



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. June 28, 2000  
Time: 7:30 p.m.

1. ROLL CALL 7:45 PM

Commissioners Present: Bennett, DeBose, Martynn, Ritchie, Taylor, White, Zellman

Commissioners Absent: Mar (Excused), Sanchez-Resnik (Excused)

PRC Staff: Barbara Attard

BPD Personnel: Sgt. Ahearn, Lt. Yuen

2. PUBLIC COMMENT

Carla James of Copwatch urged the PRC to look into the officer involved shooting. If the PRC does not follow through, Copwatch may file a complaint on this incident.

Osha Neumann supported Ms. James in urging the officer involved shooting investigation. His purpose in coming before the Commission was to express concern that the independent counsel Council item had been pulled. He feels that independent counsel is important for Caloca and for ongoing representation for the PRC. He was told that an idea that was being considered was to establish new protocols for the PRC which could entail eliminating full Boards of Inquiry, replacing them with findings based upon a paper review of the evidence. He would not favor such a change because hearings are an important part of the process, and not sustained cases would not get any hearing.



3. MINUTES OF THE JUNE 14, 2000 MEETING

**Taylor/Ritchie (Moved/Seconded) to approve the June 14, 2000 meeting minutes. Passed, Ritchie, Taylor, White. Abstain: Zellman, Martynn, DeBose. Absent: Bennett, Sanchez-Resnik, Mar.**

Because of the lack of a quorum to vote on this item a request was made to carry this over to the next meeting.

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

- a) New Filings—2 since last meeting
- b) Board of Inquiry—  
7/20/00 PRC Case—Zellman, Martynn, third commissioner needed.
- c) Summary Dismissal of PRC Case #1825, Complainant Khan

**Taylor/DeBose (Moved/Seconded) to approve Summary Dismissal recommendation. Passed, Ritchie, Taylor, White, DeBose, Zellman, Martynn. Absent: Bennett, Sanchez-Resnik, Mar.**

- d) Commissioner Stipend Requests due

End of year closing, stipend requests should be submitted early in August for the final quarter.

5. BPD CHIEF'S REPORT

- Presentation by BPD—Identity Theft

Insp. Todd Sabins, Officer Evan McWilliams, and Inspector Arnold Lui made an excellent presentation regarding Identity Theft—whereby someone uses the name and Social Security Number of another person and charges items, wreaking havoc on the other person's life. It is estimated that it takes at least two years to correct a victim's credit once the crime becomes apparent. Penal Code Section 530.5 was enacted in 1998 to make it illegal for a person to obtain personal information and attempt to use it to obtain goods, services, credit or medical information. There has been a 150% increase in this crime since 1997 and a 250% increase since the beginning of the year.

Identity theft has become a priority of the Department of Justice. In the past financial institutions were the losers, but because of the problem with ruining victims' credit histories it is now becoming more of a focus of law enforcement. Unfortunately, sometimes victims are arrested mistakenly because the identity theft is so confusing. It is also difficult for people to report the crime because many of the illegal acts cross state and county lines.

A bill by Herzberg is going forward to establish training and to require protocols for statewide reporting. BPD has taken the lead in getting officers trained, pushing for county-wide training, putting together a resource and informational pamphlet, speaking on the subject, and allowing victims to report

the crime, regardless of the details of where the crime occurred.

The presentation was informative and the excellent resource pamphlet is available through BPD.

6. COMMITTEE REPORTS (For Discussion or Action)

--Transgender Task Force--None

--Drug Task Force Update--None

7. OLD BUSINESS (For Discussion or Action)

a) Independent Counsel for the PRC

Chair White and Commissioners Ritchie and Taylor reported to the Commission about a meeting the previous Friday with City Manager James Keene, City Attorney Manuela Albuquerque, Barbara Attard and PRC members White, Ritchie and Taylor. The meeting was convened because the City Manager, after hearing from the PRC, was ready to go forward with establishing an appeal process to bring Berkeley in compliance with the Caloca case. Caloca, the Independent Counsel Council Item, and the 120 Disciplinary Deadline Council Item were discussed.

Because the City Manager was not going to oppose establishing an appeal process, there was a question as to whether the PRC actually needed independent counsel. **Commissioners agreed to pull the Independent Counsel Council Item and discuss this change at the 6/28/00 PRC Meeting.** The meeting became a brainstorming session and the possibility of changing the PRC procedures to streamline the process was mentioned. One procedure discussed was to establish a procedure whereby findings could be made based on the written report rather than having a full Board of Inquiry. This would eliminate the issue of lengthening the 120-day disciplinary timeline. **Because of this possibility, the 120-day Disciplinary Timeline Council Item was pulled.**

The negative aspects of eliminating full PRC Boards of Inquiry were discussed: sometimes statements change in a Board, credibility can be judged better in person; the ability to question the opposing side would be lost, not sustained cases would never have a hearing and this can be important to both sides.

The meeting ended with the plan that the PRC would resurrect the subcommittee that had formed to review the PRC Regulations for possible rules changes.

Chair White stated that he viewed the \$150-\$170,000 price tag that the City Manager and the City Attorney associated with the possible appeal hearing process as positive support for the PRC. Commissioner Bennett stated that she ran into the City Manager and he stated that he now was ready to go forward with the hearing process. She felt that he listened to the PRC was responding to the concerns of the Commission. Commissioner DeBose would like to see something in writing regarding the City's response to Caloca. Commissioners DeBose and Zellman both stated that they did not favor the idea of paper review of PRC cases.

Commissioner Ritchie explained Manuela Albuquerque's explanation of how the City Attorney's office

deals with conflicts—they represent the City. If a conflict situation arises between the City Attorney representing the City or an individual employee, the City Attorney will always represent the City. He questioned, however, situations that may arise such as conflicts between the City Manager, the BPD and the PRC. Where would the City Attorney come down in that case?

**Zellman/DeBose (Moved/Seconded) to request that the PRC be afforded independent counsel to review Caloca issues and any other issues that may come up because of the conflict built into City government. Passed, Bennett, Ritchie, Taylor, White, DeBose, Zellman, Martynn. Absent: Sanchez-Resnik, Mar.**

Commissioner Taylor suggested that the Ad Hoc Committee be reestablished and meet at 6 PM before the July 12, 2000 PRC Meeting.

b) UC Police Review Board Recommendations

Commissioners have been invited to respond directly to the UCPRB report.

c) BHS Operation Stay in School Truancy Program

**Martynn/Taylor (Moved/Seconded) to ask that someone from BPD make a presentation to the PRC evaluating this program. Passed, Bennett, Ritchie, Taylor, White, DeBose, Zellman, Martynn. Absent: Sanchez-Resnik, Mar.**

d) April 12 Officer Involved Shooting

**Taylor/DeBose (Moved/Seconded) to conduct an investigation of the April 12 officer involved shooting. Passed, Ritchie, Taylor, White, DeBose, Zellman, Martynn, Bennett. Absent: Sanchez-Resnik, Mar.**

**Zellman/Taylor (Moved/Seconded) to look into changing the PRC Regulations to mandate that the PRC shall open an investigation of all police shootings and death in custody cases. Passed Unanimously: Ritchie, Taylor, White, DeBose, Zellman, Martynn, Bennett. Absent: Sanchez-Resnik, Mar.**

8. NEW BUSINESS (For Discussion or Action)

a) Case of People v. Kahlil Jacobs-Fantauzzi

No action was taken on this case at this meeting. Barbara Attard stated that a complaint form was sent to Mr. Jacobs-Fantauzzi at his request, but no complaint has been received.

b) Review of PRC Statistical Report for 1999

By consensus the Commission approved the Draft Statistical Report. Commissioner Martynn asked that the Internal Affairs rate of sustaining cases be included in the report. Ms. Attard said that she

would look into that possibility.

c) Issues in PRC Case #1811

Mary Sansen and Sgt. Files attempted to cancel the PRC Board of Inquiry of this case based upon a mistaken interpretation of the PRC Regulations and the BPAMOU.

Barbara Attard asked all Commissioners to page her if there is an attempt by any party to refuse to go forward with a hearing. She is on pager and should be contacted before a hearing is continued.

Commissioners and staff gave a variety of reasons for insisting on going forward with a hearing:

- Very often, as in this case, the request to continue a hearing or a refusal to go forward is based upon wrong information. (Objections should be noted for the record and the Board should go forward.)
- Rescheduling is very labor intensive and may not be possible within timelines based upon complicated scheduling requirements.
- Any serious reason for a case not going forward would be brought up in advance—challenging a Board at the last minute is likely a delaying technique and an attempt to interfere with the process. (Objections should be noted for the record and the Board should go forward.)

**Taylor/Ritchie (Moved/Seconded) to ask staff to send a letter to the BPA regarding the mistaken attempt to cancel this Board of Inquiry. Passed Bennett, Ritchie, Taylor, White, DeBose, Zellman, Martynn. Absent: Sanchez-Resnik, Mar.**

9. COMMUNICATIONS

Chair White announced the upcoming BAPON Meeting at Noon on Thursday July 20 at the Downtown Berkeley YMCA.

10. ADJOURNMENT

**DeBose/Zellman (Moved/Seconded) to adjourn meeting at @ 10 PM. Passed unanimously.**