

**SEPTEMBER 15, 2004**

**CLOSED SESSION**

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 5:17 p.m., in Closed Session.

PRESENT: Commissioners Renne, Chan, Keane, Marshall, Sparks,  
Veronese

ABSENT: Commissioner Orr-Smith

Closed Session pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d).

**CONFERENCE WITH LEGAL COUNSEL - Existing Litigations**

- a. Alema Hoskins, a minor, and Jeanell Harris, a minor, et al v. CCSF,  
San Francisco Superior Court No. 416-515
- b. Andrew King v. City and County of San Francisco, USDC No. C03-4879

**SEPTEMBER 15, 2004**

**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 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Chan, Keane, Marshall, Sparks,  
Veronese

ABSENT: Commissioner Orr-Smith

**VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))**

Motion by Commission Keane for non disclosure. Second by Commissioner Veronese. Approved 6-0.

**APPROVAL OF CONSENT CALENDAR**

No Public Comment.

Commissioner Renne announced that Item 3(b), Andrew King v. City and County of San Francisco, was not considered by the Commission in Closed Session.

Motion by Commissioner Chan, second by Commissioner Keane. Approved 6-0.

**RESOLUTION NO. 87-04**

**ALEMA HOSKINS, A MINOR, AND JEANELL HARRIS, A MINOR, ET AL v. CCSF, ET AL**

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Alema Hoskins, a minor, and, Jeanell Harris, a minor, et al v. CCSF, et al," in San Francisco Superior Court No. 416-515, be, and the same is hereby approved.

Date of Incident: January 21, 2002

AYES: Commissioners Renne, Chan, Keane, Marshall, Sparks,  
Veronese

ABSENT: Commissioner Orr-Smith

**CHIEF'S REPORT**

**a. Status of proposed changes to Department General Order 8.11, “Officer-Involved Shootings”**

Captain Keohane, Risk Management Division, reported on the status of the proposed changes to Department General Order 8.11, “Officer-Involved Shootings.” Captain Keohane stated that the Department received policy recommendations from the OCC that applies to General Order 8.11. These issues were to provide information on officer-involved shootings, in-custody deaths, traffic accidents involving SFPD pursuits and vehicles, assignment by the Chief of Police for liaison personnel to provide information to the family of individuals who dies as a result of an officer-involved shooting or dies while in the custody of SFPD or as a result of a traffic fatality involving SFPD vehicle pursuits. It also included the duty of the liaison personnel was to release incident reports to the family unless the Chief of Police asserts reasons to withhold the reports as allowed under the Government Code of San Francisco Administrative Code. The policy recommendation also called upon the Department not to make public statements or to issue press releases that appear to predetermine the outcome of the investigation or that it unnecessarily place the deceased person in a negative light while maintaining an officer’s First Amendment rights. It also included the improvement of dissemination of information by the SFPD by providing written analysis that address frequently asked questions concerning officer-involved shootings and fatal accidents.

Captain Keohane stated that the status at this time was in the original re-write by Lt. Hennessy. Internal units and the OCC were added to the list of notification. The internal units were the Legal Division, the Risk Management Office. The Shooting Review Board was re-instituted for accountability and reporting purposes. However, at this time, it may be removed and what will be done is to re-institute General Order 3.10 and issue that as a separate bulletin. Captain Keohane stated that time lines are being revisited and they may be unrealistic in the first draft that was given to the Commission. Captain Keohane explained that, due to the fact that the Department is dealing with external units such as the Medical Examiner’s Office and the District Attorney’s Office, that the time lines were not very realistic. Captain Keohane stated that rather than create an order that would fail, he proposes that the time limits be changed to the Homicide has 45 days to complete their investigation, MCD has 60 days, and possibly 75 days be provided to the Chief.

As far as the OCC policy recommendations, Captain Keohane stated that he met with Director Allen and they have discussed each one of the policy proposals and where they would best fit in the policies and procedures of the Police Department. Proposal #1 states that it shall be the policy of the San Francisco Police Department to provide as much information as possible without endangering the successful completion of the investigation or related investigations to the families of individuals in officer-involved shootings, in-custody deaths, and traffic accidents involving officers pursuits. The Police Department agrees with this policy and it states that it shall be the policy of the San Francisco Police Department to provide as much information as possible consistent with the relevant provisions of the California Penal Code, the San Francisco Administrative Code Sunshine Ordinance, the California Government Code Public Records Act, and other applicable loss to the families of individuals in officer-involved shootings, in-custody deaths, and traffic accidents involving SFPD officer pursuits. Captain Keohane stated that rather than incorporate this policy under General Order 8.11, the Department is exploring a re-write of Department General Order 8.04, “Critical Incident Response Team.” The new DGO can be titled Critical Incident Response and include resources to be provided to external individuals and families.

Proposal #2 states that the Deputy Chief of Investigation shall also assign SFPD to serve as a liaison to the family of an individual killed in an officer-involved shooting, who dies while in custody of the SFPD, or as a result of a traffic fatality involving an SFPD vehicle or pursuit. This liaison shall initiate contact with the family of the deceased individual and promptly provide them with information about the SFPD, the Medical Examiner’s

Office procedure, crime scene processing, processing of the deceased individual and his or her property, the agencies conducting investigations into the fatality and their respective rules, and provide relevant SFPD policies. The liaison shall be able to provide information to the family on an ongoing basis concerning investigations by the SFPD and other related agencies. Captain Keohane stated that the Department's response to that policy proposal is the Deputy Chief of Investigation shall assign SFPD personnel to serve as a liaison to the families and it mirrors the policy proposal. But rather incorporate this policy into General Order 8.11, the Department is exploring a re-write of General Order 8.04, "Critical Incident Response Team" where these duties will be placed.

Proposal #3 states that the liaison shall promptly disclose to the family all incident and traffic reports unless the Chief of Police asserts that providing the report would endanger the successful completion of the investigation or related investigation or endanger the safety of its officers or other persons involved in this investigation. The Chief of Police shall justify to the Commission the continuing need to maintain confidentiality of undisclosed information contained in the incident report. The Captain stated that the Department agrees with this proposal and the liaison shall promptly disclose to the family all incident and traffic reports unless the Chief of Police asserts that providing the report would endanger the successful completion of the investigation or related investigation or endanger the safety of the officers of other persons involved in the investigation or is contrary to law. The Chief of Police shall justify to the Commission the continuing need to maintain confidentiality of undisclosed information contained in the incident reports. But rather incorporate this policy into General Order 8.11, the Department is exploring a re-write of General Order 3.16, "Release of Police Reports." In this regard, General Order 8.09 may also be affected as Section 6254.5 of the Government Code states that whenever a State or local agency discloses a public record which is otherwise exempt from this chapter to any member of the public this disclosure shall constitute a waiver of the exemptions specified in this act. This means that the Department cannot provide the family all incident and traffic reports and invoke exemptions to the Public Record Act and denying the same information to other members of the public and the media.

Proposal #4 states the Police Department shall not make public statements or issue press releases that appear to predetermine the outcome of an investigation where that unnecessarily place the deceased person in a negative light. Nothing in this policy shall inhibit the First Amendment Rights of individual members of the SFPD provided they shall not make public statements in an official capacity, in uniform, or purport to be speaking on behalf of the Department. The San Francisco Police Department agrees and response and shall not make public statements or issue press releases that appear to predetermine the outcome of investigations or that unnecessarily place the deceased person in a negative light. Captain Keohane stated that rather than incorporate this recommendation into Department General Order 8.11, the Department is exploring a rewrite of Department General Order 8.09, "Media Relations." He stated that First Amendment Rights are already addressed in this order.

Proposal #5 states the Police Department shall improve dissemination of information to the public by developing and providing written materials that address frequently asked questions about officer-involved shootings or fatal incidents involving San Francisco Police Officers. These materials shall describe the investigative process and the agencies involved in such investigation. It will also contain all relevant general information. Captain Keohane stated that the Department agrees to this request and in that manner, the Department is also looking at creating an officer-involved shooting manual that the officers involved in these cases will follow and that could be provided to the public. Also, the Department will provide to the public a pamphlet that provide answers to frequently asked questions, and in developing this manual, the Department will go to members of the public who have voiced complaints

to find out what their questions are so that the Department can best respond to the questions.

Captain Keohane stated that by adopting these changes to the General Orders, the Department believes that service will be provided with understanding, response with compassion, and performance with integrity.

Commissioner Sparks thanked Captain Keohane for his report and asked that, in the future, it would be very helpful if the Commission has something in front of them to look at. She also asked Captain Keohane if there is a time line in getting the completions done and at least a preliminary draft of the various Department General Orders for the Commission to look at. Captain Keohane stated that he'd like to have it presented to the Commission within four weeks, in written form.

Commissioner Marshall stated that it is important that the Commission have documents in front of them so that things can be pointed out to both the Department and the OCC to move things along.

Commissioner Keane asked for the reason for incorporating the different policy recommendations into different General Orders and asked if it is because the existing regulation encompasses the general area that this new provision would seem to fit. Captain Keohane stated that is correct. Commissioner Keane stated that he is concern that there might be language in the existing provision that would limit, change, or modify in any way any of the particular provisions that the Commission wants to put it and hopes that that is not the case. Commissioner Keane also expressed concern regarding the policy recommendation on members of the Department making statements about the deceased in an officer-involved shooting. Captain Keohane stated that the Commissioner's concerns will be addressed in the order.

Commissioner Renne asked Captain Keohane to get materials to the Commission ahead of time so that they will be able to discuss these things and know exactly what's being changed and what isn't being changed.

Commissioner Chan stated that there should be an explicit date on the Commission agenda regarding these recommendations just to keep it on track.

Commissioner Veronese asked about Media Relations and asked if there is going to be a Public Relations Manual and asked if the Commission could have that material.

Commissioner Sparks asked about release of officers' name after officer-involved shootings and stated that receiving the report after 75 days after the incident is a long time. Commissioner Sparks stated that the Commission should be able to receive some type of information during this process so the family, the public, and the Commission aren't left completely out in the cold and receive no information whatsoever. She asked the Department to consider that in their review of the policies.

#### PUBLIC COMMENT:

Steve Perry, Outer Mission Residence Association, stated that he is hoping that the public can review the preliminary recommendations to the Commission specially in regards to officer-involved shootings and be able to put their input in writing to the Commission.

Marylon Boyd, Justice of Cammerin Boyd, discussed concerns regarding officer-involved shooting general order. She stated that she didn't hear any mention as to whether or not the liaison would be neutral in the presentation of information to the victims and also in gathering information.

Mary Harris, President of District 11 Council, stated that it was confusing to the public what was being changed. She went on to read a letter to the Commission regarding releasing of names of officers and stated that she didn't like the word "victim" and that the Commission should use a more

appropriate word. She stated that she agrees that changes need to be made but also wants to make sure that the First Amendment Rights of the officers are always taken into consideration and that they don't lose their rights. She thanked Chief Fong and recognized the officers in the Taraval Neighborhood Team.

**b. Review of Recent Activities**

Chief Fong stated that the Department has applied for a School Resource Officer Grant and last week, the Department was notified that it was awarded a grant of over \$4 million for 33 school resource officers.

Chief Fong also stated that all of the District Station Captains will be sending out email notices to the public and to the Commission.

Chief Fong went on to describe activities that the Department was involved in and went on to highlight some of the good work done by members of the Department from the different district stations.

Commissioner Chan stated that he was pleased to attend the ceremony for the graduation class 207<sup>th</sup>. He stated that it was a wonderful ceremony and impressed upon him the warmth of the greater community out there and the enthusiasm of the graduating class. He also asked about staffing for the Department and stated that there is concern regarding adequate staffing for Richmond and Taraval Stations. Chief Fong stated that the Department's minimum staffing level prior to the passage of Proposition C was 1,971 officers. With the passage of Prop C, which is the Civilianization Ordinance, there is a clause in there that says that staffing level can be reduced based upon agreement by the Controller and the Chief and that the reduction of that position to a civilian position would not impact community policing or the ability to provide services to the public. Chief Fong stated that 1,971 is still there in some ways but it really isn't in other ways in that if the Department is bringing in 40 civilians to move 40 officers to the field towards the end of this year, in some ways that number now had decreased by 39 or 40 individuals. With the resources that the Department has, the Department is concerned because after the Vietnam war, there was an influx in personnel. The Department is working on grids to insure that the Department can bring personnel numbers forward so that its not trying to always catch up to put more resources out there so that the Department can have consistent quality training and bring people in at a steady level. The Chief also stated that with people retiring and with that attrition number and knowing that about three years ago when Prop H was on the ballot, people waited until they became 55 to retire, that window is starting to close on the Department and so the Department is going to clearly push to insure that it has those staffing levels that are needed.

Commissioner Renne asked if the sponsors of the bike race provide reimbursement to the Department for police overtime. The Chief stated that, at this point, there has not been reimbursement.

Commissioner Sparks stated that she believes that the Board of Supervisors waived fees for the bicycle race to get it back into San Francisco and last year they waived \$300,000 or \$350,000 that they waived, and she believes the Board has already waived the fees to put on the race here this year.

Commissioner Renne stated that the Department should keep track of how many officers worked the race and so that next time the Board of Supervisors starts complaining about overtime and how the Department's not meeting the budget, there is notes to be compared.

Commissioner Chan stated that this matter have come up several times in the past several weeks when these special events have occurred and pretty much the input from the Department has been ignored in terms of its fiscal

impact on the budget. He suggests that there should be a clear and consistent approach so that the Department is not placed in the position of having to apologize for overtime budget overruns when these events are clearly outside of its control through no fault of the Command Staff or management of the Department.

**PUBLIC COMMENT:**

Malaika Parker, Bay Area Police Watch, handed the Commission information that have been released into the Cammerin Boyd incident and she stated that in that information is the summary of the medical examiner's report and discussed concerns about whether or not the Department has been honest in this investigation.

Marylon Boyd, Campaign for Justice for Cammerin Boyd, stated that she agrees with Malaika Parker's comments and asked the Department and the District Attorney's office to place an indictment against the officers who shot her son.

**OCC DIRECTOR'S REPORT**

**a. Review of Recent Activities**

Director Kevin Allen, OCC, gave a brief summary of the events that took place this past week. He stated that Amnesty International released their report on racial profiling and it's something that he thinks the Commission should have to take a look at. He also reported that right now, the OCC has about seven cases that are open that are in the eight-month or over. He also stated that the OCC went down from about 107 cases, two months ago, to about 71 right now. He also discussed the OCC statistical report that are currently being put on the website. He also stated that the policy recommendations are also on the website.

Commissioner Chan asked about racial profiling and asked if the OCC have a view point or position as to whether there is a problem of racial profiling in 2004 with respect to the Department. Director Allen stated that when the DGO was adopted, he stated that it was done in response to the public concerns. What has occurred since then, information from the Department as to how many people were stopped and their ethnic background has been sent to the OCC. The OCC is tracking the data now but as it stands now, he doesn't have the information to give the Commission and he thinks that it's something that needs to be looked at.

Chief Fong stated that Dr. Lutz is present if the Commission would like him to speak in regards to Director Allen's presentation.

Dr. Lutz stated that it was a good meeting. He stated that in response to Commissioner Chan's question, he stated that there is a problem everywhere and that it's a major social issue of our time. He stated that it is a legitimate issue and a legitimate concern and he thinks that the Commission should have the report from Amnesty International. He stated that there are many things that can be done that don't involve directly and should not involve directly any impact on patrol or investigative activities of the Department.

**PUBLIC COMMENT:**

Malaika Parker, Bay Area Police Watch, wanted to comment on racial profiling and stated that there definitely is racial profiling in the San Francisco and suggests that this Commission take initiative to talk to people that live in Bayview Hunter's Point, Fillmore, and the Mission District, and to not just leave it up to Kevin Allen and the Department to define whether or not that's an issue.

**DISCUSSION OF COMMISSIONER KEANE'S PROPOSAL TO REQUIRE ADDITIONAL REPORTING: 1) BY THE OCC ON THE STATUS OF OCC INVESTIGATIONS AND THE CASELOADS OF**

**OCC INVESTIGATORS; AND 2) BY THE CHIEF OF POLICE ON THE STATUS OF MCD INVESTIGATIONS, THE STATUS OF SUSTAINED MCD CASES, AND THE TYPE OF SUSTAINED OCC CASES**

Commissioner Keane stated that this was a resolution that was written by Mr. Schlossberg of the ACLU meeting some of the concerns at it relates to getting data to make sure that the Commission is prepared to set the policies that needs to be set. He stated that he'd like to amend the proposed resolution itself, some of the language of it. He went on to discuss the proposed changes that he would like to make. On the second to the last paragraph on page two, he would like it to read, "Be it further resolved that the Office of Citizen Complaints include in its annual report information on the average caseload of its investigative staff."

Director Allen stated that one of the real concerns was including the names of the investigators. He stated that in their budget, it is included in their performance goals, an average caseload carried by the investigators so they already have that tracked. He also explained that his office has different tiers for investigators and he would like to sit down and talk to Commission Keane, before he amends the language, there may be a way to incorporate what the Commissioner wanted in this section where there could be a list of 17 investigators that would show the different individual weights. Commissioner Keane stated that would be fine. Director Allen further discussed some of his concerns regarding bullet points requested for all pending OCC cases. Commissioner Keane asked Director Allen to go ahead and make the changes to the bullet points and asked that he submit it to the Commission and to Deputy City Attorney Morley.

Commissioner Renne asked Director Allen and the Department to get their comments into the Commission and to Ms. Morley and this item will be scheduled in three weeks.

Commissioner Keane explained that there is already a charter provision that requires that the SFPD give a monthly report on sustained OCC cases but there is really no way of implementing that. It's never been done because there's no mechanism for implementing it. He stated that one of the things that his resolution is attempting to do is to go ahead and implement that and it can be implemented in the Summary Disposition Report. Commissioner Keane stated that there is already a provision for the Summary Disposition Report in an existing MOU with the POA.

Commissioner Renne asked the City Attorney for a memo indicating how any resolutions should be implemented so that everybody is clear with what is being done.

Chief Fong stated that the Department have reviewed the resolution that was submitted by Commissioner Keane and stated that the Department is currently, and have been since the end of 2003, reporting according to the provisions of Administrative Code Chapter 96 on sustained cases that are sent over from the OCC to the Department and the decisions once they're made. Chief Fong stated that it is not written into anything that the Department has and so the plan is to revise Department General Order 2.04 which addresses the OCC and those policies and put it into that. Additionally, the Department have discussed preparing a General Order that is similar to 2.04 but addressing the Management Control areas and in that report, the reporting requirements will be included so that it will be documented and it would be part of Department policy. Chief Fong stated there is one area that she believes the Department should be meeting with the City Attorney, the OCC, and the POA and that has to do with the current summary of OCC findings that's documented in Chapter 96. She stated that currently, that box identifies the sustained allegations that are sustained by the OCC and ultimately that the officer is being disciplined for. The resolution that's submitted encourages the Department to follow the model that the LA Sheriffs Department is following

in terms of reporting more specific information about the summary of the findings. She stated that we're at two extremes. We have just the allegations and then we have very detailed information. She'd like to sit together with the OCC, the City Attorney, and the POA to come up with a way that the Department can give more information but not give information to the point that it potentially could violate the rights of an officer. Chief Fong said that she'll have that with the drafts for the Commission in three weeks.

**PUBLIC COMMENT:**

None

**COMMISSION ANNOUNCEMENTS**

Commissioner Renne announced that on September 22<sup>nd</sup>, the Commission will be meeting in Room 551, at the Hall of Justice.

Commissioner Veronese congratulated Sergeant Reilly for making it through his first Commission meeting on his own.

Commissioner Chan thanked Deputy Chief Pengel, Commander Craig, and Captain Corria for the courtesy extended to him upon his visit to the Airport Bureau.

**PUBLIC COMMENT**

Unidentified discussed concerns regarding her neighbors vandalizing the red zone.

**SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS**

Commissioner Chan would like a report on Department staffing.

Commissioner Sparks would like a report from Legal or MCD on expected release time of the District Attorney's office on the Cammerin Boyd shooting and requested that it be calendared under the Chief's report on where the District Attorney's office is at in their investigation and when the Commission can get additional information.

Commissioner Veronese asked if someone from the OES be invited to give a report on the 911 responses or status on how many calls are left on hold for how long such as it would impede the Department's response time.

Thereafter, the meeting is adjourned at 7:37 p.m.

---

Sergeant Joseph Reilly  
Secretary  
San Francisco Police Commission