

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, Marshall, Campos, DeJesus, Lee, Mazzucco

ABSENT: Commissioner Onek

ADOPTION OF MINUTES

- Regular Meetings of July 9th and 16, 2008

Motion by Commissioner Campos, second by Commissioner Mazzucco. Approved 6-0.

PUBLIC COMMENT

Terrell Hunter discussed concerns regarding an incident with Officer Reese Burrows at Pierce and Eddy Streets on July 31st, between the hours of 3 p.m. and 4 p.m.

Frank, Northbeach resident, discussed concerns regarding weekend nights in the area of Montgomery and Green Streets.

REPORTS TO THE COMMISSION

a. Chief's Report

- **Update on significant policing efforts by Department members**
- **Presentation of 2nd Quarter 2008 Firearm Discharge Review Board Findings and Recommendations**

Chief Fong highlighted some of the great work done by officers of the Department.

Sergeant Mike Nevin, Management Control Division, presented the 2nd Quarter Firearm Discharge Review Board findings and recommendations.

Commissioner Marshall expressed concern regarding the incident brought forward by Mr. Hunter. Chief Fong stated that she could schedule a presentation in regards to consensual encounters if it would be helpful.

Commissioner Campos would like to see the number of people stopped for no reason and their racial background. Chief Fong stated that there is no mechanism right now to get that kind of statistics.

Commissioner Campos asked about an incident where a 14-year old student was stabbed by another student and asked if the family has been contacted. Chief Fong stated that the family has been contacted by the homicide inspector and that she personally, through an interpreter, spoke with the family to assure the family that the inspectors are working diligently on this case.

Commissioner Sparks would like a presentation as to who determines whether or not an incident that results in a death of a victim is or is not a homicide.

b. OCC Director's Report

- **Review of Recent Activities**
- **Presentation of the OCC's Second Quarter 2008 Statistical Report**

Director Hicks addressed mediation and outreach. She stated that to date 40 OCC complaints have been mediated. She also reported that in terms

of outreach, she and OCC representatives went to five district stations for National Night Out. They visited events sponsored by the Bayview, Mission, Northern, Tenderloin, and Ingleside Stations.

Commissioner Lee asked about training to be a mediator and how qualified are they to become objective mediators. Director Hicks stated that she will report back next week with the information.

Director Hicks presented the second quarter 2008 Statistical Report.

Commissioner Sparks asked about caseloads by investigators. Director Hicks stated that she meets with the Chief Investigator and Senior Investigator to discuss management of caseloads. She also explained that performance plans were not in place when she took over as Director but they are in place now.

Commissioner Sparks also asked about the policy analyst. Director Hicks stated that Ms. Samara Marion is taking a one-year leave of absence and that they are working to backfill the position.

Commissioner Mazzucco thanked Director Hicks for the great job that she is doing with the OCC and commended her on her mediation program.

- c. Commission Reports**
- **Commission President's Report**
- **Commissioners' Reports**

Commissioner Sparks reported that she been working with the Controller's Office trying to put together a program and funding to have an outside consultant to review patrol specials. She stated that the study will take about three to four months. She asked for two commissioners to manage the report and/or audit of this report.

Commissioner Marshall reported regarding the "Call-in" Program. Commissioner Marshall also thanked the Chief for her response in regards to the last subcommittee's meeting. The Chief will send an electronic copy to go out to the Captain for his newsletter.

Commissioner Sparks congratulated Commissioner Marshall and the Omega Boys Club for their recent graduates.

Commissioner Campos asked about the Sanctuary City Ordinance. Commissioner Sparks stated that she's planning to have a hearing with the Juvenile Probation Commission on Enforcement of the Sanctuary City Policy on August 20th.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 6.16, "SEXUAL ASSAULTS"

Lieutenant Dan Leydon, Sexual Assault Unit, presented revised DGO 6.16.

Commissioner Lee suggested some language change to the general order, as follows:

Section A.3: ... In all cases the Commanding Officer of the Sex Crimes Detail and the Commanding Officer of the Domestic Violence Response Unit

shall meet and confer....

Section A.3.b.: In cases of (delete the word “severe”) domestic violence, e.g.; *physical injuries of any sort ...*

Section A.3.d.: In cases of an allegation of both sexual assault and (delete the word “severe”) domestic violence ...

Commissioner Mazzucco requested “great bodily injury” instead of language requested by Commissioner Lee.

PUBLIC COMMENT

None

Motion by Commissioner Mazzucco, second by Commissioner Marshall. Approved 6-0.

RESOLUTION NO. 36-08

ADOPTION OF REVISED DEPARTMENT GENERAL ORDER 6.16, “SEXUAL ASSAULTS”

RESOLVED, that the Police Commission adopts revised Department General Order 6.16, “Sexual Assaults” as amended.

SEXUAL ASSAULTS

This order establishes policies regarding investigations of sexual assault cases involving both adults and juveniles, and includes procedures for investigating, gathering evidence, obtaining medical treatment, and preparing incident reports.

I. POLICY

A. INVESTIGATIVE RESPONSIBILITIES.

- _____1. The Special Victims/Child Abuse Section of the Juvenile Division is responsible for the investigation of any type of sexual abuse, sexual assault or sexual molestation involving a victim under 14 years of age. The Child Abuse Section is also responsible for the investigation of any type of sexual assault, sexual battery or unlawful intercourse involving a victim between the ages of 14 and 17 when the perpetrator is a family member or in a position of trust with respect to the victim, i.e. coach, teacher, care-provider, trusted family friend. Special Victims/Child Abuse Section also handles incest cases involving a victim under 18.
2. The Sexual Assault Section of the Investigations Bureau-Bureau of Inspectors is responsible for the investigation of any type of sexual assault, sexual battery or incest involving a victim 18 years of age or older. The Sexual Assault Section is also responsible for the investigation of any type of sexual assault, sexual battery, or unlawful intercourse involving a victim between the ages of 14 to 17 when the perpetrator is not a family member or adult in a position of trust with respect to the victim, i.e., stranger, boyfriend, acquaintance, etc. In rape cases with more than one

victim, if victims are both under and over 14 years of age, assignment will be made on a case-by-case basis.

3. The Domestic Violence Response Unit and the Sex Crimes Detail may be assigned the investigation of cases when an individual alleges being the victim of both sexual assault and domestic violence. In all cases the Commanding Officer of Sex Crimes Detail and the Commanding Officer of the Domestic Violence Response Unit *shall* meet and confer. The Commanding Officers may assign the investigation to the detail best suited for a successful investigation and prosecution. The protocol for Investigative Detail assignment is, as follows:
 - a. If the crime(s) occurred within 72 hours of being reported the case will be assigned to the Sex Crimes Detail.
 - b. In cases of domestic violence *involving* life threatening *injury or great bodily injury*, the case will be assigned to the Domestic Violence Response Unit.
 - c. In cases when the subject alleges a sexual assault which occurred four or more days prior and a more recent allegation of domestic violence is alleged, the case will be assigned to the Domestic Violence Response Unit.
 - d. In cases of an allegation of both sexual assault and domestic violence, an Inspector from Sex Crimes and Domestic Violence Response Unit may be assigned to work together on the investigation.

II. PROCEDURES

A. FORENSIC EXAMINATION AND MEDICAL TREATMENT

1. JUVENILES. Sexual assault victims under 18 years of age will be taken to San Francisco General Hospital as follows:
 - a. To the Pediatrics Outpatient Clinic, 6th floor, Main Building, during business hours, or
 - b. The Emergency Department at all other times.
2. ADULTS. Sexual assault victims 18 years of age or older will be taken to San Francisco General Hospital Emergency Department.

B. PRELIMINARY INVESTIGATION AND COLLECTION OF EVIDENCE/RESPONSIBILITIES OF REPORTING OFFICER

1. EVIDENCE COLLECTION. In addition to conducting a preliminary investigation, respond to the crime scene and collect evidence (see DGO 6.02, Physical Evidence). Each item of evidence must be placed in a separate property envelope (one item per envelope), including

evidence taken from the suspect. Do not leave any evidence with the nurse or doctor examining the victim; however, slides and swabs used for semen testing and sperm detection collected by the medical staff will be preserved and retained at SFGH.

2. NOTIFICATIONS

- a. Notify the Crime Scene Investigations Unit when specialized techniques are required to collect and preserve evidence, e.g., blood, semen, fingerprints, or evidence that cannot be practically packaged.
- b. Notify the Child Abuse Section or the Sexual Assault Section as appropriate. Notify Operations Center after business hours. Notifications to the Investigative Details or Operations Center should be made as soon as practical to ensure an expeditious response by the on-call inspector(s).

3. OTHER DUTIES/SERVICES

- a. If requested, provide the victim with transportation to his/her residence or another appropriate location within San Francisco.
- b. Give the victim the incident case number along with a Victim of Violent Crime Notification form (see DGO 6.19, Victim of Violent Crime Notification).

C. INCIDENT REPORTS, INTERVIEWS AND RECORDS

1. STATEMENTS. In cases involving victims under 18 years of age, information may be taken from the doctor or nurse examining the victim if interviewing the victim is impractical and there is an extended delay for the medical examination.
2. INCIDENT REPORT. When a Child Abuse Section Investigator responds on a case to conduct the investigation, he or she is responsible for making the initial report. Child abuse investigators may require the responding officers to submit an initial or supplementary report indicating initial information reported to police, observations, statements, evidence, and other related information. If, however, the investigator determines that an immediate interview of the victim is not practical or warranted (due to the child's age, time of night, etc.), he/she may request that the patrol officer complete the initial incident report. In all other cases, the patrol officer shall complete the initial report.
3. CONFIDENTIALITY OF PUBLIC RECORDS. Penal Code Section 293, requires that you inform the victim that her/his name will become public record unless she/he requests that it not. Indicate in the incident report that you have advised the victim, and indicate the victim's response. Also see DGO 3.16, Release of

Police Reports. All confidential reports shall be stamped in red (CONFIDENTIAL).

4. MEDICAL REPORT. In cases involving victims 18 years of age or older, place the medical examination report in a plain envelope, write the case number on the face, and forward it to the Sexual Assault Section. Medical examination reports of victims under 18 years of age will be retained by the medical staff and forwarded to the Juvenile Division or the Sexual Assault Section.

D. AIRPORT BUREAU OPERATIONS

Airport Bureau members shall follow Airport Bureau General Orders and San Mateo County protocols.

(Flow chart to assists members in determining case assignment for sexual assault incidents is included with the general order.)

AYES: Commissioners Sparks, Marshall, Campos, DeJesus, Lee, Mazzucco

ABSENT: Commissioner Onek

UPDATE REGARDING THE LEASE AGREEMENT WITH A RIGHT TO PURCHASE PROPERTY FOR THE PROPERTY ON 1700-1740 17TH STREET AND 1415 16TH STREET FOR USE BY THE SAN FRANCISCO POLICE DEPARTMENT TACTICAL COMPANY

Commander Sandra Tong presented the update regarding the lease agreement along with Director Amy Brown, Director of Real Estate for the City.

The Commission expressed concern that it is bad timing for the Department to start a lease due to pending studies regarding district boundaries and the recommended closure of district stations.

Commissioner DeJesus stated that timing is the issue and asked if an early termination clause can be added to the lease.

PUBLIC COMMENT

Sharon Madsen, property owner, expressed her support for the lease and thanked the Department for police presence.

UPDATE PRESENTATION BY DR. LORIE FRIDELL ON THE WORK OF THE FAIR AND IMPARTIAL POLICING ADVISORY GROUP

Dr. Lorie Fridell presented the update in regards to the Fair and Impartial Policing Advisory Group.

Commissioner Sparks asked about psychological testing as it relates to gay, lesbian, transgender, and minority recruits and if these are being reviewed. Dr. Fridell stated she will look into it.

Commissioner Sparks stated that the community needs to be part of the process in an ongoing process and not just in the initial review process. Commissioner Sparks stated that there should be training for both the officers and the community.

Commissioner Marshall stated that he hopes that this is an ongoing

process for the Department and the community.

Chief Fong thanked the many members of the Department who have helped while Dr. Fridell was her. Chief Fong also acknowledged Mr. Greg Murphy and Mr. John Dineen who were part of the advisory group.

Mr. Kevin Blackwell, advisory group member, addressed the Commission.

Mr. Greg Murphy, Commission on POST, addressed the Commission.

Commissioner Lee suggested that presentations like this should be done in district meetings to give the community an opportunity to hear about it.

PUBLIC COMMENT

None

ROUTINE ADMINISTRATIVE BUSINESS

a. Commission Announcements

- **Removal of Disciplinary Case No. C04-082 JWA from Commission docket (Resolution No. 37-08)**
- **Assignment of disciplinary charges filed in case no. C08-127 KMO to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner (Resolution No. 38-08)**

b. Scheduling of items identified for consideration at future Commission meetings

- **Discussion regarding the Commission's Priority List (Put over to the first meeting in September.)**
- **Setting of the location for the August District Meeting**

RESOLUTION NO. 39-08

SETTING THE LOCATION OF DISTRICT COMMISSION MEETING FOR THE MONTH OF AUGUST

RESOLVED, that the following District Meeting in August will be held in the Mission District.

AYES: Commissioners Sparks, Marshall, Campos, DeJesus, Lee, Mazzucco

ABSENT: Commissioner Onek

PUBLIC COMMENT

None

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Marshall, second by Commissioner Mazzucco. Approved 6-0.

CLOSED SESSION (9:14 p.m. to 9:40 p.m.)

- ##### **a. Discussion and possible action to accept or reject stipulated disposition of disciplinary charges filed in case nos. C03-144 CCL, C03-146 CCL, C03-147 CCL (Resolution Nos. 40-08, and 41-08)**

Case No. C03-147 CCL put over to next week's meeting.

(Present: Commissioners Sparks, Marshall, Campos, DeJesus, Lee, Mazzucco, Chief Fong, Lt. Reilly, Deputy City Attorney Rebecca Katz, Attorney Cecily Gray, Mr. Steve Johnson)

b. J. Hadley Loudon v. Sgt. Dean Sorgie, et al., United States District Court No. C06-4762

(Present: Commissioners Sparks, Marshall, Campos, DeJesus, Lee, Mazzucco, Chief Fong, Lt. Reilly, Deputy City Attorney Rebecca Katz)

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION

_____ Motion by Commissioner Campos, second by Commissioner DeJesus for non disclosure. Approved 6-0.

APPROVAL OF CONSENT CALENDAR

- a. Recommend that the Board of Supervisors approve settlement of the following case in accordance with the advice of the City Attorney:
J. Hadley Loudon v. Sgt. Dean Sorgie, et al., United States District Court No. C06-4762**

_____ Motion by Commissioner Campos, second by Commissioner DeJesus. Approved 6-0.

RESOLUTION NO. 42-08

J. HADLEY LOUDEN v. SGT. DEAN SORGIE, et al

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "J. Hadley Loudon v. Sgt. Dean Sorgie, et al.," in United States District Court No. C06-4762, be, and the same is hereby approved.

Date of Incident: May 29, 2005

AYES: Commissioners Sparks, Marshall, Campos, DeJesus, Lee, Mazzucco

ABSENT: Commissioner Onek

ADJOURNMENT

Motion by Commissioner Campos, second by Commissioner DeJesus. Approved 6-0.

Commissioner Sparks made the following statement: " also, I would like to adjourn in memory of Officer Larry Murdock who served at the Richmond Station. He served the City of San Francisco as police cadet, a police dispatcher, and became an SFPD officer August 15, 1977 as the member of the 129th Recruit Class. Officer Murdock died unexpectedly on August 1st this year in his residence, and I would like to adjourn in his memory. Thank you."

Thereafter, the meeting was adjourned at 9:42 p.m. in memory of Officer Larry Murdock.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

1497/rct