

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 5:15 p.m., in Closed Session.

PRESENT: Commissioners Renne, Campos, Lee, Marshall

ABSENT: Commissioners DeJesus, Sparks, Veronese

Commissioner Renne welcomed Commissioner Yvonne Lee.

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO CLOSED SESSION

None

CODE SECTION 67.10)VOTE ON WHETHER TO HOLD CLOSED SESSION. (SAN FRANCISCO ADMINISTRATIVE 67.10)

Motion by Commissioner Marshall, second by Commissioner Campos to hold Closed Session. Approved 4-0.

CLOSED SESSION

a. Pursuant to Government Code Section 54956.9(a) and San Francisco Administrative Code Section 67.10(d)(1):

CONFERENCE WITH LEGAL COUNSEL

- I. Vilda and Amber Curry v. City and County of San Francisco, et al., San Francisco Superior Court No. 417-407
- ii. Kevin Roy Jordan v. City and County of San Francisco, et al., USDC No. C03-1194 SI

b. Pursuant to Government Code Section 54957(b) and San Francisco Administrative Code Section 67.10(b):

PUBLIC EMPLOYEE PERFORMANCE EVALUATION:

Chief of Police

Review of findings and decision regarding return of officers to duty following officer-involved shooting (OIS Case No. 06-006)

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Motion by Commissioner Marshall, second by Commissioner Campos for non disclosure. Approved 4-0.

HEARING TO CONSIDER THE RECENT CALIFORNIA SUPREME COURT DECISION IN COPLEY PRESS vs. SUPERIOR COURT, S128603 (AUGUST 31, 2006)

- a. The Commission is soliciting public comment and input on the possible impact of the Copley decision on police disciplinary procedures in San Francisco
- b. Discussion and possible action to approve a resolution urging the Board of Supervisors and the Mayor to petition the California Legislature to amend state law

Carl Olsen, Attorney for the SF Chronicle, addressed the Commission and stated that public understanding of the police disciplinary process is vital to the workings of the system and the public confidence in the police department. Mr. Olsen stated that the Commission should not change the process.

Jim Queen, African-American Police Community Relations Board, stated that in order to build trust between the Police and the community there should be as much transparency as possible and stated that the organization does not support the legislation.

Commissioner Renne asked Mr. Olsen because the Officers' Bill of Rights has been around for years and the process has been around for years and have co-existed, that the Commission don't have to change anything because of the Copley decision. Mr. Olsen stated that is correct. Commissioner Renne stated that the Copley decision say that the Civil Service Commission could not identify the officer by name and they could not even state whether there was a disciplinary complaint filed. Mr. Olsen stated that it did say that with respect to

the name that that aspect of the Public Records Act request should have been denied, that's correct. Commissioner Renne stated that the Supreme Court also say that they were not going to reach the question of whether or not that applied for public hearing. If indeed Copley did say that the officer could not be identified by name, how do you hold a public hearing. Mr. Olsen stated that public hearing can still be held but he stated that the Supreme Court did not explicit decide that issue and indicates that they were not changing the process in agency like San Francisco which have held public hearing. Mr. Olsen also stated that an officer can make the decision to have an open hearing.

Commissioner Campos asked Mr. Olsen what happens in terms of a hearing to the extent the hearing has not been addressed by Copley, what happens to the documents that might be involved in that hearing. Those are public record and does that mean that documents cannot be used in a public hearing. Commissioner Campos asked that documents that otherwise would not be subject to disclosure under a Public Records Act request could otherwise be used in a public hearing. Mr. Olsen stated that that's a fair reasoning.

Commissioner Renne asked Mr. Queen about his argument for transparency and the need for the public to know. Commissioner Renne asked if all of those arguments made to the Supreme Court because in the Copley decision, the ACLU, the press people who had participated in the decision did make the arguments that there was a need for transparency but they also said that those arguments needed to be made to the legislature and asked Mr. Queen if he read that part of the decision. Mr. Queen stated that he has not and that he had just become aware of the whole legislation and stated that it would be a great thing to do business as usual.

Dawn Edwards, Bay Area Police Watch, stated that the fact that this issue is up for debate is a problem. She stated that this is a wrong message to send to the community in this time where they are trying to foster a working relationship between law enforcement and the community.

Commissioner Renne stated that the Supreme Court did not say that there cannot be disciplinary proceedings, the question is how much is public and how much is confidential.

Elizabeth Zitrin, ACLU, urged the Commission to encourage the Board of Supervisors and the Mayor to urge the legislation to change the law in this area.

Marlon Crump disagrees with the Copley decision and stated that the public has the right to know the name of officers in regards to misconduct.

Alan White asked the Commission to prepare a statement of thank you to the POA for their help during the event on September 11th.

PUBLIC COMMENT

Marlon Crump discussed upcoming SRO Community meeting due for the last week of October.

Gary Delagnes, POA President, discussed concerns regarding non attendance by the Commission for the Police/Fire Mass.

Wendy discussed concerns regarding medical records for Mr. Lefiti and stated that they have not received anything.

Mike Lefiti discussed concerns regarding the shooting of his brother

APPROVAL OF CONSENT CALENDAR

- a. **Recommend that the Board of Supervisors approve settlement of the following cases in accordance with the advice of the City Attorney:**
 - I. **Vilda and Amber Curry v. City and County of San Francisco, et al., San Francisco Superior Court No. 417-407**
 - ii. **Kevin Roy Jordan v. City and County of San Francisco, et al., USDC No. C03-1194 SI**

Motion by Commissioner Campos, second by Commissioner Marshall to approve the Consent Calendar. Approved 4-0.

RESOLUTION NO. 58-06

VILDA AND AMBER CURRY v. CITY AND COUNTY, et al

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of “Vilda and Amber Curry v. CCSF, et al.,” in San Francisco Superior Court No. 417-407, be, and the same is hereby approved.

Date of Incident: March 15, 2002

AYES: Commissioners Renne, Campos, Lee, Marshall
ABSENT: Commissioners DeJesus, Sparks, Veronese

RESOLUTION NO. 59-06

KEVIN ROY JORDAN v. CITY AND COUNTY OF SAN FRANCISCO et al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of “Kevin Roy Jordan v. City and County of San Francisco et al.,” in USDC No. C03-1194 SI, be, and the same is hereby approved.

Date of Incident: July 23, 2002

AYES: Commissioners Renne, Campos, Lee, Marshall
ABSENT: Commissioners DeJesus, Sparks, Veronese

AUTHORIZATION FOR A SPECIAL POLICE COMMISSION COMMENDATION TO BE ISSUED TO INSPECTOR MARTIN BASTIANI IN RECOGNITION OF HIS 50 YEARS OF SERVICE TO THE CITY AND COUNTY OF SAN FRANCISCO AS MEMBER OF THE SAN FRANCISCO POLICE DEPARTMENT

RESOLUTION NO. 60-06

AUTHORIZATION FOR A SPECIAL POLICE COMMISSION COMMENDATION TO BE ISSUED TO INSPECTOR MARTIN BASTIANI IN RECOGNITION OF HIS 50 YEARS OF SERVICE TO THE CITY AND COUNTY OF SAN FRANCISCO AS A MEMBER OF THE SAN FRANCISCO POLICE DEPARTMENT

Whereas, Inspector Martin Bastiani joined the San Francisco Police Department on September 1, 1956, as a member of the 81st Academy Class; and

Whereas, Inspector Martin Bastiani served at the former Potrero Station, Northern, Taraval, and Central Stations; and

Whereas, Inspector Martin Bastiani was appointed an Assistant Inspector on September 1, 1965, and promoted to Inspector on October 23, 1968; and

Whereas, Inspector Martin Bastiani has served in the Bureau of Inspectors to this day; and

Whereas, Inspector Martin Bastiani has been awarded two Silver Medals of Valor, two Bronze Medals of Valor, two Police Commission Commendations, and numerous Captain’s Commendations; and

Whereas, Inspector Martin Bastiani is observing his 50th year of service to the City and County of San Francisco and its citizens as a member of the San Francisco Police Department; therefore be it

Resolved, that the San Francisco Police Commission hereby honors Inspector Martin Bastiani, Star No. 1857, on his 50th Anniversary with its thanks and gratitude for his exemplary service.

AYES: Commissioners Renne, Campos, Lee, Marshall
ABSENT: Commissioners DeJesus, Sparks, Veronese

CHIEF’S REPORT

- a. **Update on significant policing efforts by Department members**
- b. **Update on Officer-Involved Shooting (OIS) Case Nos. 06-004 and 06-005 per Department General Order 8.11, Rule II.I.1(a)**

Chief Fong introduced Lt. Murphy to present the update on OIS Case Nos. 06-004 and 06-005.

Lieutenant Murphy, Homicide Unit, updated the Commission on OIS Case Nos. 06-004 and 06-005. Lt. Murphy stated that the Department is still waiting for the medical examiner's report and the disposition letter from the district attorney.

Chief Fong reported that the officers of Ingleside Station were given a commendation from the Outer Mission Residence Association and on Sunday a certificate was presented to the officers. Chief Fong also reported that, last Thursday, she, along with Captain Corrales, Sgt. Guinan, Officers Flaherty, Chin, Deputy Chief Shinn, went to Sacramento to the annual Office of Traffic Safety and CHP Award Ceremony. Chief Fong stated that San Francisco was acknowledged for its Avoid the 14 Programs. These are the traffic programs where the Department works with other law enforcement to insure that there is enforcement for DUIs, seatbelt regulations, as well as driver's license checkpoints. The Traffic Company was also acknowledged for their outstanding work for a Department between the numbers of 1000 - 2000 officers.

Commissioner Campos asked what the Department's policy is in terms of dealing with immigrants and issues involving immigration status. Chief Fong stated that the department has a Department General Order that outlines what efforts the Department will take in terms of abiding with the sanctuary city ordinance. Chief Fong explained that the Department is very clear in its policy that if there is a criminal violation that approval of the bureau chief must be obtained prior to an inter-agency operation. The Department does not go out with Federal agencies to enforce immigration laws. If there was a Federal agency that was conducting an enforcement operation separately and they called for police assistance because of a safety issue, the officers would respond solely to address that safety issue.

Commissioner Campos asked for a presentation regarding how much of the Department's resources is going to quality of life issues as opposed to really violent crimes. Chief Fong stated that the Department focuses on a lot of crimes and stated that the Department will prepare a presentation for the Commission.

Commissioner Marshall asked about the Mayor's curfew law and how that's going to affect the Department. Chief Fong stated that a bulletin has been issued on the curfew law. The current age that it affects is under 14 and that under 14 should not be on the public streets between the hours of midnight and 5 a.m. The bulletin was issued to address the concern to try to get the minors to the family or in the absence of family then to take them to a facility designated by the Juvenile Probation Department so that they can follow up with the adults who are responsible for that individual. The curfew law is not a criminal violation.

Commissioner Lee asked if the Chief consults with communities prior to issuing bulletins. Chief Fong stated that Department bulletin with regards to language access is an interim step. The Department has been working with a number of community organizations to address that whole access.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Director Allen thanked the Department for working with the OCC on the language access bulletin. Director Allen reported that charges have been filed in two matters and letters have been given to the Commission but at this point the Commission Secretary is not releasing any information and if letters need to be made public, information can be redacted.

Commissioner Campos asked about the status of the community outreach program. Director Allen stated that he will report back in October for the Commission's first meeting.

PUBLIC COMMENT

None

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO PLACE THE NAMES OF SERGEANT DARRYL TSUJIMOTO AND OFFICER NICK-TOMASITO BIRCO ON THE "WALL OF HONOR" AT THE THOMAS J. CAHILL HALL OF JUSTICE

____ Motion by Commissioner Marshall, second by Commissioner Lee. Approved 4-0.

RESOLUTION NO. 61-06

APPROVAL OF THE WALL OF HONOR COMMITTEE'S RECOMMENDATION TO PLACE THE NAMES OF SERGEANT DARRYL TSUJIMOTO AND OFFICER NICK- TOMASITO BIRCO ON THE HALL OF JUSTICE WALL OF HONOR

RESOLVED, that the Police Commission hereby approves the recommendation of the Wall of Honor Committee to place the names of Sergeant Darryl Tsujimoto and Officer Nick-Tomasito Birco on the Hall of Justice Wall of Honor.

AYES: Commissioners Renne, Campos, Lee, Marshall

ABSENT: Commissioners DeJesus, Sparks, Veronese

APPROVAL OF THE MINUTES FOR THE MEETINGS OF AUGUST 3RD, 16TH, AND 23, 2006

Motion by Commissioner Campos, second by Commissioner Marshall. Approved 4-0.

COMMISSION ANNOUNCEMENTS

Sergeant Reilly announced that the Commission will hold a Community Meeting at 6 p.m., on September 27th, in the Bayview District, Earl P. Mills Community Auditorium, 100 Whitney Young Circle.

PUBLIC COMMENT

None

SCHEDULING OF ITEMS IDENTIFIED FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS

None

PUBLIC COMMENT ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10)

Motion by Commissioner Marshall, second by Commissioner Campos. Approved 4-0.

CLOSED SESSION

PURSUANT TO GOVERNMENT CODE SECTION 54956.9(b) AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)(2):

CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

Discussion of Supreme Court's decision in Copley Press, Inc. v. Superior Court of San Diego County, No. S128603

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Motion by Commissioner Marshall, second by Commissioner Campos for non disclosure. Approved 4-0.

ADJOURNMENT

Motion by Commissioner Campos, second by Commissioner Marshall. Approved 4-0.

Thereafter, the meeting was adjourned at 8:22 p.m.

Sergeant Joseph Reilly
Secretary
San Francisco Police Commission