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Re: The Police Commission's Intentional Flouting of the City Charter

Dear Commissioners:

Will anything short of a Superior Court order cause the San Francisco Police Commission to comply with the City Charter?

Since no later than May 22, 2023 when I brought this matter to the Police Commission's attention, you have known that the Police Commission has failed to comply with section 4.102(2) of the City Charter, a provision that requires San Francisco commissions to develop and keep current an Annual Statement of Purpose. Eight months later: no compliance or even a calendaring of the matter.

It is ironic if not audacious that such law-snubbing should come from a government instrumentality whose remit is to adopt for SFPD "rules and regulations consistent with [the] Charter"; that purports to ensure "accountability" of SFPD and its officers; that holds disciplinary hearings on allegations of police misconduct; whose power as one of the 100+ City commissions is perhaps second only to that of the Planning Commission; and that prides itself on following or developing national "best practices" in matters of police department governance, performance, and accountability. But

insofar as “best practices” are concerned, apparently not in matters of *internal* governance; to say nothing of law.<sup>1</sup>

One assumes the issue has been sloughed off as unimportant, a matter of no great consequence in light of what the Commission believes are higher priorities and its own limited resources. But this would be specious reasoning.

In the words of the Charter, commissions shall “Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors.”

For the Police Commission, compliance with law should be a low bar to surmount. Beyond that, let’s unpack these 31 words because they implicate principles of thoughtful and transparent governance:

- A concise statement of the Commission’s “jurisdiction” and [legal] “authorities” — presumably written by counsel from the City Attorney’s Office — allows the public to understand better the legal role of the Police Commission in a setting where the Mayor, the Board of Supervisors, and the Chief of Police have legal authority and roles as well.<sup>2</sup>
- An articulation of the Commission’s “purpose and goals” allows the public to understand what it is, precisely, that the Commission endeavors to accomplish; the basis or principles upon which the Commission adopts policies and rules; and, (perhaps) going beyond the narrow requirements of the statute, the benchmarks by which Police Commission success can be measured.
- Importantly, a Statement of Purpose is then “...*subject to review and approval by the Mayor and the Board of Supervisors.*” As it should be. Absent such a Statement, how can the Mayor, the Board of Supervisors, or the public know the legal and decisional framework by which the Commission adopts rules or policies? Or is it all ad hoc?

Having hectored the Commission last year in several memoranda and less than a handful of appearances at Public Comment hour yet wishing to be constructive, on October 20 of last year I submitted a draft of such an Annual Statement of Purpose after consulting the websites of police commissions at prominent American cities. As just noted, the “jurisdiction” and “authorities” of the Commission are purely matters of

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<sup>1</sup> One could speculate on the legal validity of discipline rendered, or on the Commission’s General Orders promulgated, during a time when the Commission itself is knowingly not complying with the City Charter.

<sup>2</sup> So does the police union. But as I observed in my memorandum to you dated August 21, 2023 one would have thought that “jurisdiction” and “authorities” are purely matters of law so that a “concise statement” of same could be prepared in a matter of hours by Commission counsel. But apparently no such request to the City Attorney’s office was made. Why not?

law, easily retrievable. One hopes that the Commission is not concerned about publishing that.

If the matter has been considered at all by individual Commissioners, or among more than one but not so many as to constitute a quorum, perhaps it is the “purpose and goals” that has caused the paralysis. To remind the Commissioners, this was my list of the purpose and goals:

1. To enhance the quality of life and the level of public safety in San Francisco.
2. To promote and adopt policies that reflect generally accepted, contemporary standards for modern policing consistent with community norms and views.
3. To promote accountability and transparency within SFPD.
4. To promote a healthy, collegial relationship between the community and SFPD.
5. To measure and balance the purported benefits of polices, including general orders, against the the costs of implementation.
6. To solicit and consider the views of the community as well as SFPD before adopting policies.
7. To hold ourselves to the same high standards of transparency and accountability as we hold SFPD.

Is any of this controversial? Does any Commissioner object to one or more of these?

It is more than a bit mysterious that Commission temporizing has continued for so long.

I ask the Commission to respect the law as well as the residents of the City of San Francisco by promptly making the first month of 2024 one in which it will comply with the City Charter.