

November 18, 2004

Chief Heather Fong
Chief of Police

Director Kevin Allen
Director, Office of Citizen Complaints

Dear Chief Fong and Director Allen:

At the meeting of the Police Commission on Wednesday, November 17, 2004, the following resolution was adopted:

RESOLUTION NO. 97-04

ADOPTION 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 CASES, AND THE NATURE OF SUSTAINED OCC CASES

Resolution requiring the OCC to report to the Police Commission regarding pending disciplinary case

WHEREAS, reporting on the status of OCC investigations is necessary to maintain public confidence in San Francisco' s system of police accountability; and

WHEREAS, it is the responsibility of the Police Commission to oversee the Police Department and to maintain public confidence in the Department' s accountability system; and

WHEREAS, S.F. Charter ' 4.127 requires the OCC to issue, in accordance with the Rules of the Police Commission, three types of reports, as follows: 1) monthly summaries of the complaints the OCC has received; 2) quarterly reports concerning SFPD policies or practices which could be changed to avoid unnecessary tension with the public; and 3) quarterly statistical reports regarding the number and type of citizen complaints the OCC receives, the outcome of the investigations of those complaints, and the discipline imposed, if any.

Chief Heather Fong

WHEREAS, the OCC currently provides the Board of Supervisors and the Police Commission with the quarterly statistical report described above, the OCC does not currently issue monthly reports and does not issue a quarterly report of its policy recommendations; and

WHEREAS, the Commission has not issued rules or guidelines governing the reports that Charter section 4.127 requires; and

WHEREAS, information about OCC operations, in addition to the information required by Charter section 4.127, will assist and will help the Police Commission to ensure that the OCC fulfills its Charter mandate to promptly, fairly, and impartially investigate all citizen complaints of police misconduct by members of the SFPD; and

WHEREAS, useful additional information about OCC operations includes the status of cases currently under investigation, and the caseloads of OCC's investigators; therefore, be it

RESOLVED, that the OCC shall provide the Police Commission with the following reports:

1. MONTHLY REPORTS OF COMPLAINTS RECEIVED. In accordance with S.F. Charter section 4.127, the OCC shall prepare and submit to the Police Commission a monthly report of the complaints received, including, but not limited to, the number and type of complaints filed; and
2. QUARTERLY REPORTS OF PENDING OCC INVESTIGATIONS. S.F. Charter section 4.127 requires the OCC to prepare a quarterly report for the Board of Supervisors that includes, but is not limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. This report shall also include the status of all open investigations of citizen complaints, including, but not limited to, the date the complaint was received by the OCC, the date that the OCC completed the complaint intake process, the date that the OCC completed its investigation and all internal review, the date that the Director completed his or her review and closed the case, or, if the case was transmitted to the Chief of Police with a recommendation for discipline, the date that the Director transmitted the case to the Chief. Prior to submission to the Board of Supervisors, the Director of the OCC shall submit a copy of this report to the Police Commission for its review.
3. QUARTERLY REPORTS OF RECOMMENDATIONS FOR CHANGES TO DEPARTMENT POLICY AND PRACTICES. In accordance with S.F. Charter section

4.127, the OCC shall prepare and submit quarterly to the Police Commission and the Chief of Police a report of its policy recommendations. These recommendations shall identify modifications to SFPD policies and practices that will avoid unnecessary tension with the public, or a definable segment of the public, while ensuring effective police services.

4. ANNUAL REPORT OF INVESTIGATOR CASELOADS. In conjunction with OCC's annual report submitted to the Board of Supervisors pursuant to S.F. Charter section 4.103, the Director of the OCC shall present to the Police Commission annually a report on the number of cases closed per quarter, the number of closed cases that were sustained, and the number of cases assigned to each investigator.

The OCC shall also post on its website a copy of each report described above within ten days of its issuance.

Resolution requiring the SFPD to report to the Police Commission regarding pending disciplinary cases

WHEREAS, reporting on the status of sustained OCC and MCD cases is essential to prevent the dismissal of sustained cases of police misconduct; and

WHEREAS, the S.F. Administrative Code requires monthly reporting of the status of sustained OCC cases, but there are no similar provisions for reporting on sustained cases investigated internally by the Police Department through MCD; and

WHEREAS, it is the responsibility of the Police Commission to oversee the Police Department and to maintain public confidence in the Department's accountability systems; and

WHEREAS, the S.F. Charter requires public, quarterly reporting of statistics regarding the number, type, and disposition of citizen complaints the OCC receives, the outcome of the investigations, and the discipline imposed, if any, there are currently no requirements for the public reporting of the status of open MCD investigations; therefore, be it

RESOLVED, that the SFPD shall provide the Police Commission with the following reports:

1. MONTHLY REPORTS ON PENDING OCC CASES. Chapter 96 of the City's Administrative Code requires the Chief of Police to report monthly, in writing, to the Chief Heather Fong
Director Kevin Allen
Resolution No. 97-04

OCC, the Police Commission, and the public on the status of all sustained complaints the OCC has transmitted to the Police Department for review and determination of appropriate action.

- a. CHIEF' S DECISION PENDING. For each sustained OCC complaint for which the Chief of Police has not yet issued a decision on the discipline to be imposed, if any, the monthly report shall set forth the number of the complaint, the date the complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, a factual summary of the complaint' s allegations (in a form similar to the descriptions attached hereto as Exhibit A), a summary of the OCC' s findings, the current status of the complaint within the Police Department, and the date by which the Chief of Police expects to issue a decision.
 - b. CHIEF' S DECISION MADE. For each sustained OCC complaint for which the Chief of Police has issued a decision on the discipline to be imposed, if any, the report shall set forth the number of the complaint, the date the complaint was filed with the OCC, the date on which the OCC transmitted the complaint to the Police Department, a factual summary of the complaint' s allegations (in a form similar to the descriptions attached hereto as Exhibit A), a summary of the OCC' s findings, the date on which the Chief of Police issued a decision, the discipline imposed, if any, and the date of any discipline imposed.
2. MONTHLY REPORTS ON PENDING MCD CASES. In addition to the monthly reports required by Chapter 96 of the Administrative Code, the Chief of Police shall report monthly, in writing, to the Police Commission and the public on the status of all sustained complaints that MCD has transmitted to the Chief for review and determination of appropriate action.
- a. CHIEF' S DECISION PENDING. For each sustained MCD case for which the Chief of Police has not yet issued a decision on the discipline to be imposed, if any, the monthly report shall set forth the number of the case, the date the underlying information was received, the date on which MCD transmitted the investigation to the Chief for decision, a factual summary of the misconduct alleged (in a form similar to the descriptions attached hereto as Exhibit A), a summary of MCD' s findings, the current status of the case within the Police Department, and the date by which the Chief of Police expects to issue a decision.

- b. **CHIEF' S DECISION MADE.** For each sustained MCD case for which the Chief of Police has issued a decision on the discipline to be imposed, if any, the report shall set forth the number of the case, the date the underlying information was received, the date on which MCD transmitted the complaint to the Chief for decision, a factual summary of the misconduct alleged (in a form similar to the descriptions attached hereto as Exhibit A), a summary of the MCD' s findings, the date on which the Chief of Police issued a decision, the discipline imposed, if any, and the date of any discipline imposed.
3. **QUARTERLY REPORTS OF PENDING MCD INVESTIGATIONS.** S.F. Charter section 4.127 requires the OCC to prepare a quarterly report for the Board of Supervisors regarding the number, type and disposition of complaints filed with the OCC. The Chief of Police shall likewise prepare a quarterly report for the Police Commission, with a copy to the Board of Supervisors, including, but not be limited to, the number and type of MCD investigations initiated during the quarter, the outcome of any completed MCD investigations, including the number of cases sustained, a review of any disciplinary action taken, and the number of cases dismissed, if any, for failure to comply with the statute of limitations contained in Government Code section 3304(d).

The SFPD shall also post on its website a copy of each report described above within ten days of its issuance.

EXHIBIT A

SUMMARY OF ALLEGATION: The officers initiated a traffic stop without justification.

SUMMARY OF ALLEGATION: The officers detained two citizens at gunpoint without justification.

SUMMARY OF ALLEGATION: The officers used excessive force during a detention.

SUMMARY OF ALLEGATION: The officers searched a vehicle without cause.

SUMMARY OF ALLEGATION: The officers misrepresented the truth.

SUMMARY OF ALLEGATION: The officers handcuffed civilians without justification.

SUMMARY OF ALLEGATION: The officer failed to issue Certificates of Release.

SUMMARY OF ALLEGATION: The officers failed to write an Incident Report.

SUMMARY OF ALLEGATION: The officers failed to report and/or record the use of force.

SUMMARY OF ALLEGATION: The officer made inappropriate comments to the complainant.

SUMMARY OF ALLEGATION: The officers failed to maintain and employ required knowledge regarding crowd control.

SUMMARY OF ALLEGATION: The officers failed to provide medical assistance.

SUMMARY OF ALLEGATION: Command Staff failed to properly supervise officers at the incident.

SUMMARY OF ALLEGATION: The officers used profane language in dealing with the student body.

SUMMARY OF ALLEGATION: The officers utilized selective enforcement in dealing with the students.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Veronese

NAYS: Commissioner Sparks

Very truly yours,

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct

cc: Captain C. Keohane/Risk Management
Lieutenant D. Carr/Management Control Division