JUNE 2, 2010

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 5:37 p.m., in a Regular Meeting.

PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan

Commissioner Mazzucco introduced newly sworn member Commissioner Angela Chan. Commissioner Chan then gave a brief bio.

ADOPTION OF MINUTES

• Regular Meeting of March 3, 2010

Motion by Commissioner Onek, second by Commissioner DeJesus. Approved 5-0.

PUBLIC COMMENT

Ace Washington discussed concerns regarding the reappointment of Commissioner Marshall and discussed concerns regarding actions of a police officer from Northern Station.

Summer Hararah, Coalition for Safe San Francisco, discussed concerns regarding comments by the Chief in regards to Muslim communities.

Veena Duvall, Asian Law Caucus Staff Attorney, discussed concerns regarding the 8.10 General Order audit in regards to First Amendment Rights Protections.

Emile Lawrence discussed concerns regarding OCC complaint.

Clyde discussed concerns regarding District Attorney Harris.

Raj Naicher discussed concerns regarding direct energy weapons.

Ariana, Immigrant Legal Committee, expressed opposition to secured communities policy.

Next item taken out of order.

PUBLIC COMMENT ON MATERS PERTAINING TO CLOSED SESSION

Clyde discussed concerns.

VOTE ON WHETHER TO HOLD CLOSED SESSION

Motion by Commissioner Onek, second by Commissioner DeJesus. Approved 5-0.

CLOSED SESSION (6:00 p.m. to 6:59 p.m.)

a. PERSONNEL EXCEPTION: Discussion and possible action to adopt Findings of Fact and Conclusions of Law supporting the Commission's Decisions given on November 4, 2009 and December 9, 2009 (Resolution Nos. 61-10, 62-10, & 63-10)

(PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan, Deputy City Attorney Blits, Chief Gascón, Lt. Reilly)

b. PERSONNEL EXCEPTION: Status and calendaring of the following pending disciplinary matters:

- KMO D07-070
- JWA D03-364
- JWA C09-015, JWA C09-255, JCT D06-179
- KMO C09-157
- JWA C09-220
- ALW D08-165

(PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan, Deputy City Attorney Blits, Chief Gascón, Lt. Reilly, members involved and their representatives)

c. PERSONNEL EXCEPTION: Discussion and possible action to grant or deny Department's Appeal of Denial of Motion to Admit Evidence Relating to prior offense and request for Judicial Notice filed in Case Nos. RMWC08-166 & RMW C08-167

(PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan, Deputy City Attorney Blits, Chief Gascón, Lt. Reilly, member involved and their representative) Continued to June 16th.

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

(PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan, Deputy City Attorney Blits, Chief Gascón, Lt. Reilly, member involved and their representative) Continued to June 16th.

e. CONFERENCE WITH LEGAL COUNSEL: Anticipated Litigation: City as Defendant; Number of Potential Cases: One

(PRESENT: Commissioners Mazzucco, DeJesus, Hammer, Onek, Chan, Deputy City Attorney Blits, Chief Gascón, Lt. Reilly)

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

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

REPORTS TO THE COMMISSION

- a. Chief's Report
- Review of recent activities
- Status report regarding DNA Backlog
- Status report regarding development of Brady Policy

Chief Gascón gave a brief update on crime numbers: Crime numbers are down 13 percent from the previous 4-week reporting period; property crimes down 16 percent; violent crimes down 1 percent; rapes down 9 percent; aggravated assaults down 5 percent; robbery is the only violent crime that is up. Total year-to-date is down 2 percent; 2,893 versus 2,946 for 2009. Total Part 1 crime is down 13 percent year-to-date, 14,756 versus 16,780 in 2009.

The Chief also announced the Captain Denise Schmitt will be promoted to Commander going to Administrative Services with Assistant Chief Cashman who will be going from Operations to Administrative Services and Assistant Chief Godown will be going to Operations.

The Chief also talked about attending the meeting put together by the U.S. Attorney's Office, in Monterey.

Assistant Chief Godown updated the Commission in regards to pending DNA backlog cases. Chief Godown also reported that backlog on firearms testing is down to 633 from 1,211.

Assistant Chief Tabak updated the Commission in regards to the development of the Brady Policy. Chief Tabak stated that the meet-and-confer has been initiated and that the Department has met with the POA.

Commissioner Hammer would like to know how many officers fall under the Brady Policy and would like the number by next week. Chief Gascón stated that the Department may not have the number by next week and explained that the number will be a rolling number as cases are reviewed.

Commissioner DeJesus asked what the Department have been doing up to this point in regards to Pitchess Motion. Chief Tabak stated that the Department will be happy to do a presentation on Pitchess at a future Commission meeting.

Commissioner Mazzucco asked that Police Legal make the presentation on Pitchess Motions next week.

OCC DIRECTOR'S REPORT

- Review of recent activities
- Presentation of Annual Audit for the years 2008 & 2009 under SFPD General Order 8.10, Guidelines for First Amendment Activities

Director Hicks reported the following statistics: As of May, the OCC opened 400 cases and closed 363; there are 418 pending cases; 144 from 2009 and 274 from 2010; sustained 30 cases versus 17 from 2009. Mediations, the OCC mediated 15 complaints year-to-date versus 32 complaints mediated in 2009. Director Hicks stated that there was only one officer eligible for mediation who declined.

Director Hicks presented the Annual Audit for the years 2008 & 2009 under SFPD General Order 8.10, Guidelines for First Amendment Activities.

Mr. Charles Galman, Chief Investigator, addressed the Commission as to the audit process.

Commissioner DeJesus asked that this matter be put over to get the complete audit and asked that documents for this audit be centralized. Chief Gascón asked that this matter be put over for one week to allow the Department to get necessary documents.

Commissioner Chan asked why the audits were not submitted at the end of each calendar year. Director Hicks explained that if the audit is due by the end of each year, the full year will not be covered because the month of December will not be included. Commissioner Chan also asked that the updated version of DGO 8.10 be posted on the website.

COMMISSION REPORTS

- Commission President's Report
- Commissioners' Reports

Commissioner Mazzucco commended the Chief and the Department for the handling of the visit of President Obama.

PUBLIC COMMENT

Kim Carver, Local 21 representing criminalist, expressed opposition for outsourcing backlog cases to other labs and urge expediting hiring of new staff. Emile Lawrence requested outside auditors to get a true audit.

DISCUSSION AND POSSIBLE ACTION TO ADOPT REVISED DEPARTMENT GENERAL ORDER 3.01, "WRITTEN <u>COMMUNICATION SYSTEM"</u>

Put over two weeks to add amendments by Commissioner Hammer.

PUBLIC COMMENT None

DISCUSSION AND POSSIBLE ACTION TO CONTINUE ELECTION OF **COMMISSION OFFICERS**

Commissioner DeJesus stated that the election should be continued on a date certain.

Commissioner Onek suggested putting in on the calendar when Commissioner Marshall is back.

Motion by Commissioner DeJesus, second by Commissioner Hammer to set this item for June 23rd. Motion withdrawn.

Motion by Commissioner Mazzucco to calendar this item next week for setting of date. Second by Commissioner Hammer. Approved 5-0.

PUBLIC COMMENT None

ROUTINE ADMINISTRATIVE BUSINESS

- **Commissioner Announcements** a.
 - **Reassignment of the following disciplinary cases:**
- Case Nos. C08-014 & D08-013 reassigned to Commissioner DeJesus (Resolution Nos. 54-10 and 55-10)
- Case Nos. C06-181, C06-186, D08-165, C06-187, & C09-143 reassigned to Commissioner Hammer (Resolution Nos. 56-10, 57-10, 58-10, 59-10, & 60-10)
- Case No. C10-043 reassigned to Commissioner Onek (Resolution No. 64-10)
- Case No. C09-076 continued pending reassignment

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

Commissioner Mazzucco would like a hearing on the Brady Policy. Deputy City Attorney Ross stated there is no time line right now and suggested the best thing is to continue having regular updates. Ms. Ross explained that this matter will be initially issued as a Unit Order.

Commissioner DeJesus stated that there should be a policy order saying that there has to be a Brady Policy in place.

Commissioner Hammer agrees with Commissioner DeJesus and that it should be calendared in two to three weeks to discuss having a policy order.

Commissioner Mazzucco would like to calendar discussion regarding Patrol Specials.

Commissioner Hammer would like to calendar under the Chief's Report updates in regards to the Crime Lab, the DNA Backlog, and the Brady Policy for regular updates. Commissioner Hammer would also like next week to have an item on the agenda in regards to a Commendation Award for Jane Warner. He also asked that a public discussion in regards to the status of disciplinary cases be on the agenda.

PUBLIC COMMENT None

ADJOURNMENT

Motion by Commissioner Hammer, second by Commissioner Onek. Approved 5-0.

Thereafter, the meeting was adjourned at 7:00 p.m.

Lieutenant Joseph Reilly Secretary San Francisco Police Commission

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