't know about Santa Cruz. I lived in Oakland for many years.

(PD) Data is very important for us. We need a report that would show whether we are participating in picking up people on criminal matters instead of civil matters. By default we are doing immigration work.

(BH) On 8.10 there is a Commissioner who is assigned to regularly review the 8.10 reports. The Commission could regularly assign someone to look at these joint operations possibly. DHS/JTTF operations)

(AC) I think there should definitely be Commission oversight. It doesn't have to be as detailed like going into the details of the operation.

(BH) I think we need more detail on how this transparency proposal would work before we make a decision.

(PD) JTTF had a MOU, something like that.

(Unknown female) I think the ordinance should be part of that too. I want to highlight that the transparency that we are asking for, there have been operations in the city which we did not know who was carrying it out.

(ME) There have been 3 incidents since February, where it was really unclear which department was seeking need, who was taking jurisdiction if someone was arrested. The biggest one happened at an apartment on Eddy Street. I went there physically to verify what was happening. There is a 24 hour hotline in San Francisco that has a verification piece. It is for the community, as it is hard for them to figure out who, who is. It was ICE and HSI that was there. I asked them who they were, and they said, Federal Police. That doesn't exist. They asked me if I was a reporter and told me to get out of there. They were detaining 5 people. 1 of the people was transferred back and forth between SFPD/ICE. We are still trying to figure out what happened. That person wasn't able to see an attorney throughout the course of that day and were unable to be aware of their rights.

(TE) I am aware of that incident, and SFPD was not involved in that incident. It had to do with a child pornography case. There is such a thing as Federal Police as well. They are an arm of Homeland Security

(Unknown female) I was also there and was one of the three attorneys to try to provide representation and advice to the detainees regarding their rights. There was a lot of confusion at immigration whether whose custody they were in. It was finally confirmed that they were in HSI's custody, and we were told we would not be able to speak to them. The entire day they were questioned, we were never able to see/speak with them. I know they were not in SFPD's custody, however, I feel there is a lot of questionable activities taking place with the recent increased immigration enforcement, which reflects on the city as well when there is cooperation.

(PD) When they come in and do a raid, they have to notify the Department correct? You have all these people running around with guns.

(TE) Not necessarily. If they are doing a search warrant, it is their parameters. They don't have to tell us.

(PD) They might not have to, but do they have a practice where they notify the department they are going in? Just curious.

(TE) I have never been notified.

(Unknown female) Even though SFPD wasn't part of this raid, HSI is clearly doing collateral arrests in San Francisco. So even when the department isn't involved, if there is a JTTF, I don't think we can trust the department to say they won't also be doing collateral arrests. Meaning for instance, like the child pornography case, not the person who was arrested, just someone who happens to be living there.

(AC) Pertaining to our two recommendations, it would be to the benefit of SFPD to report that they were or were not part of an operation. It's good for SFPD to build the trust with the community.

(BH) Regarding joint criminal operations, when this group makes a report to the full commission, we can certainly ask about this type of required reporting.

(SH) We have two more recommendations. (1) This is for the Commission, we recommend that there is an addition to the DGO that states that HSI cannot state they are "the police". ICE has been going to people's homes stating they are "the police". Governor Brown just passed AB 1440, which states that ICE agents are not licensed police officers and asks that all departments take necessary actions to disassociate the actions of ICE officers with those of state and local peace officers, and make it clear that federal immigration officers are not California peace officers, and appropriately ensure the public knows the difference.

(BH) You think that is within the realm of the Police Commission's jurisdiction?

(SH) This is not a hard a fast policy, however, it is a strong statement to say to ICE to not identify themselves as police officers

(BH) My initial reaction is we do not have the jurisdiction to tell ICE how to identify themselves.

(SH) The language says "urges"

(PD) Maybe a cease and resist letter?

(BH) Maybe this is a resolution that can be written.

(SH) Final recommendation, a reporting requirement, from 12I, transparency from department and HSI be reported to Police Commission. The report should cover the number of civil immigration detainees, assistance in operations. The ordinance itself asks the sheriffs and juvenile probation to provide that data.

(AC) There was a resolution in the past. I don't know if it is still being reported. It passed unanimously.

(TE) I'm confused, you want SFPD to log all correspondence with any Federal Agency?

(AC) Not any Federal Agency, just the ones that carry out civil immigration enforcement, ie, ICE, CBP

(TE) If criminal in any nature, that doesn't count?

(AC) Goes back to the section where it says joint criminal operations

(DP) Seems repetitious from what you are asking before

(BH) We need to see the resolution, let's back up to the ESL section and the recommendations

(DP) Section 2A, per Admin code 91, update DGO 520, and use proper term.

(Unknown female) Language access ordinance has limited English speaking person.

(AC-DCA) All of the DGO's are being updated per DOJ's recommendations to reflect city law, which has been approved by the Board of Supervisors.

(DP) Regarding 2B, DGO 5.06, recommend to Commission to re-issue Chief Fong's bulletin interim while DGO 5.06 is being updated regarding Municipal ID Cards, and it to be implemented into 5.06.

(BH) To the working group, if you have additional changes, please present them to us. It doesn't have to be before the next meeting. I will send out additional dates for meeting 3 and possibly 4.

(AC) Implementing Truth Act, asking for all police and sheriffs for their policies.

(BH) Any public comment? None

(BH) During the last Commission meeting, a member of the public mentioned how ICE passes themselves off as ICE. Would it help to give the public information on who the San Francisco Police is?

(ME) SF (?) Does an educational piece already. It is still very hard for the community member. ICE will wear vests that say POLICE. I'm not sure this would really help. Something more helpful would be accurate information of who is or is not at scenes.

(TE) The captains of district stations could answer who is and who is not at scenes. Also our policies should be translated so people can understand what our policies are.

(BH) Any other related comments or inquiries? None. Any from the public? None

(BH) Next meeting is next Tuesday at 9:00.