



Police Review Commission

ACTION MINUTES OF THE REGULAR MEETING OF THE POLICE REVIEW COMMISSION

South Berkeley Senior Center
2939 Ellis Street
Berkeley, California

Date: Wed. May 10, 2000
Time: 7:30 p.m.

There was a special meeting at 5:30 PM of the Ad Hoc Committee to Discuss Changes to the PRC Ordinance to review the PRC Ordinance and Regulations for possible changes. Minutes recorded separately.

1. ROLL CALL: 7:35 PM

Commissioners Present: Bennett, Mar, Martynn, Sanchez- Resnik, Taylor (8:30 PM), White, Zellman

Commissioners Absent: DeBose, Ritchie (Excused)

PRC Staff: Barbara Attard

BPD Personnel: Sgt. Ahearn, Lt. Flemming

2. PUBLIC COMMENT

Complainant Caldeira addressed the Commission.

3. MINUTES OF THE APRIL 26, 2000 MEETING

Zellman/Sanchez-Resnik (Moved/Seconded) to approve the April 26, 2000 meeting minutes. Passed with Bennett abstaining.

4. PRC OFFICER'S REPORT (For Discussion or Action)



- a) New Filings—3 since last meeting
- b) Boards of Inquiry—One Board scheduled, case #1806 for May 17, 2000 (Continued)
- c) Administrative Closure, PRC Case #1801, Complainant Caldeira

Barbara Attard disseminated documents submitted by Mr. Caldeira, May 10, 2000, “PRC Case No. 1801; Preliminary Response to P.R.C. 5/10/2000 Agenda Item 4c”

Copies of cover sheet disseminated to all commissioners. One copy of Exhibits A through J2 was passed around for commissioners to review.

Investigator Theophous Reagans explained the reasons for the Administrative Closure request. Complainant Caldeira spoke on his behalf.

Sanchez-Resnik/Zellman (Moved/Seconded) to approve Administrative Closure request. Passed with Mar and Bennett abstaining.

- d) Administrative Closure, PRC Case #1808, Complainant Daniels

Investigator Theophous Reagans explained the reasons for the Administrative Closure request.

Bennett/Martynn (Moved/Seconded) to approve Administrative Closure request. Passed unanimously.

5. BPD CHIEF'S REPORT

Lt. Flemming asked that the Commission schedule an item for presentation by BPD for a future agenda: Identity Theft Presentation. Scheduled for the 6/28/00 PRC Meeting.

6. COMMITTEE REPORTS (For Discussion or Action)

--Transgender Task Force

Commissioner Zellman reported that she and Commissioner Sanchez-Resnik met with Sgt. Gordon, Assistant Police Chief Roy Meisner, Barbara Attard and Pete King to plan training on Lesbian/Gay/Bisexual/Transgender (LGBT) issues, and also to discuss the LGBT position. The meeting went very well. The training will be for the entire department and hopefully will begin after the new fiscal year begins in July.

--Drug Task Force Update

Commissioner Sanchez-Resnik and White discussed the training. They reported that it was very informative and well attended.

7. OLD BUSINESS (For Discussion or Action)

- a) Discussion Regarding Possible Changes to the PRC Ordinance and Regulations

Commissioner Martynn reported the recommendations of the Ad Hoc Committee to Discuss Changes to the PRC Ordinance. The Committee recommended requesting that the Council place the “First Alternative” on the November Ballot. This initiative would amend PRC Ordinance No. 4644-N.S. Section 6. to increase commissioner stipends to \$15.00 (fifteen dollars) per hour with a limit of \$300 (three hundred) dollars per month per commissioner. Commissioners currently are compensated at a rate of \$3.00 (three dollars) per hour with a maximum of \$200 (two hundred) dollars per month per commissioner.

Martynn/Mar (Moved/Seconded) to request that Council place the above recommended change in PRC Ordinance 4644-N.S. on the November Ballot. Passed with Bennett and Sanchez-Resnik abstaining. (DeBose, Ritchie and Taylor absent.)

The Commission asked that an item be brought to Council to request a change in the BPA MOU to change the disciplinary time line of 120 days to bring it into conformity with the CA Government Code 3304 which establishes a 1-year time line for discipline resulting from a misconduct investigation. This will be placed on the agenda for the next PRC Meeting.

Changes to PRC Regulations regarding the 75-day report requirement and the 90-day filing requirement will be reviewed after the 120-day time line is considered.

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

Carla James of Copwatch encouraged the PRC to look into the shooting of Carlos Garcia. They are particularly concerned with what happened during the 50 minutes between the robbery and the shooting. If the PRC does not initiate an investigation Copwatch may file a complaint.

Taylor/Martynn (Moved/Seconded) to request that staff complete a preliminary investigation into the shooting. Mar, Bennett, White abstained. Motion did not carry.

Taylor/Bennett (Moved/Seconded) send a letter to the Chief of Police to request that BPD provide an in depth written report for Commission regarding the officer involved shooting by 5/23/00 for the 5/24/00 meeting. Passed unanimously.

c) Upcoming Legislation:

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

Barbara Attard briefly described this pending bill that would limit discovery in criminal trials to only complaints that have sustained allegations of misconduct. Because misconduct complaints are difficult to prove, this would severely restrict access to witnesses during criminal trials.

Zellman/Sanchez-Resnik (Moved/Seconded). Request that the Council adopt a position for the City of Berkeley in opposition to AB 2559. Passed unanimously.

- AB 2449, Wildman Bill, Attempts to prohibit POST from adopting regulations authorizing the

revocation of peace officer training certificates

This bill attempts to limit the ability of POST to revoke peace officer's training certificates.

Taylor/Zellman (Moved/Seconded). Request that the Council adopt a position for the City of Berkeley in opposition to AB 2449. Passed unanimously.

d) Governor Davis' Action on SB 1389, "Driving While Black/Brown" Bill

Commissioners Martynn and Sanchez-Resnik reported on the demonstration and rally that they attended in Sacramento regarding DWB issues on April 27, 2000. The rally was well-attended and showed solidarity of the diverse groups that attended. Unfortunately, the sponsor of the bill has backed off on data collection and has agreed to a compromise bill that would require officers to give a business card if they do not cite or arrest the person stopped. The PRC may want to take this issue up again at a later time.

Taylor/Bennett (Moved/Seconded). Request that Commissioners Zellman and Sanchez-Resnik write a statement to the Council expressing their concerns about the change in the DWB bill. Passed unanimously.

e) BPD Officers Attending PRC Meetings While On-duty

There was a discussion about two previous PRC meetings in which officers attended on duty. Commissioner Taylor said that officers have the right to come to the meeting as union members. Commissioner Martynn expressed his concerns as to whether there were guidelines about which officers and/or how many could attend. Commissioner Taylor stated that officers' attendance at PRC meetings should not be questioned.

8. NEW BUSINESS (For Discussion or Action)

a) PRC Policy Recommendations Resulting from PRC Case #1745, Complainants Grousbeck and Weeks

The following policy recommendations resulted from the hearing in PRC Case #1745:

1) That in cases involving mentally disturbed persons the Mobile Crisis Unit be called to intervene.
2) That BPD retrain officers regarding pepper spray and issues of positional asphyxia and excited delirium.

3) That officers involved in an internal affairs or PRC investigation should be prohibited from contacting complainants.

4) That the Berkeley Fire Department (BFD) develop protocols around the use of pepper spray and steps to take to minimize possible positional asphyxia and/or excited delirium.

Mar/Taylor (Moved/Seconded) to forward the policy recommendations to the Council, Police and Fire Departments and the City Manager. Passed unanimously.

b) Possible Special Meeting to Finalize Changes to the PRC Ordinance for the November Ballot

Item pulled because the item was voted on at this meeting and there is no need for a special meeting.

c) BPD Recruitment—Suggestions from the PRC

At the request of BPD for input regarding recruitment for BPD, the PRC had a brainstorming session to generate suggestions for recruitment. The following suggestions were made:

- That a committee or focus group be formed to generate new ideas for recruitment. Commissioners Mar, Sanchez-Resnik and DeBose have volunteered to be on such a committee if BPD decides to form a committee for this purpose.
- Commissioners had questions regarding the budget for recruitment. Is there a travel budget to attempt to recruit from other areas of the country.
- Commissioner Mar questioned whether research has been done (or can be done) to determine what makes a good officer.
- Commissioner Martynn asked that BPD make a commitment to recruit officers of color in greater numbers and suggested recruiting in minority communities to achieve this goal.
- Commissioner Sanchez-Resnik suggested the possibility of offering incentives to attract new officers.
- Commissioner Taylor asked questions regarding the current plan for recruitment.

9. COMMUNICATIONS

“White Paper” on “The Role of Penalty Schedules in Managing Police Misconduct” (For Future Agenda)

New BPD General Orders:

- I-16 “Apprehension of Mentally Ill Persons and Those Addicted to Narcotics or Habit Forming Drugs”
- C-52 “Crime Scene Management and Investigation”
- C-1 “Criminal Intelligence Information”
- C-2 “Completed Preliminary Investigations”

Chair White stated that he attended the May 9, 2000 Public Meeting of the UC Police Review Board. He invited the Board to come to the BAPON Meeting being hosted by the PRC on July 20. He commented on the short notice given to the PRC about the meeting. He also commented that he felt that the PRB process had no “teeth.”

Commissioner Zellman commented that the PRB has often had meetings at times when students would not be able to participate.

The comment period will be held open until mid-July.

It was requested that this item be placed on the PRC agenda for the second meeting in June.

Commissioner Taylor also commented on the timing of the notice and the meeting.

10. ADJOURNMENT

Zellman/Sanchez-Resnik (Moved/Seconded) to adjourn at approximately 9:40 PM. Passed unanimously.