

May 17, 2023,

REGULAR MEETING, CITY HALL

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 5:39 p.m.

PRESENT: Commissioners Walker, Byrne, Yanez, Benedicto, Yee (arrived 5:49 pm), Vice President Carter-Oberstone

ABSENT: President Elias

1. Weekly Officer Recognition Certificate Presentation

Presentation of an Officer who has gone above and beyond in the performance of their duties.

- Ofc. Declan Flannery, Star No. 891, Park Station

Captain Jack Hart introduced and provided a background on Ofc. Flannery. Captain Hart provided a specific incident in which Ofc. Flannery responded. Ofc. Flannery spoke and recognized Park Station and thanked Captain Hart.

PUBLIC COMMENT

Michael Petrelis: Provided opinion on line item. Continued with opinion regarding unsolved cases. Requested time to be dedicated to unsolved crimes. Continued with opinion on remote public comment.

GENERAL PUBLIC COMMENT

Name not stated: concerned about what is going on with our city, provided personal stories.
Michael Petrelis: Provided opinion on remote public comment and incident involving Banko Brown.
Paulette Brown: Spoke on son, Aubrey Abrakasa's, murder. August 14th will be 17 years. Provided names of subjects. Questioned status of case, reward money, more people being hired for case. Case No. 060862038. Asked for mothers to have remote public comment.

For any information on the murder of Aubrey Abrakasa, please call the anonymous tip line at 415-575-4444.

3. Consent Calendar (RECEIVE & FILE; ACTION)

- Family Code § 6228 Incident Report Release Quarterly Report 2023 Q1: Jan. 1, 2023 - Mar. 31, 2023
- SFPD Firearm Discharge Review Board Report & In-Custody Death Review Board Report 1st Quarter 2023
- SFPD 1421 and SB 16 Monthly Report, *Data Run: April 28, 2023*
- DPA 1421 and SB 16 Monthly Report

Pursuant to the request of the Police Commission, the Department provides this monthly update on the status of Public Record Act Requests received relating to Senate Bill 1421, Peace Officers: release of records. This report is a cumulative record of all requests and the production of documents since SB 1421 became effective on January 1, 2019 and is calculated for a month-over-month comparison

Motion to receive and file: Commissioner Benedicto Second: Commissioner Walker. Approval: 6-0.

AYES: Commissioners Walker, Byrne, Yanez, Benedicto, Yee, Vice President Carter-Oberstone

ABSENT: President Elias

PUBLIC COMMENT

Michael Petrelis: Provided comment regarding monthly request for public records. Requested additional information on records requests. Provided opinion on NextRequest.

Chief's Report

- Weekly crime trends
- Major/Significant Incidents

Chief Scott reported on crime trends YTD: Violent Crime up 5 percent; homicide up 25 percent; rape down 20 percent; robbery up 15 percent; assault down 2 percent; human trafficking down 50 percent. Property Crimes down 8 percent; burglary down 10 percent; motor vehicle theft up 3 percent; arson up 9 percent; larceny theft down 10 percent. Gun violence is even compared to 2022; Three shooting incidents this week; total 64 incidents resulting in 71 victims YTD. One homicide for the week; there are a total of 20 homicides YTD with 14 resulting from a firearm; 90% overall clearance.

Significant Incident: One reported homicide, 5/12/23 15:53, 3rd and Palou, Bayview, Officers responded regarding a shooting, located victim suffering from gunshot wounds, Officers rendered aid until medics arrived to transport victim, victim succumbed to injuries at hospital, video evidence captured from around scene, investigation ongoing, no arrests made. Three shooting incidents, three victims. 5th and Folsom, 5/11/23, 01:00-02:00, victim went to hospital as result of traffic collision, victim was driving a stolen vehicle, at hospital victim told staff he had been shot, staff confirmed, victim advised Officers that he ran out of gas at 5th and Folsom walked to 1000 Harrison to get gas, while walking back to car he encountered vehicle around 6th and Shipley and recognized passenger, victim continued to walk to vehicle where he was then shot by suspect, no arrests made, investigation ongoing. 2nd shooting 5/11/23 11:30, Palou and Rankin, Bayview, Officers responded to hospital regarding shooting victim, victim did not provide information as to how or where he was shot, Officers contacted a friend of the victim's that stated where the victim was shot, no arrests made, investigation ongoing. 3rd shooting 5/11/23 15:06, Newcomb and Newhall, Bayview, Officers responded to a ShotSpotter activation, witness told Officers that victim came up to him and asked him what he was doing, witness told victim to leave him alone, victim approached another subject, that subject and victim became involved in an altercation, subject pulled out gun and shot victim, victim ran in to a store, no arrests made, investigation ongoing.

Significant arrest: Critical Incident occurred on 5/13/23 1900 block of Quesada, Bayview, suspect and victim who are neighbors were in an argument in the street, suspect followed the victim into the victim's house by forcing his way inside, the two were in physical struggle where a 3 year old was pushed, suspect had handgun visible in waistband and threatened to kill everyone in the house, as

suspect began to remove gun victim pushed suspect outside and closed door, suspect went back in to residence and refused to exit when Officers arrived, a Critical Incident was declared, suspect taken in to custody without incident.

Strategies: Enforcement efforts on Fentanyl issue in the city, mainly focused in Tenderloin, passed week Officers seized 824 gross grams on Fentanyl, YTD seized over 51,000 gross grams- in 19 weeks, increase of 180% from 2022. Efforts to abate drug dealing – 314 arrests for possession of sales, increase from 2022. Still deploying foot beats, addressing open air drug use.

PUBLIC COMMENT

Michael Petrelis: Speaks about the Banko Brown case and provided opinion regarding remote public comment. Provided opinion on Chief's notes.

Paulette Brown: Provided opinion on remote public comment and requirements for disability. Spoke on murder of Banko Brown.

Name not stated: Spoke on Banko Brown incident and security guards carrying gun.

Terry F.: Spoke about Banko Brown case and spoke on responsibility and safety.

DPA Director's Report

- Report on recent DPA activities, and announcement

Legal Team Manager, Diana Rosenstein, on behalf of Executive Director Henderson, reported the following: In the year 2023: 279 cases opened; 297 closed; 262 pending; 26 cases sustained; 26 cases past 270-day; 7 cases mediated. Cases received in the past week: 17 new cases; - Southern (2) The officer did not respond to messages and emails and has not provided a referral to Victim Witness Program. Officers deliberately struck the complainant with a police vehicle causing serious injury. Mission (2) The officer displayed threatening, intimidating, or harassing behavior. The officer made an arrest without cause. The officer would not take an incident report and was rude. Park (2) The officer towed a vehicle without justification. Richmond (3) An officer failed to properly investigate a theft from a vehicle. Taraval (1) The complainant stated that the officer refused to assist with a landlord lockout. Tenderloin (3) The officers knowingly engaged in biased policing or discrimination; detained a person without reasonable suspicion; used unnecessary or excessive force; and displayed threatening, intimidating, or harassing behavior; behaved or spoke inappropriately. Officers took over 20 hours to respond to a report of domestic violence. Airport (1) The officers knowingly engaged in biased policing or discrimination. The officer behaved or spoke inappropriately. Not Applicable (3) Referral.

Audits: DPA drafting final report of audit on SFPD's handling of misconduct, contains all information that DPA has brought forth in key issue reports as well as final phase of audit- findings and recommendations regarding SFPD's bias policies and misconduct case management systems.

Outstanding Issues: N/A

Outreach: DPA has been meeting with UC Berkeley's Possibility Lab, a think tank, hoping to engage in projects and analysis to help DPA streamline the complaint process as well as general production, Director Henderson will report more on this.

Can be found on community calendar on the DPA's website and posted on Twitter, Facebook, Instagram and on DPA's website.

PUBLIC COMMENT

Michael Petrelis: Spoke about contacting DPA and Sheriff's Department. Spoke about a DPA report. Requested time dedicated for unsolved cases.

Commission Reports

- Commission President's Report
- Commissioners' Reports
- Commission announcements and scheduling of items identified for consideration at future Commission Meetings.

Commissioner Benedicto: Attended rally for C.A.R.T at City Hall. Working on updated Resolution for C.A.R.T.

Commissioner Walker: Meeting with community regarding Patrol Specials, similar topic to private security. Need to determine status of certain programs.

Commissioner Yanez: Best practices and diversion presentation. Probation Department has a diversion program. Working on pre booking process that does not formerly adjudicate juveniles, still discussing design. Would like status of the related draft DGO.

Vice President Carter-Oberstone: DGO 8.10 working group will be meeting Friday.

PUBLIC COMMENT

Michael Petrelis: Spoke on agendizing Banko Brown case and attending commission meetings in person. Provided opinion on remote public comment.

7. Discussion and presentation of Violence Reduction Initiative (VRI) Update: 2022 Year in Review (DISCUSSION)

At the request of the Commission, discussion of the strategies and progression regarding violence reduction, with the California Partnership for Safe Communities (CPSC)

SFPD Violence Reduction Manager, Lili Gamero, along with Reygan Cunningham and Vaughn Crandall of California Partnership for Safe Communities (CPSC), presented.

PUBLIC COMMENT

None

8. Discussion and possible action to direct the Chief to rescind "Plain Clothes" and "Social Media" Bureau Orders, at the request of the Commission (DISCUSSION & POSSIBLE ACTION)

Vice President Carter-Oberstone led discussion.

Response from City Attorney to Commissioner Byrne regarding question amending DGOs, superseding timelines without amending DGO:

There is a 10-day posting requirement at play that needs to be posted for the public to weigh in and be able to vote on that.

Vice President Carter-Oberstone response to City Attorney:

I respectfully disagree with City Attorney's opinion that this is subject to the 10-day posting period – it is not – 10-day posting period applies to “rules and regulations under our city's charter” – this is not a rule or regulation because the Department's Bureau Orders themselves are not rules or regulations, they are not subject to..., if this resolution was subject to the 10-day posting period then so to would the Department's Bureau Orders and nobody here is arguing that that's the case, so it goes both ways, you can't say it applies here but not to the Bureau Orders that we're rescinding, they rise and fall together, and I think we agree that they didn't apply to the Bureau Orders.

City Attorney clarification:

A couple of legal conclusions that have been made, need to be corrected...it's been the long standing history of the City Attorney's Office to advise that every Department head has the legal authority to implement policies and procedures for the efficiency of their Department provided that it doesn't conflict with the Board of Supervisors or a Police Commission or it's oversight body, so to the extent there are any indication that the Department head doesn't have the authority, that is legally incorrect, under the charter the City Attorney's Office is the entity that provides legal advice and the legal advice from the City Attorney's Office is that one, indicating that the action was illegal as a legal matter is incorrect, two, where it says in the resolution that there is exclusive authority, that is also incorrect, that should also be corrected, thank you.

Motion: President Carter-Oberstone. Second: Commissioner Benedicto, with amendments provided to commission staff. Motion not approved.

AYES: Commissioners Yanez, Benedicto, Vice President Carter-Oberstone
NAYS: Commissioners Walker, Byrne, Yee
ABSENT: President Elias

PUBLIC COMMENT

Julie Traun: Bar Association. Has been a part of multiple department working groups. Provided opinion on process. Wants to help and participate.

Paul Allen: Provided opinion on process, Commission's discussion of topic and language in resolution.

9. Discussion and possible action to approve Department General Order 9.01 “Traffic Enforcement” for the Department to use in meeting and conferring with the affected bargaining units as required by law (DISCUSSION & POSSIBLE ACTION)

Deputy Chief Daniel Perea, Special Operations Bureau and executive sponsor, and Traffic Officer, Crispin Jones, available from department.

President Elias thanked those who worked on DGO.

Non-substantive amendments by Ofc. Crispin.

Motion: Commissioner Benedicto with Labor Relations Resolution 23-30 and changes and amendments as provided. Rescinds initial motion and Seconds: Commissioner Walker. Approval: 6-0.

AYES: Commissioners Walker, Byrne, Yanez, Benedicto, Yee, Vice President Carter-Oberstone
ABSENT: President Elias

PUBLIC COMMENT

None

10. Discussion and possible action to approve revised Department General Order 9.02 "Vehicle Crashes" for the Department to use in meeting and conferring with the affected bargaining units as required by law (DISCUSSION & POSSIBLE ACTION)

Deputy Chief Daniel Perea and SFPD SMEs available for department.

Motion: Commissioner Benedicto. Second: Commissioner Yanez. Approval: 6-0.

AYES: Commissioners Walker, Byrne, Yanez, Benedicto, Yee, Vice President Carter-Oberstone
ABSENT: President Elias

PUBLIC COMMENT

None

11. Public comment on all matters pertaining to Item 13 below, Closed Session, including public comment on Item 12, vote whether to hold Item 13 in closed session.

None

12. Vote on whether to hold Item 13 in Closed Session including vote on whether to assert the attorney-client privilege with regards to Item 13 (b) through 13 (f) (San Francisco Administrative Code Section 67.10) (ACTION)

Motion: Commissioner Benedicto. Second: Commissioner Byrne. Approval: 6-0.

AYES: Commissioners Walker, Byrne, Yanez, Benedicto, Yee, Vice President Carter-Oberstone
ABSENT: President Elias

1st Open Session ended: 8:42 pm

Closed Session: (8:58 pm – 10:42 pm)

**Closed Session
Roll Call;**

- a. **THE COMMISSION IS NOT MEETING WITH THE SF POLICE OFFICERS ASSOCIATION IN CLOSED SESSION. CONFERENCE WITH LABOR NEGOTIATOR – COLLECTIVE BARGAINING.** This item is for the Commission to meet in closed session with their labor negotiator and provide direction for bargaining with the San Francisco Police Officers Association (POA). The POA is not permitted to attend this closed session meeting. Pursuant to Government Code Section 54957.6 and San Francisco Administrative Code Section 67.10(e):
City Negotiator: LaWanna Preston, SFPD Labor Relations Director
Organization representing Police Officers: SF Police Officers Association
Anticipated Issues Under Negotiation: Discussion on DGO 9.01, DGO 9.07 and DGO 5.16 (DISCUSSION)

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Deputy City Attorney Alicia Cabrera, Chief Scott, Acting Assistant Chief Denise Flaherty, SFPD Labor Relations Director LaWanna Preston, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

- b. **PERSONNEL EXCEPTION. Pursuant to Government Code section 54957(b)(1) and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:**
Discussion and possible action to adopt Findings of Fact regarding Commission's decisions on April 22, 2022, on disciplinary charges filed in Case No. DPA 0428-18 (DISCUSSION & POSSIBLE ACTION)

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Chief Scott, Acting Assistant Chief Denise Flaherty, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

- c. **PERSONNEL EXCEPTION. Pursuant to Government Code section 54957(b)(1) and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:**
Discussion and possible action to adopt Findings of Fact regarding Commission's decisions on January 11, 2023, on disciplinary charges filed in Case No. ALW IAD 2019-0123D (DISCUSSION & POSSIBLE ACTION)

Item pulled.

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Chief Scott, Acting Assistant Chief Denise Flaherty, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

d. PERSONNEL EXCEPTION. Pursuant to Government Code section 54957(b)(1) and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:

Discussion and possible action to accept or reject Settlement Agreement filed in Case No. IAD 2019-0201 or take other action, if necessary (DISCUSSION & POSSIBLE ACTION)

Pulled from Agenda and to be re-calendared.

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Chief Scott, Acting Assistant Chief Denise Flaherty, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

e. PERSONNEL EXCEPTION. Pursuant to Government Code section 54957(b)(1) and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:

Discussion and possible action to accept or reject Settlement Agreement filed in DPA Case No. 00045797-21A or take other action, if necessary (DISCUSSION & POSSIBLE ACTION)

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Chief Scott, Acting Assistant Chief Denise Flaherty, Subject Officer's Attorney, DPA Attorneys, Subject Officer, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

(These proceedings were taken in shorthand form., Yvonne Hargrove, CSR., Behmke Reporting and Video Services)

f. PERSONNEL EXCEPTION. Pursuant to Government Code section 54957(b)(1) and San Francisco Administrative Code Section 67.10(b) and Penal Code Section 832.7:

Discussion and possible action to accept or reject Settlement Agreement filed in DPA Case No. 00045797-21B or take other action, if necessary (DISCUSSION & POSSIBLE ACTION)

(Present: Commissioners Walker, Byrne, Benedicto, Yanez, Yee, Vice President Carter-Oberstone, Deputy City Attorney Kate Kimberlin, Chief Scott, Acting Assistant Chief Denise Flaherty, Subject Officer's Attorney, DPA Attorneys, Subject Officer, Sergeant Stacy Youngblood, Sergeant Sondra Reynolds, Kristine Singh)

(These proceedings were taken in shorthand form., Yvonne Hargrove, CSR., Behmke Reporting and Video Services)

Closed Session Ended: 10:42 pm
2nd Open Session (10:43 pm – 10:44 pm)

14. Vote to elect whether to disclose any or all discussion on Item 13 held in closed session including vote on whether to assert the attorney-client privilege with regards to Item 13 (b) through 13 (f) (San Francisco Administrative Code Section 67.12(a)) (ACTION)

Commissioner Benedicto motioned to not disclose any or all discussion on item 13 held in closed session including asserting the attorney-client privilege with regards to Item 13 (b) through 13 (f) (San Francisco Administrative Code Section 67.12(a)) except disclosure of factual information with regards to line item 13(a). Commissioner Walker Seconded. Approval 6-0.

AYES: Commissioners Walker, Benedicto, Yanez, Byrne, Yee, Vice President Carter-Oberstone
ABSENT: President Elias

To disclose for Item 13(a):

The Commission had a conference with its labor negotiator regarding the meet and confer for DGOs 9.01, 9.07, and 5.16 and provided direction to it's labor negotiator.

The SFPD labor negotiator provided an update regarding DGO 5.16. SFPD received correspondence from the San Francisco Police Officers Association (SFPOA) on May 5, 2023. The Commission provided instructions to SFPD for future negotiations. The SFPD is preparing a response to the SFPOA's May 5, 2023 letter.

The SFPD labor negotiator provided an update regarding DGO 9.07. The SFPD communicated with the SFPOA regarding 9.07 on after the Police Commission meeting of April 19, 2023. The SFPD received correspondence from the SFPOA on May 5, 2023. The SFPD is preparing a response to the SFPOA's May 5, 2023 letter.

PUBLIC COMMENT

None

ADJOURNMENT

Thereafter, the meeting was adjourned at 10:44 p.m.

Sergeant Stacy Youngblood
Secretary
San Francisco Police Commission