

AUGUST 18, 2010

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 5:42 p.m., in a Regular Meeting.

PRESENT: Commissioners Marshall, Mazzucco, DeJesus, Chan, Kingsley, Hammer

(Commissioner Hammer is excused at 8:41 p.m.)

APPROVAL OF MINUTES

- Regular Meetings of April 28, 2010 & May 5, 2010

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

CONSENT CALENDAR

- Officer-Involved Shooting Investigation 2nd Quarter Status Summary
- Second Quarter Firearm Discharge Review Board (FDRB) Findings & Recommendations
- Quarterly Report by the Department and the Office of Citizen Complaints regarding Police Proposals (Sparks Resolution)
- Office of Citizen Complaints Monthly Comprehensive Statistical Report – January 1, 2010 through July 30, 2010 and January 1, 2009 through July 30, 2009

Commissioner Chan asked about the OIS Report and asked about training with regards to dealing with the mentally ill members of the public. Chief Gascón talked about the OIS Five-Year report presented to the Commission earlier this year and stated that some of the recommendations have moved forward and that there are still training recommendations that are still pending further review.

Commissioner Chan asked that an item in regards to training be agendaized some time in the future to get an update on the training recommendations. The Chief suggested a more holistic look at training in the Department and do an assessment to evaluate and prioritize how much training the Department is willing to pay for. The Chief stated that it would be good for the Commission to have a full understanding about the training mandates and where the resources are. The Chief asked that there be a discussion towards the end of this month to see how much time Commander Schmitt will need to put this presentation together.

Commissioner DeJesus stated that training on how to handle medical cannabis will be helpful and a breakdown of training in regards to mental health patients.

Motion by Commissioner Mazzucco, second by Commissioner Hammer to approve the Consent Calendar. Approved 6-0.

PUBLIC COMMENT

Ray Hartz, Director of Open Government Coalition, discussed concerns regarding index of records and documents.

Judy Thacker discussed concerns regarding being a target of constant abuse since 1985.

Christine Harris discussed direct energy weapons.

Eric discussed concerns regarding his OCC complaint.

Raj Naicher discussed concerns regarding mind control weapons.

REPORTS TO THE COMMISSION

a. Chief's Report

- Update on significant policing efforts by Department members

- **Status Report regarding Vicious Dog Unit**

Chief Gascón reported the following crime stats: Part 1 crime is down 11 percent, 23,331 for 2010 vs 26,091 for 2009; property crime is down 12 percent, 18,950 for 2010 vs 21,523 for 2009; violent crime is down 4 percent, 4381 vs 4568 in 2009; homicide is even as last year. The Chief expressed concern regarding the killing of a tourist at a crowded commercial area and stated that he is irate that there has been no email in regards to this killing. The Chief stated that five suspect were arrested and that it is an ongoing investigation.

Commissioner Hammer asked what is in the current law that is in the purview of the Police Department that can stop this kind of thing from happening again. The Chief explained that the Department does not control any of the permitting for clubs and stated that there are folks from the Entertainment Commission that are working hard with the Department to try and come up with solutions. Chief Gascón also explained that the event fell under the radar because it was an underage event that was promoted not through a club but a place that was rented. The Chief explained that the only violation was a fire code violation because the venue is not permitted to have this type of an event.

Commissioner Hammer suggested holding a joint meeting with the Entertainment Commission.

Commissioner Mazzucco asked how much it is costing the Department to police nightclub events. The Chief stated that having the joint hearing will be a good thing and stated that there are responsible operators in the city.

Commissioner DeJesus stated that it is a good idea to meet with the Entertainment Commission to give input.

Commissioner Kingsley thanked the Chief for bringing this item up and asked what is the procedure as to going forward with this item and giving it a high priority.

Captain Terry Barrett, Park Station, presented the status report regarding the Vicious Dog Unit and stated that Officer Sherry Hicks will be working in this unit and working with Animal Care and Control.

Director Katz, Animal Care and Control, addressed the Commission in regards to the Vicious and Dangerous Dog Unit and being able to address the communities' concerns.

Sally Stevens, San Francisco Dog Owners Group, addressed the Commission and asked that there be a general order as to duties and responsibilities of the Vicious Dog Unit.

Commissioner Hammer asked how long before the new DGO is presented to the Commission. Captain Barrett stated that Director Katz will look at the DGO and from there it will go to the Department for review.

Commissioner DeJesus commended Sgt. Herndon and Officer Denny for their work with the Dog Court.

Commissioner Mazzucco asked how does the process work. Officer Denny explained the process.

Chief Gascón thanked Director Katz, Captain Barrett, and everyone involve for attending the meeting.

OCC DIRECTOR'S REPORT

- **Review of recent activities**

Director Hicks reported that the OCC opened 576 cases in 2010 versus 650 in 2009 and closed 544 cases versus 651 in 2009; there are 413 pending cases; sustained 45 cases in 2010 to date versus 30 in 2009. Mediation, the OCC mediation 31 complaints, 8 cases in July and 6 cases in August.

COMMISSION REPORTS

- **Commission President's Report**
- **Commissioners' Reports**
- **Commissioners' Disciplinary Case Docket**
- **Commission Office Staffing**

Commissioner Marshall talked about a press conference in the Bayview in regards to two incidents and the putting together of the Ambassador Program. Chief Gascón stated that he hopes that this will be a start of a program for all over the city.

Commissioner Hammer updated the Commission in regards to the Hurley disciplinary hearing.

Commissioner Chan updated the Commission in regards to the Commission staffing and the choice between a Legal Assistant or a Court Clerk. Lieutenant Reilly stated that he would prefer a Court Clerk. Commissioner Chan motion that HR be notified to put out an announcement. Commissioner DeJesus asked that the announcement be modified that this individual will be reporting to the Secretary of the Police Commission and not the Superior Court. Motion second by Commissioner Hammer. Lieutenant Reilly stated that this item will be memorialized at a future agenda as an action item.

Commissioner Mazzucco asked when will the replacement for Lt. Reilly be available. Lieutenant Reilly stated that the new Lieutenant is expected to start on Monday, August 23rd. Chief Gascón explained that this will be on a trial basis to see if it will be a good fit between the Commission and the new Lieutenant.

PUBLIC COMMENT

Ray Hartz, SF Open Government, discussed concerns regarding the OCC report.

Unidentified expressed support for the Dog Unit and commended Sgt. Herndon and Officer Denny for the great work that they do, not just in Dog Court, but for all the work they do for the Dog Unit.

Vicki Tiernan commended Sgt. Herndon and Officer Denny and expressed support for the new general order.

Lisa Vittori commended Sgt. Herndon and Officer Denny for their work and asked for a social work aspect and discussed concern regarding a vicious dog in the neighborhood, and asked that the name of the unit be changed.

ELECTION OF COMMISSION OFFICERS

Commissioner Marshall asked that this item be put over until the new Commissioner is on board. Commissioner DeJesus expressed concern that the Board is on recess right now.

Commissioner Marshall stated that it be put over to September 15th.

Commissioner Chan stated that she would want someone that communicates well with the other Commissioners; someone that provides true civilian oversight; and, someone who makes the Department and the Commission accessible to the public and encourages public support.

Commissioner DeJesus stated that she agrees with Commission Chan and that information should flow freely within the Commission.

Put over to September 15th.

PUBLIC COMMENT

Ray Hartz discussed concerns regarding finding documents.

ROUTINE ADMINISTRATIVE BUSINESS

a. Commission Announcements

- **Assignment of disciplinary charges filed in Case No. JWA C10-186 to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner** (Resolution 85-10, Assigned to Commissioner Kingsley)
- **Assignment of disciplinary charges filed in Case No. JWA C10-187 to an individual Commissioner for the taking of evidence on a date to be determined by the Commissioner** (Resolution 86-10, Assigned to Commissioner Kingsley)

Lieutenant Reilly also announced that the Commission will meet in the Tenderloin District on Wednesday, August 25th, at 6:00 p.m., at the Community Meeting Room, 201 Turk Street, in San Francisco.

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

Commissioner Kingsley discussed priorities: (1) How to address violence related to nightclub venues; (2) How to handle backlog of disciplinary cases before the Commission.

Commissioner Kingsley suggested proceeding with the item brought up by Chief Gascón in regards to violence associated with nightclubs even before the new Commissioner is brought in.

Commissioner Hammer agrees with Commissioner Kingsley and stated that the Commission should follow Chief Gascón's lead in regards to violence associated with nightclubs. Commissioner Hammer also asked that the DNA backlog be calendared and suggested that the Chief's report for next week's meeting in the community include an update on the DNA backlog.

Commissioner Marshall asked to have an item on the agenda next week to discuss how to calendar items requested by each Commissioner.

Commissioner DeJesus would like to discuss a Police Commission retreat added to the calendar for discussion.

Commissioner Mazzucco agrees with Commissioner Kingsley to have the item in regards to violence associated with nightclubs be agendized as soon as possible.

Chief Gascón stated that the Department has limited resources and is being stretched more so every day, whether it be training or enforcement efforts, and when there are short due dates to put together reports requested by the Commission, the quality of those reports are less and often the Commission gets reports that the Chief does not see. The Chief suggested that in order for the Commission to develop good policy decisions, the Commission needs to allow the Department the time to prepare the reports that the Commission deserves to have in order to make the right decision and that prioritizing is critical because at the pace the Department is going with the reduction of workforce, the Department needs that level of understanding from the Commission and stated that that is why he talked with Commissioner Chan regarding training and having the discussion before the Commission to give the Commission a thorough understanding of what the Department's training obligations are in order to make informed decisions.

Chief Gascón suggested that if there is a clear mission for the Commission base on what the Charter mandates are, then everything starts to flow from there.

The Chief suggested that the Commission have an annual work plan that is voted upon and that everybody is in agreement with.

Commissioner Marshall asked if the Commission can have the DNA report next week. The Chief stated that the Department can do an oral report and suggested having the questions ahead of time.

Commissioner Hammer asked that the discussion of having a joint meeting with the Entertainment Commission be on the agenda next week.

Commissioner Marshall stated that he would like to see the whole priorities list and discuss if before putting items on the agenda.

Commissioner Mazzucco agrees with Commissioner Hammer to have the item on the agenda next week to discuss and vote for a joint meeting with the Entertainment Commission.

PUBLIC COMMENT

Barbara Growth discussed concerns.

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

Steve Johnson discussed concerns of having hearings on appeal in front of the agenda.

(The Commission recessed from 7:58 p.m. to 8:15 p.m.)

VOTE ON WHETHER TO HOLD CLOSED SESSION

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

CLOSED SESSION (8:15 p.m. to 10:01 p.m.)

b. PERSONNEL EXCEPTION: Discussion and possible action to decide penalty for disciplinary charges filed in Case Nos. RMW C08-166 & RMW C08-167

(Present: Commissioners Marshall, Mazzucco, DeJesus, Chan, Hammer, Kingsley, Chief Gascón, Lieutenant Reilly, Attorney M. Nicco, Attorney J. Alden, member involved) Item put over to September 29th

c. PERSONNEL EXCEPTION: Hearing of an Appeal of the Chief's Suspension and possible action to sustain or not sustain the Chief's discipline as filed in Case No. KMO D07-070

(Present: Commissioners Marshall, Mazzucco, DeJesus, Chan, Hammer, Kingsley, Chief Gascón, Lieutenant Reilly, Attorney J. Alden, Mr. Steve Johnson, and member involved) (Resolution 87-10)

d. CONFERENCE WITH LEGAL COUNSEL: Pending Litigation Fonseca v. Fong, California Court of Appeal Case No. A120206; San Francisco Superior Court Case No. 507-227

(Present: Commissioners Marshall, Mazzucco, DeJesus, Chan, Hammer, Kingsley, Chief Gascón, Lieutenant Reilly)

(Commissioner Hammer is excused at 8:41 p.m.)

e. CONFERENCE WITH LEGAL COUNSEL: Pending Litigation People v. Bautista, San Francisco Superior Court No. 2376451/SCN: 206149

(Present: Commissioners Marshall, Mazzucco, DeJesus, Chan, Hammer, Kingsley, Chief Gascón, Lieutenant Reilly, Lieutenant D. Mahoney, and Director J. Tidwell)

a. PUBLIC EMPLOYEE PERFORMANCE EVALUATION: Chief of Police: Review of findings and decision to return officer to duty following officer-involved shooting (OIS Case No. 10-006)

(Present: Commissioners Marshall, Mazzucco, DeJesus, Chan, Hammer, Kingsley, Chief Gascón, Lieutenant Reilly, Inspector Nevin)

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

Motion by Commissioner Mazzucco, second by Commissioner Chan for non disclosure. Approved 5-0.

ADJOURNMENT

Motion by Commissioner Chan, second by Commissioner Mazzucco. Approved 5-0.

Thereafter, the meeting was adjourned at 10:04 p.m.

Lieutenant Joseph Reilly
Secretary
San Francisco Police Commission

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