

OFFICE OF CITIZEN COMPLAINTS

CITY AND COUNTY OF SAN FRANCISCO



Kevin Allen
Director

Date: June 29, 2006

To: Hon. Louise Renne, President
Members, San Francisco Police Commission

Re: OCC's Quarterly Report Regarding Outstanding Policy Proposals.

Dear President Renne and Commissioners:

In compliance with Commissioner Spark's Resolution No. 27-06, the Office of Citizen Complaints is providing you a quarterly report regarding outstanding policy proposals. This report covers eighteen policy recommendations our agency made between 1999 and 2005.

Resolution No. 27-06 requests that the OCC and the Department assess the priority of each recommendation. Policy recommendations with the highest priority appear first in the report and have been given an A priority. Our agency has designated these policy recommendations as A priority because of the subject matter (e.g. officer-involved shootings), the population they impact (e.g. SFPD interactions with children and youth) and community and Commission concern about the topic (e.g. language access for limited English proficient speakers). Priority B policy recommendations also involve complex and timely issues. Priority C recommendations are those that deal with a more narrow aspect of police procedure and may be more easily resolved by a single bulletin or roll training.

Currently, the outstanding Priority A policy recommendations are : 1) officer-involved shooting protocols concerning victim's families and disclosure of information (DGOs 8.04, 3.16, 8.09); 2) SFPD protocol for interacting with children and juveniles (DGO 7.01); 3) a language access Department General Order for limited English proficient individuals; 4) in-custody death protocol (DGO 8.12); 5) crowd control policy tailored to juveniles in a school setting; and 6) the implementation of an Early Intervention System (DGO 3.19). Below I have briefly summarized the status of three of the most pressing priority A policy recommendations. I have not addressed the Early Intervention System because of the Department's recent report to the Police Commission on this topic.

1) **Protocols for Providing Information and Support to Families Whose Members Have Been Killed During An Officer-Involved Shooting (DGOs 8.04, 8.09 and 3.16)**

- **History:** In 2004 the Police Commission adopted four OCC policy recommendations based upon complaints about the treatment of and lack of information provided to families whose members were killed during an officer-involved shooting. These recommendations included 1) providing a SFPD liaison to the victim's families; 2) timely disclosure of information, including the incident report, to the families; 3) prohibiting SFPD from making public statements that predetermine the outcome of the investigation; and 4) providing the public information about the OIS investigative process.

The Department informed the Police Commission that implementation of these recommendations would occur through revisions to DGOs 8.04, 3.16 and 8.09. In October 2005, the OCC provided a detailed written response to Department drafts of DGOs 3.16 and 8.09; throughout discussions with the Department and OCC quarterly reports, the OCC also stated that the Department's draft of DGO 8.04 does not define the role and responsibilities of the police liaison nor outlines what information SFPD will provide to victim's families. The Department has not provided any written response to OCC's suggested changes. On June 20, 2006 the OCC asked for and the Department agreed to provide updated versions of DGOs 3.16, 8.09 and 8.04. On 6/26/06 the Department did not have updated versions available and proposed meeting on July 11, 2006 to continue discussions.

- **Status:** Pending at SFPD
- **Recommended Action:** The OCC and other stakeholders should be provided updated drafts of the DGOs 8.04, 3.16 and 8.09, and a timeline should be established with dates for draft responses and meetings, as well as dates for interim reports to the Commission.

2) **Policies and Procedures for Juvenile Detention, Arrest and Custody (DGO 7.01)**

- **History:** On December 15, 2004 the Police Commission held a public hearing concerning the Department's suggested revisions to DGO 7.01. The OCC and several community stakeholders suggested revisions to the Department's draft. The Police Commission requested the Department to meet with the OCC and community stakeholders to incorporate appropriate revisions.

The OCC and Youth Commissioner staff member Ayoka Turner negotiated revisions with Captain Ashe between January and March 2005 with approval from DC Tabak. The Department provided the OCC a revised draft on May 4, 2005 which contained a few minor errors of which the OCC requested correction. The OCC's requests for status update since negotiations ended in March 2005 have not been responded to. On June 20, 2006, the Department informed the OCC that the negotiated draft had been changed by the Department, and promised to provide an edited draft on June 26, 2006. The Department has not made the edited draft available to the OCC and proposed meeting on July 11, 2006 to continue discussions.

- **Status:** Scheduled for Police Commission hearing on July 26, 2006
- **Recommended Action:** The OCC and other community stakeholders must be provided a copy of the revised draft in order to respond to and prepare for the July 26, 2006 Police Commission meeting.

3) Language Access Department General Order

- **History:** On April 21, 2006 the OCC and a large group of stakeholders proposed a comprehensive Language Access Department General Order to address language access complaints. The proposed DGO is based upon written procedures approved by the Department of Justice for the Philadelphia Police Department. Since April 26, 2006 the OCC, stakeholders and the Department have been meeting regularly. The Department agreed to issue a language access Department Bulletin while negotiations concerning the DGO continue.

The Department of Justice initiated a Title VI compliance audit of SFPD's language access protocol in June 2004. The DOJ identified a number of language access concerns that are still outstanding. The DOJ has offered to lend assistance to the Department to resolving these issues and asked to be kept apprised of the progress of negotiations concerning the proposed Language Access DGO.

- **Status:** The Department is currently redrafting a Department Bulletin in consideration of OCC's and stakeholder's suggested changes. The Department will meet with the OCC and stakeholders on July 5, 2006. The DOJ requested a progress report from the OCC after the July 5, 2006 meeting.
- **Recommended Action:** The OCC, stakeholders and the Department should continue meeting regularly establishing a timeline with dates for draft responses and interim reports to the Commission. Additionally, DOJ assistance should be accepted to resolve DOJ's outstanding language access concerns and to help facilitate implementation of the proposed DGO

Once again, thank you for making policy changes a priority. We appreciate your support. We look forward to discussing these policy recommendations, as well as any others contained in the OCC report, with you at the July 5th Commission meeting.

Sincerely,



Kevin Allen
OCC Director



Samara Marion
OCC Policy Analyst

cc: Chief Fong, Deputy Chief Parra, Captain Keohane, Acting Captain Gitmed, Sgt. Lynch, City Attorney Dorji Roberts, City Attorney Molly Stump, Michael Alston (Director, US Department of Justice, Office of Civil Rights)

PENDING POLICY RECOMMENDATIONS
Second Quarter 2006 (6/28/06)



OCC Policy Recommendation	Date Submitted	Priority	OCC Last Modified Draft	Status of Draft Reviews	History and Outstanding Issues	Date to Commission
1 Early Intervention System	2003 (by ACLU with OCC endorsement)	A	04/04/2006	pending at SFPD	SF Controller's Office called for revision of SFPD's Early Warning System in 2003; throughout 2003-2005 ACLU with OCC support negotiated with the Department a revised DGO. In March 2006 the Department proposed a newly revised DGO which did not include risk factors previously agreed upon. The Department has agreed to provide a revised draft to the Commission in July.	
2 Officer Involved Shootings (04/#01)		A				
a.SFPD liaison to victim's family	08/04/2004	A		pending at SFPD	Current draft of DGO 8.04 doesn't define role/responsibilities of police liaison; on 6/20/06 OCC requested Department provide updated draft; the Department did not have an updated draft available on 6/27/06 and proposed meeting on July 11, 2006 to continue negotiations.	
b. Provide information to victim's family	08/04/2004	A		pending at SFPD	Current draft of DGO 8.04 doesn't establish what information SFPD should provide to victim's family; on 6/20/06 OCC requested Department provide updated draft; the Department did not have an updated draft available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
c.Disclosure of incident report to family	08/04/2004	A	10/01/2005	pending at SFPD and/or City Attorney's Office	Current draft of DGO 3.16 doesn't include time-line for release of information; doesn't establish how non-disclosure test is applied and doesn't require SFPD to report to Commission when it withholds documents. In response to OCC's letter of 10/1/05, Department referred draft to City Attorney. On 6/20/06 OCC requested Department provide updated draft; the Department did not have an updated draft available on 6/27/06 and proposed meeting on July 11, 2006 to continue negotiations.	
d. Prohibits SFPD from public statements that predetermine outcome of investigation	08/04/2004	A			Current draft of DGO 8.09, sec. J addresses OCC concern.	
e. Provide the public information about OIS investigative process	08/04/2004	A		pending at SFPD	None of SFPD proposed DGOs address how the public can be informed of OIS investigative process (e.g. website information.) In 2005 OCC provided Department informational brochures for victim's families that other police jurisdictions use; throughout 2005-2006 Department consulted OCC about developing a brochure. On 6/27/06 the Department provided the OCC its newly released "Victim and Family Assistance Information" brochure and a Unit Order explaining the brochure. OCC has suggested translating the brochure into Spanish, Chinese, Russian and Tagalog.	
3 Policies and Procedures for Juvenile Detention, Arrest and Custody	06/23/2003	A	05/04/2005	pending at SFPD	On 12/15/2004 the Police Commission held a public hearing in which many stakeholders suggested revisions to DGO 7.01. From January-March 2005 the OCC and Youth Commission negotiating revisions with the Department; the Department provided a draft in May 2005 which OCC suggested minor revisions. OCC requests since May 2005 for a status update have not been responded to. On 6/20/06 the Department informed the OCC that the Department had changed the negotiated draft and promised to provide a current copy on 6/26/06. This draft has not been made available to the OCC or other community shareholders as of today's date.	07/26/2006
4 Language Access for Limited English Proficient Individuals (99/#02; 03/#05)	06/17/1999	A	06/14/2006	pending at SFPD	On 4/21/06 the OCC and numerous stakeholders proposed a comprehensive Language Access Department Order to address language access complaints. The proposed DGO is based on the Philadelphia Police Department's procedures approved by the Department of Justice. The OCC, stakeholders and the Department have met regularly since 4/26/06. The Department has agreed to issue a language access Department Bulletin while negotiations on the DGO continue. The Department of Justice is continuing its Title VI audit of SFPD's language access policies initiated in 2004 and has offered to lend assistance in resolving outstanding issues. During 2005-2006 the OCC has also been developing a written protocol for the deaf and hard of hearing which has been sent out to stakeholders. The OCC intends to present this DGO to the Department in the upcoming months.	
5 In-custody death protocol	02/10/2005	A	04/07/2005	pending at City Attorney's Office	The OCC proposed the adoption of DGO 8.12 to establish a procedure for investigating, reviewing and reporting to the Police Commission In-Custody Death incidents. The OCC provided the Department its suggested revisions on 4/7/2005 and has never been provided an updated version since then. On 6/20/06 OCC requested that the Department provide an updated draft; the Department did not have an updated draft available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
6 Best Practice Review and Policy Recommendations based on SFPD Action at Thurgood Marshall Academic High School	09/13/2004	A		pending at SFPD	The Department has never responded to OCC's recommendations that 1) SFPD and the school administration develop a response plan that emphasizes pro-active intervention by school administrators, teachers and counselors before enlisting the assistance of SFPD and 2) develop written guidelines and training for a crowd control policy specifically tailored to a juvenile population in a school setting. On 6/20/06 OCC requested the Department provide an updated status report on this policy recommendation; the Department did not have an updated status report on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
7 Assessing and Controlling Potentially Dangerous Canine (99/#06, 02/#02)	08/31/1999	B	03/27/2003	pending at SFPD	The OCC has received complaints involving injuries to bystanders when officers have fired their guns at dogs. In 2003 Animal Care and Control, an agency that works closely with SFPD whenever an animal is involved in an incident, agreed to provide officer training on the detection and handling of dangerous canines, equip patrol vehicles with leashes and work with the Department to establish written procedures. The Department has not taken any action on these recommendations. In 2004 and 2005 the OCC has confirmed ACC's willingness to participate. On 6/20/06 OCC requested the Department provide a status report on these recommendations; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	

OCC Policy Recommendation	Date Submitted	Priority	OCC Last Modified Draft	Status of Draft Reviews	History and Outstanding Issues	Date to Commission
a. Invite Animal Care and Control staff to participate in training officers to assess and handle potentially dangerous canines		B		pending at SFPD	ACC Director Carl Friedman has continually conveyed to both the Dept. and the OCC his willingness to provide this training. A Department memo dated 9/23/04 favorably reviewed the training recommendation.	
b. Develop a protocol and written guidelines that enable SFPD to request and coordinate on-scene assistance from ACC in appropriate cases		B		pending at SFPD	ACC has indicated a willingness to work with SFPD to develop a written protocol; the Department has neither formally agreed nor disagreed to do this.	
c. Equip patrol cars with dog leashes				pending at SFPD	ACC Director Friedman agreed to supply SFPD with dog leashes. The OCC does not have any recent information indicating whether or not SFPD ever accepted ACC's offer to supply dog leashes for patrol cars.	
8 Amending the Critical Incident Criteria to Include Incidents Involving Significant Bystander Response and Police Action (03/#06)		B				
a. Designate a particular officer to provide information and de-escalate bystander hostility	06/23/2003	B		pending at SFPD	Based on incidents such as Martin Luther King Jr. Day police action involving the searching at gunpoint of several juveniles, the OCC recommends that the Department designate a particular officer(s) during a volatile situation to provide information to bystanders and de-escalate bystander hostility. The Department has suggested that Public Health staff serve this role. In addition to the lack of Public Health funding and staffing to fill this role, Public Health staff could not provide the necessary information to bystanders about the need for police action and it is highly questionable whether their role should include on-the-scene intervention during hostile police-crowd interactions. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
b. Amend "Critical Incident" criteria defined in DGO 8.01 to include incidents Involving significant bystander Response and Policy	06/23/2003	B		pending at SFPD	By expanding "critical incidents" to include volatile situations that involving significant bystander involvement, the resources, expertise and presence of command staff generally dedicated to critical incidents would also be committed to these significant police-community interactions.	
9 Reissuance of Dept. Bulletins before expiration (03/#01)	06/19/2003	B		pending at SFPD	In addition to discussions throughout 2004, the OCC wrote SFPD on 4/20/05 and 5/4/05 of continuing problem of expired department bulletins and the need for written protocol that includes OCC input during Dept's review and reissuance of Dept. bulletins. On 3/15/05 the OCC was informed that the Department was drafting a written protocol to address this recommendation. On 3/25/05 the OCC was informed that the draft protocol would be ready by 4/19/05. On 4/19/06 the OCC received an e-mail stating that "a [department bulletin] is in the process of being drafted for reissuances of DBs about to expire." The OCC has never received a department bulletin or any other written protocol from the Department that addresses this policy recommendation. On 6/20/06 OCC requested the Department provide a status update on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
10 Record Keeping System for Roll Call Training (#03/#02)	06/19/2003	B		pending at SFPD	Recent OCC prosecutions where training records could not be located indicate a continuing need to establish a record keeping system for roll call training that indicates time, date, member attendance, and topics and materials used for officer training. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
11 Written Guidelines for Immediate Release of Particular Incident Reports (02/#01)	03/27/2003	B		pending at SFPD	In response to a complaint where a paralegal could not obtain a traffic collision report on behalf of a client despite several requests, the OCC suggested that the Department's Unit Order about immediate release of incident reports include releases to attorneys and paralegals. The OCC has not received an updated Unit Order incorporating this suggestion. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
12 Policy and Training Recommendations Concerning SFPD Interactions With Transgender Individuals (00/#-01,03/#03)	12/13/2000	B	06/23/2003	ding at SFPD and/or the City Attorney's o	SFPD has implemented the Transgender Task Force recommendations except for revising DGO 11.07 to include language specific to transgender individuals. On 6/20/06 OCC requested the Department provide a status report on revisions to DGO 11.07; the Department did not this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
13 Filing Public Intoxication Reports With Reports Management Section (03/#02)	06/19/2003	C		pending at SFPD	The OCC has investigated cases where an individual's public intoxication report could not be located. Because public intoxication reports are the sole documentation of a civilian's custody in jail, the OCC recommends that they be treated as scrupulously as incident reports which are filed and maintained with SFPD's Report Management Section. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
14 Providing Access to Testing When Individuals Are Arrested For Public Intoxication (03/#02)	06/19/2003	C		pending at SFPD	The OCC has investigated a complaint where the individual's request for a test to demonstrate he had not been drinking was denied. The Department agreed to meet with the Sheriff's Department to develop a protocol to ensure that individuals arrested for public intoxication are able to obtain an appropriate test. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
15 Reporting Prejudiced Based Incidents: Instruct Dispatch to Relay Words and Actions to Police That Indicate Prejudice-Based Incident (99/#01)	04/04/1999	C		pending at SFPD	On 4/19/05 the Department indicated it had contacted ECD about their training and current policy and was awaiting ECD's response. The Department did not provide the OCC ECD's response. On 6/20/06 OCC requested the Department to provide a status report on this recommendation; the Department did not this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	

OCC Policy Recommendation	Date Submitted	Priority	OCC Last Modified Draft	Status of Draft Reviews	History and Outstanding Issues	Date to Commission
16 Recording Operations of Vice Crimes Division (99/#07)	08/30/1999	C		pending at SFPD	The OCC had received numerous complaints in which investigations yielded partially or totally inaudible recordings in prostitution cases. The OCC recommended several changes including better equipment, written guidelines regarding chain of custody and secured storage of recordings. The OCC is unaware of what actions have been taken on these recommendations. On 6/20/06 OCC requested the Department to provide a status report on these recommendations; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
17 Medical Marijuana(99/#10)	11/10/1999	C		pending at SFPD	The OCC recommended that SFPD create a written policy for handling and returning medical marijuana possessed by detainees and arrested persons and not seize medical marijuana cards without a valid need. On 3/25/2005 the Department agreed to provide a Department Bulletin addressing the topic. While Department Bulletin 05-081 is highly informative, it still does not address the return of medical marijuana when a person is arrested and does not prohibit the seizing of medical marijuana cards without a valid need--concerns raised by the OCC complaint. On 6/20/06 OCC requested the Department to provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	
18 Use of Car Horn to Roust Individuals (99/#09)	07/28/1999	C		pending at SFPD	The OCC had investigated a complaint where instead of contacting the individual, the officer used his car horn to roust him. The Department has agreed since 2004 to include a roll call training or Department Bulletin on the use of vehicle horns. To the best of OCC's knowledge, the Department has not taken any action on this recommendation. On 6/20/06 OCC requested the Department provide a status report on this recommendation; the Department did not have this information available on 6/27/06 and proposed meeting on July 11, 2006 to continue discussions.	