



The Police Commission  
CITY AND COUNTY OF SAN FRANCISCO

CINDY ELIAS  
President

MAX CARTER-OBERSTONE  
Vice-President

LARRY YEE  
Commissioner

JAMES BYRNE  
Commissioner

JESUS YANEZ  
Commissioner

KEVIN BENEDICTO  
Commissioner

DEBRA WALKER  
Commissioner

DATE

Dear Chief Scott:

At the meeting of the Police Commission on Wednesday, DATE, the following resolution was adopted:

**RESOLUTION XX-X:**

**POLICE COMMISSION RESCINDS ILLEGALLY ISSUED BUREAU ORDERS**

WHEREAS, The San Francisco Charter vests the Police Commission with the exclusive authority to promulgate policies governing the Police Department. S.F. Charter § 4.109 (the Police Commission “is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department”); and

WHEREAS, These Commission-issued policies—known as Department General Orders (DGOs)—are developed through a public process that solicits recommendations from the Police Department, the Department of Police Accountability, subject matter experts, and members of the public; and

WHEREAS, Conversely, Bureau Orders are issued by the Police Department (not the Commission). They are issued without any notice to the public or the Commission, and do not require consultation with subject matter experts. Because the power to regulate the Police Department is vested exclusively with the Commission (S.F. Charter § 4.109), Bureau Orders may only implement existing Commission policy, they may not create new policies; and

WHEREAS, In response to a series of high profile incidents that damaged the public’s trust in the Police Department—including police killings of unarmed citizens and a bevy of racist and homophobic text messages exchanged between officers—the United States Department of Justice’s Community Oriented Policing Services division (COPS) conducted an extensive investigation into the Police Department’s practices. The investigation culminated in a 413-page report published in 2016.<sup>1</sup> Among its many findings, the report criticized the Police Department’s inappropriate use of Bureau Orders (which at the time of the report were known as “Department Bulletins”) to undercut public transparency and circumvent the Commission’s oversight and policy-making authority. The report, for example, concludes that “SFPD’s present use of [Bureau Orders] is inconsistent with the role and intent of the Police Commission regarding police policy and contributes to a lack of transparency regarding its policies and procedures.” U.S. DOJ COPS Report 149. Elsewhere it notes even more bluntly: Bureau Orders “are used as a workaround for the Department General Order [DGO] approval process.” *Id.* 167,

<sup>1</sup> Available at: <<https://tinyurl.com/5es5xcfu>>



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247; *see also id.* 151 (Bureau Orders “are used to avoid internal and external input from stakeholders”); *id.* at 169 (Bureau Orders “repeatedly renewed ...in place of addressing the issue within the appropriate [DGO]”); and

WHEREAS, While the Police Department has implemented laudable reforms in the wake of the 2016 COPS report, the Department’s use of Bureau Orders to undermine the Commission’s rulemaking and oversight authority persists to this day; and

WHEREAS, On April 4, 2023, the Police Department issued a series of identical Bureau Orders—affecting the Field Operations Bureau, Special Operations Bureau, and Investigations Bureau—entitled “Plain Clothes and Undercover Operations Policy” that set out a new policy governing plain clothes officers. Rather than implementing existing Commission policy on plain clothes officers (DGO 5.08), the Bureau Orders purport to create new policy. Certain provisions of the Bureau Orders conflict with DGO 5.08, while others purport to reach out and address issues beyond the scope of DGO 5.08. The timing of this Bureau Order is particularly troubling given that the Commission is nearing the conclusion of a multi-month process to revise DGO 5.08. Issuing a Bureau Order during the pendency of a DGO revision on the same subject is particularly inappropriate. It undermines the thorough, public DGO revision process and it creates confusion for officers who must follow a new Bureau Order that may differ markedly from both the DGO that will eventually replace it and the DGO that is currently on the books; and

WHEREAS, On April 6, 2023 the Department issued a series of identical Bureau Orders—affecting the Field Operations Bureau, Special Operations Bureau, Investigations Bureau, and Airport Bureau—entitled “Investigative Social Media Accounts” purporting to regulate the investigative use of social media. Like the Plain Clothes Bureau Orders, these orders were also issued during the pendency of a DGO revision process on the same subject. Here again, the timing of events is troubling. The working group on the social media DGO was set to begin on March 7, 2023. On February 24, the Department submitted a request for an extension to begin the working group, citing limited staffing resources. The Commission President approved the request. On March 23, the Department submitted a second request for an extension to commence the working group, again citing staffing issues. This second extension request was also approved by the Commission President. The Social Media Bureau Orders were issued during the pendency of the second extension period to begin the social media working group. Claiming a lack of resources to engage in the DGO process while simultaneously reallocating scarce Department resources to publish a series of Bureau Orders on the same topic is a particularly concerning usurpation of the Commission’s policymaking authority; now therefore be it

RESOLVED, The Social Media and Plain Clothes Bureau Orders impinge on the Commission’s exclusive authority to promulgate “rules and regulations” governing the Police Department. The Police Department accordingly lacked the necessary legal authority to issue them; and

FURTHER RESOLVED, The Plain Clothes and Undercover Operations Policy Bureau Orders shall be rescinded on the date that the Commission enacts revisions to DGO 5.08; and

FURTHER RESOLVED, The Investigative Social Media Accounts Bureau Orders shall be rescinded effective immediately.



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AYES:  
NAYS:  
ABSENT:

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LARRY YEE  
Commissioner  
JAMES BYRNE  
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JESUS YANEZ  
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KEVIN BENEDICTO  
Commissioner  
DEBRA WALKER  
Commissioner

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Very truly yours,  
Sergeant Stacy Youngblood  
Secretary of the San Francisco Police Commission  
[star number/initials]

Cc: Assistant Chief Denise Flaherty  
Acting Deputy Chief Rachel Moran  
Deputy Chief Daniel Perea  
Deputy Chief Raj Vaswani  
Deputy Chief Mikail Ali  
Director Diana Oliva-Aroche  
Director Asja Steeves