



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. November 8, 2000  
Time: 7:30 p.m.**

1. ROLL CALL 7:35 PM  
Commissioners Present: DeBose, Bennett, Mar (7:40 PM), Martynn, Ritchie (7:40 PM), Sanchez- Resnik, White, Schlosberg, Taylor  
Commissioners Absent: None  
PRC Staff: Barbara Attard  
BPD Personnel: Sgt. Ahearn, Lt. Harris
2. PUBLIC COMMENT-None
3. MINUTES OF THE OCTOBER 25, 2000 MEETING  
**Schlosberg/Sanchez-Resnik (Moved/Seconded) to approve the meeting minutes. Passed with Martynn, Bennett, DeBose abstaining.**
4. PRC OFFICER'S REPORT (For Discussion or Action)
  - a) New Filings—Approximately six since last meeting.
  - b) Boards of Inquiry—Upcoming boards were discussed.



5. BPD CHIEF'S REPORT—None
6. COMMITTEE REPORTS (For Discussion or Action)

Commissioner Schlosberg asked whether the Community Outreach Subcommittee was still in effect. Commissioner Martynn stated that it has not met due to busy schedules of members.

Commissioners Mar and Martynn are interested in following up on accreditation of BPD.

7. OLD BUSINESS (For Discussion or Action)
  - a. Bicycle Policy Issues—PRC Cases #1776, 1794, 1796, 1797  
Recommendations from Critical Mass and General Bicycle Issues

The policy complaint of Jason Meggs was distilled into six issues by staff. PRC action taken on the issues are as follows:

1. That the City of Berkeley reevaluate the decision to close certain roadways to bicycles with the goal being to increase access to roadways by bicyclists.

**Schlosberg/Taylor (Moved/Seconded) to ask the City Attorney issue a legal opinion (in consideration of the legal opinion of David Beauvais) regarding closing the University Avenue overpass and the Solano Tunnel to bicycle traffic. Passed with DeBose opposing and White abstaining.**

Commissioner DeBose stated that the University Overpass is closed on the 4<sup>th</sup> of July so people can watch the fireworks. Closing or opening the overpass is within the City's jurisdiction. Several commissioners stated that it would be important for Critical Mass to communicate with the police their intention to ride on one of the "forbidden" roads in order for temporary closure to allow bicycle traffic to be accommodated.

**Ritchie/DeBose (Moved/Seconded) to ask the City Council to instruct BPD to communicate with Critical Mass regarding the route of their rides in order to be as amenable as possible to allow Critical Mass free access to all City streets, to include the University Avenue Overpass, the Solano Tunnel, and the Ashby Underpass. It will be the responsibility of Critical Mass to inform BPD of its intention to use these roadways. Passed unanimously.**

2. That rules, laws and policies regarding arrests, the rights of bystanders, public safety, courtesy and discretionary use of authority be followed when officers monitor and/or encounter bicyclists during Critical Mass.

No recommendation made.

3. That BPD issue warnings before making mass arrests of Critical Mass riders.

See motion below under item 4.

4. That criminal charges and fines arising out of the August 13, 1999 Critical Mass Rides be dropped.

No recommendation made on this item. Concerns were expressed that because this issue is regarding a specific case and not a policy issue that it is not appropriate for a policy recommendation.

**DeBose/Bennett (Moved/Seconded) that items 3 and 4 be withdrawn. Passed unanimously with Taylor not present.**

5. That the City of Berkeley join surrounding counties in establishing a bicycle diversion program.

**Sanchez-Resnik/Schlosberg (Moved/Seconded) to ask the City Council to endorse establishing a bicycle diversion program such as the program established in Walnut Creek, to include tracking of warnings. Passed unanimously with Taylor not present.**

6. That police reports be written in cases involving bicycle/motor vehicle accidents.

**DeBose/Sanchez-Resnik (Moved/Seconded) to ask the City Council to pass a policy recommendation that police reports be written in all reported cases involving bicycle/motor vehicle accidents. Passed unanimously.**

b. Policy Complaint PRC Case # 1803, filed by Jason Meggs about Warrant Arrests

Commissioner DeBose expressed her concern that “minor” warrants were not defined. Lt. Harris stated that limiting officers to warnings could eliminate a tool that they use to remove persons with warrants from situations in which they are causing problems, such as in Civic Center Park. Commissioner Schlosberg and complainant Meggs stated that they were uncomfortable with officers using minor warrants to take people off the street for other reasons. Commissioner DeBose stated that people should use the complaint process to report abuses of minor warrant arrests.

**DeBose/Mar (Moved/Seconded) to not to recommend the policy change. Aye—Bennett, DeBose, Mar, White. No—Schlosberg, Martynn, Taylor, Ritchie. Abstain—Sanchez-Resnik.**

**Martynn/Taylor (Moved/Seconded) to accept the recommendation that the City of Berkeley examine the possibility of giving warnings to persons with minor warrants. Aye—Schlosberg, Martynn, Taylor, Ritchie. No—Bennett, DeBose, Mar, White. Abstain—Sanchez-Resnik.**

**No action taken on this policy case.**

c. Protocol at PRC Meetings and Boards of Inquiries

An exchange that had taken place at PRC Board of Inquiry for case # 1816 was discussed. Several commissioners expressed their concerns about proper protocol at Boards to include keeping a professional and civil demeanor, refraining from sidebar conversations, focusing on the testimony, not consuming food during the Board, keeping personalities in check and being even-handed in dealing with complainants and officers. All agreed that the credibility of the PRC is at stake. Issues raised during Boards should be brought up to the full Board. The question was asked whether the

commission had the authority to go into closed session to deal with issues during a Board. This has been done in the past, but Brown Act issues regarding this should be reviewed. Chair White asked that this be a topic covered during Commissioner orientation or a future roundtable discussion.

8. NEW BUSINESS (For Discussion or Action)

- a. Policy Issue from PRC Case # 1822 filed by Leo Stegman Regarding Recommended Change to BPD G.O. R-29 Instructing Officers Consensual Stops Must Not Be Forced Or Enforced With Arrests

Commissioner Ritchie explained this policy recommendation that stemmed from Mr. Stegman's complaint about an incident in which he was arrested after refusing to give identifying information. **Ritchie/DeBose (Moved/Seconded) to ask the City Council to direct the City Attorney to review the legal parameters of consensual stops and other requests for identification with consideration of liability issues, with the intended outcome being to include appropriate language in General Order R-29 and a Training Bulletin or General Order instructing officers that they are not allowed to demand compliance with consensual stops and other stops involving requests for identification unless there is evidence of illegal activity. Passed Unanimously.**

- b. Telegraph Avenue Incident 10/16/00—Request for Follow-up From UC Berkeley  
Issue put over to next meeting.

- c. Subpoena Process for PRC Case #1834

Barbara Attard explained that staff has recommended that a subpoena had be issued to bring a witness to the Board for PRC Case #1834. **Ritchie/Schlosberg (Moved/Seconded) to issue the subpoena. Aye: Schlosberg, Martynn, Taylor, Ritchie, Sanchez-Resnik. No: DeBose, Bennett. Abstain: Mar, White. It was recommended that a process be established for making decisions regarding issuing subpoenas to witnesses.**

9. COMMUNICATIONS

Barbara Attard stated that Chief Butler has authorized a tour of the Public Safety Building for the PRC at a time to be scheduled at the PRC's convenience.

It was agreed that the Rules Committee would convene for review of the PRC Regulations.

10. ADJOURNMENT

**Ritchie/Sanchez-Resnik (Moved/Seconded) to adjourn at approximately 10 PM. Passed unanimously.**