



Police Review Commission

ACTION MINUTES OF THE REGULAR MEETING OF THE POLICE REVIEW COMMISSION

North Berkeley Senior Center
1901 Hearst Street
Berkeley, California

Date: Wed. April 26, 2000
Time: 7:30 p.m.

1. ROLL CALL: 7:35 PM

Commissioners Present: Mar, Martynn, Ritchie (7:50 PM), Sanchez- Resnik, White, Zellman

Commissioners Absent: DeBose, Bennett, Taylor (All Excused)

PRC Staff: Barbara Attard

BPD Personnel: Lt. Hambleton, Sgt. Ahearn
2. PUBLIC COMMENT--None
3. MINUTES OF THE APRIL 12, 2000 MEETING

**Sanchez-Resnik, Zellman (Moved/Seconded) to approve the April 12, 2000 meeting minutes.
Passed unanimously.**
4. PRC OFFICER'S REPORT (For Discussion or Action)
 - a) New Filings- Three since last meeting.

 - b) Boards of Inquiry



Upcoming Boards were discussed:

4/27--1802 Meggs Board—Commissioners White, Taylor, Mar

5/3—1801 Caldeira Board—Commissioners Ritchie, Martynn, White

5/17—1806 Gibson Board—Commissioners DeBose, Sanchez-Resnik, Bennett

c) BAPON Meeting Update

Barbara Attard and Chair White discussed the BAPON Meeting on 4/15. Civilian oversight professionals from southern California and Boise attended this meeting, as well as local oversight groups. The meeting included training on statistics, discussions about upcoming legislation and LAPD issues, and the possibility of making the network a more formal organization. The next BAPON meeting will be hosted by the PRC on July 20 at noon.

d) Administrative Closure PRC Case #1804 Complainant Excell McGinnis

Barbara Attard explained that complainant McGinnis passed away.

Sanchez-Resnik, Zellman (Moved/Seconded) to administratively close the case. Passed unanimously.

e) Summary Dismissal of PRC Case # 1807 Complainant Sylvester Christie

Barbara Attard explained that the request to summarily dismiss the case stem from the fact that the facts as alleged by complainant Christie do not rise to the level of misconduct.

Sanchez-Resnik, Zellman (Moved/Seconded) to summarily dismiss. Passed unanimously.

f) Commissioner Workshop, Thursday, June 15, 2000, 7-9 PM

This workshop will be attended by City Manager James Keene, City Attorney Manuela Albuquerque and City Clerk Sherry Kelly. The purpose of the workshop is to go over Brown Act and Open Meetings issues, roles of boards and commissions, and opening dialog with commissioners. All commissioners are urged to attend.

g) BPD Accreditation—On-Site Assessment: Public Information Session
Monday 5/1/2000, 7:00 PM, South Berkeley Senior Center

This meeting has been cancelled.

BPD is considering not following through with the accreditation process. Commissioners Martynn and Mar are interested in seeing the accreditation guidelines.

5. BPD CHIEF'S REPORT

Lt. Hambleton discussed the new public safety building.

6. COMMITTEE REPORTS (For Discussion or Action)

--Transgender Task Force—Commissioners will be meeting with Sgt. Gordon on May 10.

--Drug Task Force Update—Commissioner Ritchie discussed the April 29 Drug Policy Forum.

7. OLD BUSINESS (For Discussion or Action)

- a) New BPD Orders and Regulations--Discussion of changes to General Order R-29 “Field Interviews” and Training and Information Bulletins 114 “Ramey/Steagald Warrant” and 115 “Citizen’s Arrest”

There was a lengthy discussion about GO R-29 and field interview cards. Commissioners Martynn and Zellman expressed their concerns about records being kept on persons stopped.

Lt. Hambleton described situations in which field interview cards have been important in solving crimes. He also stated that the City Attorney was concerned about officers not forcing persons stopped to give their names if they decline to do so. Approximately one card a day is completed.

Martynn/Zellman (Moved/Seconded) put on record that the PRC is opposed to field interview cards being filled out as delineated in sections 3 (b) and (d) of General Order R-29—persons who are “possible suspects” and persons engaged in “suspicious activities.” Amended to require officers to tell persons stopped that they do not have to give their names. Not carried, Commissioners Martynn, Zellman and Sanchez-Resnik voting aye, Commissioner Ritchie voting nay, and Commissioners White and Mar abstaining.

Commissioner Ritchie stated that he was interested in looking into the practice further before making a decision to further restrict the use of the cards. He was interested in finding out if this practice had been abused.

- b) Referral of Pre-Lawsuit Legal Claims to the PRC for Investigation—City Attorney Recommendation

Commissioners expressed their support for the concerns of the City Attorney about influencing lawsuits; however the Commission felt that informing complainants who may not be aware of the PRC of the PRC process was an overriding community concern.

Martynn/Mar to send a letter to the City Council opposing the memo from the City Attorney recommending that the City Attorney’s office be exempt from referring potential complainants to the PRC, and asking that the Council direct the City Manager to ask all City departments to refer potential complainants to the PRC. (Moved/Seconded) Passed unanimously.

8. NEW BUSINESS (For Discussion or Action)

- a) 120 Day Disciplinary Time Limit (ACLU Presentation) (Taken after PRC Officer’s Report)

Jim Chanin of the Berkeley/Albany/Richmond/Kensington (BARK) ACLU reviewed procedural timelines and recommended changing or eliminating timelines that interfere with investigations and

complainants' ability to file complaints.

Mr. Chanin's analysis of PRC timelines included the following points:

The PRC Regulations stipulate a 90-day filing period from the date of the misconduct and 75-day timeline for completing an investigative report

- If criminal charges were to be brought against an officer, the time period would be 1 year from the date of the incident, with no report requirement
- If felony charges were to be brought against an officer, the time period would be 3 years from the date of the incident, with no report requirement
- If a lawsuit for monetary damages were to be brought, a claim must be filed within six months of the incident, with no report requirement
- "Lack of knowledge of the PRC" should be included as a reason for filing late complaints

The MOU with the Berkeley Police Association stipulates a 120-day investigative time limit for discipline

- California Government Code Section 3304 states that the investigation of misconduct issues shall be completed and the officer must be notified of discipline within 1 year

Mr. Chanin stated that the short deadlines included in the above-mentioned PRC Regulations and the MOU interfere with the investigative process and with complainants' rights to have their complaints heard. They also create undue pressures on staff, commissioners and the City. He recommends that the PRC regulations and procedures be revised to be consistent with state and federal law and that the PRC ask the City Council to eliminate the 120-day time limit for discipline.

Lt. Hambleton stated that some of these regulations are the result of a Meet and Confer with the BPA during the period that officer testimony was instituted.

Mr. Chanin stated that the PRC has had greater authority in the past. When he was on the PRC he was called in the night of an officer involved shooting in and briefed on the incident. He also used to sit in on BPD Boards of Review.

Mr. Chanin was invited to the May 10 meeting to review the PRC Ordinance for possible changes.

b) BPD Officer Involved Shooting Case, April 12, 2000

Lt. Hambleton explained that the shooting case is the subject of three different investigations that are automatically opened in an officer involved shooting case: Alameda County District Attorney, Internal Affairs and a criminal review. Because of these ongoing investigations no further information than has appeared in the newspapers can be given at this time.

Because there was further discussion and the hour was late, this item was carried over to the May 10 PRC Meeting.

c) Incident Involving Traffic Stop of Latanya McDonald

Barbara Attard stated that Investigator Reagans has been in touch with Ms. McDonald and has sent her a complaint form. She indicated that she will be filing a complaint.

d) Referral From Planning Commission: Amendments to Municipal Code (BMC) Sections Regarding Public Nuisances

Barbara Attard informed the Commission that the BMC amendments were referred to the PRC through the Planning Commission. There will be meetings before the Planning and Parks and Recreation Commissions and the Council during which testimony on these amendments will be taken if any Commissioners would like to have input into the process. Vivian Kahn of the Planning Department can be contacted if there are questions—705-8108.

e) Upcoming Legislation:

- AB 2559, Cardoza Bill, Attempts to limit scope of information that can be obtained through discovery by criminal defendants

This item was carried over to the May 10 PRC Meeting.

- AB 2449, Wildman Bill, Attempts to prohibit POST from adopting regulations authorizing the revocation of peace officer training certificates

This item was carried over to the May 10 PRC Meeting.

f) BPD Officers Attending PRC Meetings While On-duty

This item was carried over to the May 10 PRC Meeting.

9. COMMUNICATIONS

- New and/or Revised BPD Orders
GO C-6 “Career Criminal Tracking”

GO H-7 “Harassment Prevention Policy—City of Berkeley”
GO M-6 “Public Dissemination of Registered Sex Offender Information by Law Enforcement”
GO M-7 “Public Access to Sex Offender CD Rom”
- Availability of Executive Summary of the Board of Inquiry into the “Rampart Area Corruption Incident”

10. ADIJOURNMENT

Ritchie/Zellman (Moved/Seconded) to adjourn at approximately 10:20 PM. Passed unanimously.