

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 5:52 p.m., in a Regular Meeting.

PRESENT: Commissioners Sparks, DeJesus, Lee, Mazzucco, Onek
ABSENT: Commissioner Marshall

PUBLIC COMMENT

None

REPORTS TO THE COMMISSION

- a. Chief's Report**
- **Update on significant policing efforts by Department members**
 - **Presentation of the Department's 3rd Quarter 2008 Document Protocol Report**

Assistant Chief Lynch, for Chief Fong, introduced Deputy Chief Keohane who introduced Director Ken Wysiocki, Chief Information Officer.

Commissioner Sparks welcomed Director Wysiocki.

Commissioner Onek welcomed Director Wysiocki and asked him to look at the PERF recommendations because a lot of it deals with technology.

Lieutenant Dan Mahoney, Legal Division, presented the Third Quarter 2008 Document Protocol Report.

Director Hicks stated that the delay is significant.

Commissioner Sparks asked if a monthly report is in order so that if there document request go past the 10 days it can be placed on the agenda or in the quarterly report it can include how long after the document was produced over the 10-day period.

Commissioner DeJesus would like the monthly basis. Commissioner Mazzucco also agreed with the monthly report that would include a brief response from the Department stating the reasons why documents cannot be turned over.

Director Hicks stated that the OCC is fairly accommodating to the Department's requests of a 30-day extension but what would happen is that after the 30 days, another letter is sent by the Department asking for another 30-days. Commissioner Sparks stated that as long as the Commission knows what those extensions are for but the Commission does not want the statute of limitations to run and the OCC cannot finish their investigation.

Commissioner Mazzucco suggested that in the event that there is a need in order for the OCC to conduct their investigation in a timely fashion, Commissioner Mazzucco suggested having an in-camera hearing where the Department will come in and explain to the Commission the reason why they are not turning it over and the Commission can determine whether there is legitimate reason or not.

Commissioner Sparks stated starting with the monthly exception report with the time it is overdue and the reason.

Assistant Chief Lynch stated that he would be highly surprised if this situation happens again and stated that there was a misunderstanding as to what the role of OCC is as compared to MCD and that there is no difference and

stated that they have communicated that and that if there is a problem, he has directed his staff to let him know and he'll work it through.

PUBLIC COMMENT

None

Commissioner Sparks asked for a summary on the Chief's Report in regards to anti-war demos.

b. OCC Director's Report
- Review of recent activities
- Presentation of the OCC's 4th Quarter 2008 Early Intervention System ("EIS" Report)

Director Hicks addressed complaints received and closed. Director Hicks stated that this quarter, the OCC opened 246 cases and closed 258. There are 380 pending cases, 186 from 2008 and 194 for this year. In 2008, the investigators were carrying 37 cases. This first quarter of 2009, the average caseload per investigators is 22 cases.

Director Hicks also talked about mediation and stated that for the first quarter, the OCC has mediated 16 cases as compared to last year's first quarter of 17 cases mediated.

Commissioner DeJesus asked about the EIS report and asked what the Department is doing as far as officers with 3 or 4 complaints filed.

Commissioner Sparks requested asking the Department with a corresponding report to the OCC's EIS report and asked the Chief how can the Commission find out what is being done.

Deputy City Attorney Stump stated that the Department might be in a transitional phase because there was a prior order and now there is a new order and stated that it might make sense for the Department to take the questions, look at the order, and come back with a specific recommendation as to how this report might be revised to reflect the current order and also meet the Commission's request for additional information.

Commissioner DeJesus stated that what she wants to know is when an officer get 7 OCC complaints for the year, does it trigger the Early Intervention System and is someone looking into this and is something being done about it.

Assistant Chief Lynch stated that this report parallel the EIS requirement triggered quarterly but the OCC complaints is only one component of the entire list of what would hit the EIS system and is being done on a monthly basis.

Director Hicks explained that the EIS report they prepared is in compliance with DGO 3.19 which requires the OCC to quarterly compile a list of officers who've received 3 citizen complaints within a six-month period or 4 or more complaints within a year, forward it to the commanding officer of Risk Management. Director Hicks stated that this report shall only include complaints that are less than two years old. Director Hicks stated that the questions might be due to the multiple cards that are include and those are not required. Ms. Hicks stated that as far as action taken by the Department, the OCC fills in the information that is received.

Commissioner Sparks asked the Department for action if a complaint is sustained. Commissioner Sparks also stated that the EIS includes citizen complaints, MCD complaints, traffic accidents, etc. and asked if the Commission can find out from the Department what is happening with OCC

sustained complaints and since the Department cannot take something from the OCC and it does not feed into the EIS because is non disciplinary, but if the officer's record reflects an OCC complaint then that goes into EIS for monitoring and so is the EIS working, how is it reported, and do we know if anything is being done.

Director Tidwell explained that the Early Warning System has remained in place as the Commission approved DGO 3.19 in February two years ago and as the Department move forward in putting the new EIS system in place, one of the key indicators of the ten indicators is the OCC complaints, the Department have put in an interim system that was developed through its own databases and resources as the department continues to move forward with technology, with the vendor, and with implementation targets.

Commissioner Sparks stated that it was her understanding that even though it was interim, there will still be reporting pursuant to 3.19 and stated that the Commission does not want to wait until the new system is up and running before getting any reports.

Director Tidwell stated that it can be done and that a February report just went out today. Commissioner Sparks asked to get copies of the monthly reports for the Commission to look at. Commissioner Sparks stated that the Commission would like to see what the Department is doing and what it is producing as far as EIS reports to get an idea of how it is working.

Commissioner Sparks asked for an update on the EIS system as far as time line. Assistant Chief Lynch stated that the Department has a time line as part of the PERF recommendations that give a date and a target date to be on board. Commissioner Sparks asked for an overview and maybe periodic reports based on the various milestones so that the Commission can see if it is on track.

- c. Commission Reports**
- **Commission President's Report**
- **Commissioners' Reports**
- Status Reports:**
 - **Chief of Police executive search**
 - **Organizational and other contemporary studies**
 - **Rules and procedures for Patrol Specials**
 - **Commission Office staffing**

Commissioner Sparks stated that there are copies for the Commission of the final brochure/profile for the search for the new Chief. Commissioner Sparks set April 20th for screening of applications in Room 505, Hall of Justice and asked to notify Bob Murray & Associates.

Commissioner Sparks also stated that she had a meeting with Steve Kana to talk about contracts and MOAS and stated that Mr. Kana agreed to reopen the YOU and asked if any Commissioners would agree, along with the Mayor's Office, to contact Micki Callahan, DAR, and be involved in reopening the YOU and come up with an agreeable compromise with the Mayor's Office in adding a severance component to the new Chief's contract. Commissioners Lee and DeJesus agreed to do this.

Commissioner Sparks also announced that she had a conversation with the Mayor's Office about Chief Fong continuing beyond her original retirement date to ensure a smooth transition and that the Chief has agreed to that until such time that an orderly transition is made.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE PHASE ONE IMPLEMENTATION PLAN FOR THE SAN FRANCISCO POLICE DEPARTMENT DEVELOPED BY THE POLICE EXECUTIVE RESEARCH FORUM (“PERF”)

(taken out of order)

Assistant Chief Lynch introduced Mr. Craig Fraser and Mr. Bill Tegular of PERF, Ms. Carina Mansion, Ms. Peg Stevenson, and Ms. Catherine McGuire of the Controller’s Office, and Lieutenant Mike Biel.

Chief Lynch stated that this overview will talk about the studies themselves, the development of a Vision Statement for the Department adopted by the Commission, a three-prong approach to achieving this vision based on policy, procedure, and phase one district. They will also talk about what a phase one district is and the selection criteria that was looked at for identifying a phase 1 station and then go on to the next steps of the process. Chief Lynch then went on with the presentation of the Phase One Implementation Plan.

Commissioner Sparks asked if the Department intends to give the Commission a quarterly report to get an understanding of what has been done, by recommendation. Chief Lynch stated that the Department will provide a quarterly report containing time lines, goals, reason for recommendation, et cetera.

Commissioner Sparks stated that the first quarter report will be scheduled for the first meeting in May which is May 6th.

Commissioner Sparks asked about moving forward and the time frame for the Phase 1 District implementation and time frame for other parts of the city. Assistant Chief Lynch stated that the first step was to identify the station and the management team that will be assigned to the station.

Commissioner Sparks asked how fast will this be communicated to the officers working at Ingleside and to the community in the Ingleside. Chief Lynch encouraged everyone to access the Department’s website where this report will be posted and get a detail look at what the plan is and what it encompass. Commissioner Sparks encouraged the Department to get out to the people that this is affecting as quickly as possible to answer questions from both the community and the officers.

Commissioner Onek encouraged the audience to go to the website and look at the detailed report. He also stated he thinks it is a good idea to go into more detail of the key components and highlight some of the things so people get a sense of what it would mean to them in their day-to-day existence, for both the community members and the officers. Commissioner Onek asked for a more detailed explanation as far as the problem solving teams and how the entire district will be engaged in the problem solving and how this will lead to and enhance community policing.

Mr. Bill Tegular, former Commander Santa Ana Police Department, addressed the Commission as to his experience in the Field Operations Bureau and talked about problem solving and the SARA model.

Chief Lynch stated that PERF will be partnering with the Department in working with the management team in the station and will be working in workshops with PERF to look at what the initial plan is, to find out what weaknesses are and to modify that to meet the needs of the city and the Department; implement training as needed and then implement the actual study.

Commissioner Mazzucco asked how will the crime analyst be working

in a daily basis. Mr. Fraser explained that the analyst job is not just to sit around and look at data but to communicate with people within the station and to develop data from information provided by officers.

Commissioner DeJesus asked if there will be extra training added to the training curriculum. Mr. Fraser stated that their recommendation is an expansion in training and training has to be just at the right time so that officers can be trained and able to use that training immediately.

Commissioner DeJesus asked about the RMS system. Mr. Fraser stated that their recommendation is to create a district base system that can be linked to cable and the new RMS but is independent of those.

Deputy Chief Keohane addressed the Commission in regards to comments made by officers in regards to the computer system and stated that he had called the Captain and asked for more information so that problems can be rectified.

Commissioner Lee asked that the personnel team for the phase 1 district reflect the community it will be serving and stated that the team be familiar with language access.

Commissioner Sparks thanked Carina and Catherine of the Controller's Office for their work on this project.

PUBLIC COMMENT

Steve Currier, Outer Mission Residents and Merchants Association, stated that officers at the Ingleside are committed to community policing and stated that there is dialogue between the community and the department.

Jeanette Berger stated Santa Ana is not at all like San Francisco.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 8.12, "IN-CUSTODY DEATHS"

Sergeant Mike Nevin, MCD, presented DGO 8.12, "In-Custody Deaths."

Ms. Elise Nicholson, OCC, addressed the Commission.

Commissioner Sparks expressed concern with the use of "as soon as practical" language and asked that more definition be put in place and stated that the term "immediately" be put in place.

Commissioner Sparks also asked about officers returning to the bureau instead of FOB after being involved in an in-custody death situation. Chief Fong explained why the officer is assigned in the bureau instead of back to the station. Commissioner Sparks asked that a bulletin be sent out to the officers for clarification. Chief Fong stated that a clarification bulletin will be issued.

Commissioner Onek asked that a quarterly report or every six months instead of a yearly report would make more sense to get the information to the public. Sergeant Nevin stated that if an in-custody death occurs, the Commission is notified and that when the report is submitted to the review board, then the review board will make a presentation in regards to the findings and that it is a public document.

Commissioner Sparks asked if there is a difference between a juvenile in-custody death and an adult in-custody death. Sergeant Nevin stated that notifications would be made by the Medical Examiner's Office. Chief Fong stated that juvenile procedures protocol would override all the Department General Orders when it comes to juveniles.

PUBLIC COMMENT

None

Motion by Commissioner Mazzucco to approve DGO 8.12 with amendments, second by Commissioner DeJesus. Approved 4-0.

RESOLUTION 29-09

ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 8.12, "IN-CUSTODY DEATHS"

RESOLVED, that the Police Commission hereby approves adoption of revised Department General Order 8.12, "In-Custody Deaths," with the following amendments:

That sections III.A, III.A.1., III.E.4. and III.E.4.a. shall read as follows:

"III. PROCEDURES

A. IN-CUSTODY DEATHS OCCURRING IN SAN FRANCISCO POLICE DEPARTMENT FACILITIES, VEHICLES, OR CUSTODY. Immediately after a person dies while in the custody of the San Francisco Police department, reasonable efforts shall be taken to make the following notifications:

1. An "involved member" shall immediately notify the Department of Emergency Management (DEM), and his/her immediate supervisor, or the platoon commander of the district in which the in-custody death took place.

...

E. INVOLVED OFFICERS. . . .

4. Involved members shall be assigned to their respective Bureau Headquarters. The Officer shall not return to regular assignment for a minimum of 10 calendar days.

- a. Within 5 business days of an in-custody death, the Chief of Police shall convene a panel to discuss whether it is appropriate for the involved member(s) to return to duty. The Panel shall include a representative of the Behavioral Science Unit, the officer-in-charge of the Homicide Detail, the Deputy Chief, Commander, and Captain overseeing the involved officer's unit, the officer-in-charge of the Management Control Division, the Deputy Chief of Investigations and officer-in-charge of Risk Management.

..."

AYES: Commissioners Sparks, DeJesus, Mazzucco, Onek
ABSENT: Commissioners Marshall, Lee

ROUTINE ADMINISTRATIVE BUSINESS

- a. **Commission Announcements**
- b. **Scheduling of items identified for consideration at future Commission meetings**

Commissioner Sparks stated that Supervisors Campos and Mirkirimi proposed a joint meeting with the Commission in regards to the sanctuary laws and stated that no date has been set and stated that the Board offered a resolution relative to undocumented juveniles when arrested and whether they are reported or not reported and asked the Chief for a presentation in regards to that issue and asked for a detailed presentation to the Commission to be prepared for the public hearing with the Board.

Commissioner Mazzucco commended the Department for their services for the memorial services of four Oakland Police Officers.

Commissioner Onek also stated that Chief Fong was there and that she chose to sit with the troops instead of the other Chiefs present and commended the officers and the Department.

Commissioner DeJesus also commended the Department and the officers for their services during the memorial.

Commissioner Sparks also stated that the community of Oakland came out in support of the Oakland Police Department.

PUBLIC COMMENT

None

ADJOURNMENT

Motion by Commissioner Mazzucco, second by Commissioner DeJesus. Approved 4-0.

Thereafter, the meeting was adjourned.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct