



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. September 12, 2001
Time: 7:30 p.m.

Commissioner DeBose read the following statement in support of the police and firefighters and their families involved in the World Trade Center attack:

The Police Review Commission extends heartfelt condolences to the families and friends of New York City and supporting Firefighters and Police Officers who gave their lives during the tragic attack on the World Trade Center.

We honor these heroes who saved hundreds or perhaps thousands of lives by evacuating the burning towers. The Fire and Police have shown that the oath to protect the public is not taken lightly, and is sometimes kept with mortal consequences.

New York and surrounding communities, Fire and Police have demonstrated the highest degree of commitment to their fellow citizens during these tragic events, and their selfless actions set a benchmark for valor.

During perilous times we may be called on to act with courage and commitment for our friends, families and communities. New York has set the example.

Thank you for your brave actions. We offer a moment of silence and a prayer for all.

1. ROLLCALL 7:40 PM
Commissioners Present: DeBose, Farrell, Ritchie, Sanchez-Resnik, Schlosberg, Sherman
Commissioners Absent: Bennett, Martynn, White
PRC Staff: Barbara Attard
BPD Personnel: Lt. Borders, Sgt. Gordon, Sgt. Morizano



2. PUBLIC COMMENT

Andrea Prichett expressed concerns that her issue regarding how the police department interacts with a “Harm Reduction” facility was not listed in the minutes as part of the policy complaint on the UA Homes searches. Barbara Attard agreed to add this as part of the issue being investigated.

Richard Berkeley lives in a situation similar to UA Homes and would like an investigation into issues at his residence.

Gerald Smith stated that he went to a home on Russell Street where they had problems with management writing threatening letters.

3. MINUTES OF THE JULY 25, 2001 MEETING

Sanchez-Resnik/Farrell (Moved/Seconded) to approve the July 25, 2001 meeting minutes. Passed with DeBose and Ritchie abstaining.

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

a) New Filings—7 since last meeting.

b) Boards of Inquiry—Several upcoming meetings were scheduled.

c) Administrative Closure, PRC Case 1862 filed by Mark Allen

Ritchie/Schlosberg (Moved/Seconded) to approve administrative closure. Passed unanimously.

d) Administrative Closure, PRC Case 1867 filed by Mark Allen

Ritchie/Schlosberg (Moved/Seconded) to approve administrative closure. Passed unanimously.

e) Drug Enforcement Efforts at the UA Homes Policy Complaint (Update)

Barbara Attard reported that she has received police reports and videotapes of the searches at UA Homes. She will be reviewing these items and continuing the policy research. The completed policy issue will be brought back to the Commission in October.

f) Update on Homeless Issues—Enforcement of 647j Issues

Barbara Attard reported that the Homeless Commission was meeting the same evening. They will determine whether they want to pursue establishment of a subcommittee on 647j. Barbara Attard reported that the City Attorney’s opinion was that 647j was enforceable in Berkeley and that the decision made by Judge Brosnahan that 647j was unconstitutional was not precedent setting because it was not published. However, the Council asked that BPD make enforcement of 647j a low priority for enforcement and this policy remains in effect. Commissioner Ritchie stated that he had a discussion with Judge Brosnahan who said that her ruling was specific to 647j. He felt that this issue should be pursued with the Homeless Commission because arrests could be made under a different code section. The *Eikhorn* decision states that people cannot be arrested for sleeping if the county does not provide enough beds to shelter all homeless people. Barbara Attard will follow up to see if the Homeless Commission would like to meet with the PRC on this issue. It is possible that a joint meeting could happen the 4th Wednesday of a month. Commissioner Ritchie suggested inviting Osha

Neuman and the attorney at the Homeless Action Center if there is a joint meeting.

5. BPD CHIEF'S REPORT

Lt. Borders reported on BPD's response to the September 11 terrorist attacks. He stated that additional officers were brought on duty, additional security measures were taken, and the bomb squad was activated. There was also outreach to the Jewish and Middle Eastern communities.

6. COMMITTEE REPORTS (For Discussion or Action)

a. Recruitment Update

Commissioner Sanchez-Resnik reported that she will be attending the recruitment fair with Sgt. DeLaLuna.

7. OLD BUSINESS (For Discussion or Action)

a. City Attorney memorandum regarding PRC taking positions on legislation

Commissioner Schlosberg stated that he disagreed with the City Attorney's opinion in her July 10 email to Barbara Attard which states that the PRC does not have independent authority to send out letters without going through the City Council. Commissioners Schlosberg, DeBose, and Ritchie stated that the PRC has sent out letters independently in the past. The Commission asked that Barbara Attard check files to see if letters from 1997 were available for reference. Commissioner Schlosberg agreed to check with attorneys Jim Chanin and Osha Neumann to find out their understanding of the authority of the Commission on this issue.

This item will be brought back for a future meeting.

Farrell/Sherman (Moved/Seconded) to send a letter from the PRC that included the opening statement of the meeting in support of the firefighters and police in New York.

Passed unanimously. Barbara Attard stated that she needed to check with the City regarding sending the letter and she will send it if possible.

b. Providing Sufficient Information to Evaluate Discrimination Allegations

Commissioner Schlosberg discussed issues from a recent case in which racial discrimination was alleged but the Board of Inquiry felt was not provable based on the evidence. Commissioner Schlosberg suggested that it may be helpful to bring in past conduct of officers and complainants to enable additional information to be brought in, but only on discrimination issues, with the approval of the complainant. Chair DeBose and Barbara Attard raised concerns about bringing in past conduct and stated that decisions could be made based on other behavioral issues and patterns raised in the complaint. **Commissioner Schlosberg suggested referring this problem to the rules revision committee. This was approved by consensus.**

Another issue raised in the hearing was regarding Officer Hong's statement that he does not always report his activities for racial profiling data collection. Commissioner Schlosberg asked that this be placed on the agenda for a future meeting.

8. NEW BUSINESS (For Discussion or Action)

a. Policy Issue Regarding PRC Case 1869—Police "Warnings" in Domestic Violence Situations

Barbara Attard discussed an issue that arose in a case in which the officer stated that he "warns"

people in Section 8 housing in domestic violence cases that if he is called back he will report them to the housing authority and attempt to have them evicted. **The Commission asked that as a policy recommendation BPD clarify domestic violence policy and institute retraining on this issue.**

9. COMMUNICATIONS

- City of Oakland Investigator Position Announcement
- UC Police Review Board – Procedures for Handling Citizen Complaints August 1, 2001
- NACOLE Conference

10. ADIJOURNMENT

Sherman/Schlosberg (Moved/Seconded) to adjourn the meeting at @ 9:00 PM. Passed unanimously.