



Police Review Commission

POLICE REVIEW COMMISSION SPECIAL MEETING

ACTION MINUTES

**South Berkeley Senior Center
2939 Ellis Street
Berkeley, California**

**Date: Wed., January 14, 2004
Time: 7:00 p.m.**

1. **ROLL CALL:** 7:10 PM
Commissioners Present: Chung, DeBose (7-8:15), Sanchez-Resnik, Sherman, Sternberg (7:30), Radisch, Ritchie, White
Commissioners Absent: Sheen
PRC Staff: Barbara Attard
BPD Staff: Sgt. Morizono, Lt Agnew, Capt. Flemming, Lt. Ahearn, Officer Schofield

2. **PUBLIC COMMENT—7:00-8:00 PM, BPD Proposed Canine Program**

The following writing represents excerpts of statements made:

Capt. Flemming gave an overview of the proposed program to purchase 2 “find and bark” dogs. They will be used only in specific circumstances as outlined in the program and mandated by the Council. Startup costs are \$30,000, plus \$12-16,000 per year, to be paid from “asset-forfeiture” funds.

William Samsel: Is surprised that the Mayor has proposed starting a canine program. Mr. Samsel is opposed to using helicopters and dogs. He recently saw a program that raised concerns about the reliability of dogs. He feels that the program would be costly and there is not a need at this time. He feels that human beings should make decisions.

POLICE REVIEW COMMISSION OFFICES: 1900 Addison Street #300, Berkeley, CA 94704

TEL: 510.981.4950 TDD: 510.981.6903 FAX: 510.981.4955

e-mail: prc@ci.berkeley.ca.us <http://www.ci.berkeley.ca.us/prc/>

Jim Chanin: Is surprised that this program would be suggested at this time. He believes that the cost estimates are low. He has had several costly lawsuits against police departments involving canines. The City of Berkeley is in difficult financial times and the real costs and possibility of liability suits should be considered. Use of other dogs from other jurisdictions would be a way of dealing with the problems without incurring the associated costs.

Allen Jackson: Voiced his opposition to the proposed canine unit. He feels that they could be misused.

Andrea Prichett: Feels that this is a luxury item at this time. She is concerned that they will be used to round up and/or move homeless people.

Osha Neumann: For the past years the City of Berkeley has had rules against use of dogs. This is the wrong time to move toward using dogs again.

Gwen Allamby: Is concerned that dogs will be used on young black males who “hang out.” She feels that this is not the time to consider using dogs.

Karen Hilton: Believes that this is not the time to consider using dogs. She is concerned that officers will not be able to control the dogs and wonders if they can they be held accountable for their actions.

Elsie Blunt: Has a 16-year old male in her family. She is concerned that the dogs can possibly pick up negative reactions of those they are chasing and could react violently.

Beverly Dove: She does not feel that dogs should be used as mistakes can be made. We do not need to deal with accidental injuries caused by police dogs. Dogs should remain friends of people, not aggressors.

Commissioner Sherman: Asked Capt. Flemming about the 1992 Council amendment to the resolution to allow the use of dogs in specified circumstances.

Commissioner Ritchie: Asked Capt. Flemming for an estimate of how often the dogs would be used—Lt. Ahearn answered that there are approximately 300 “walkouts” from institutions per year. BPD has requested canines from other jurisdictions approximately 20-25 times in the past year.

Chair White: Inquired about the costs of the program.

Capt. Flemming responded that the estimated costs of \$30,000 are accurate—to include purchase of the dogs, training, refitting a vehicle, + \$12-16,000 per year to keep the program going. These costs would come from asset-forfeiture funds.

German shepherds and rotweilers are used for these programs German shepherds are said to be the best for this—for general purpose police dogs.

Commissioner Radisch: Clarified that asset-forfeiture funds could not be used for personnel. Capt. Flemming explained further discussed asset-forfeiture funds.

Commissioner Sherman: Asked about cost of use of mutual aid dogs—the response was that there was no cost to COB. Also—outside dogs would come under the rules of the mutual aid jurisdiction, not BPD/COB.

Commissioner Chung: Inquired about the duration of the training program—there would be 120 hours of basic training and additional specialized training.

Commissioner DeBose: Questioned why canines were not called in on the Givens officer involved shooting case—Capt. Flemming answered that the Givens apprehension happened very fast, in approximately 25 minutes. She added that mutual aid is not routinely called in situations regarding adults that walk away from hospitals. They would be called in for missing children.

Lt. Ahearn: Said that dogs from outside agencies are not always readily available.

Commissioner DeBose: Would like to see the cost breakdown. She feels that it would take more than one dog to handle the tasks that have been outlined. Although asset-forfeiture funds would be used, those funds could offset general fund programs that are being cut.

Commissioner Sherman: Questioned why the Mayor would request a canine program—Lt. Ahearn responded that the idea may have come from the Berkeley Police Association.

Andrea Prichett: Is concerned that in dealing with psychiatric patients the situation could escalate to more force than would normally be used if the dogs react negatively.

Jim Chanin: Had a case involving a mentally ill person in which the dog was let out accidentally and the man threw the dog off the bridge and then jumped off the bridge himself.

Commissioner DeBose: Believes that if 70 people are walking away from institutions it may be that there needs to be better regimens for the keeping track of patients in the hospitals. BPD has had a meeting with Alta Bates/Herrick for this purpose.

Commissioner DeBose asked that we invite the Mayor to a future meeting.

Public Comment continued:

Osha Neumann spoke about the officer involved shooting case. He recalled a former shooting case in which an officer shot at a man on the back of a motorcycle. The PRC did a detailed investigation and found that the involved officer should have taken steps to protect himself to have avoided danger. A policy recommendation was made by the PRC.

He recommends that the PRC look at communications tapes and detailed statements of the involved officers.

Andrea Prichett has been in touch with the family with Glennel Givens. She would like to see whether there were fingerprints were taken from the gun. She had several concerns about the shooting incident.

3. MINUTES OF THE DECEMBER 10, 2003 REGULAR MEETING

Sternberg/Radisch (Moved/Seconded) to approve minutes. Passed unanimously with DeBose and Sanchez-Resnik abstaining.

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

a) New Filings—5 Since last meeting

b) Boards of Inquiry—Upcoming boards were discussed.

c) Review for Petition for Acceptance of Case Under Provisions of PRC Regulations II.1.b. Late/Timely Filing—PRC Case #1988 Tyrone Jones

Ritchie/Sanchez-Resnik (Moved/Seconded) to consider case #1988 a timely filing because complainant was prevented from filing timely because the complaint form stated that the video tape had to be submitted with the complaint form and he was delayed in obtaining the video tape. Passed unanimously.

d) Recommendation for Summary Dismissal, PRC Case #1985 Filed by Elvin Simpson
Sanchez-Resnik/Ritchie (Moved/Seconded) to accept recommendation for summary dismissal. Passed unanimously.

e) Recommendation for Administrative Closure, PRC Case #1996 Filed by Jacob Warren

Sherman/Radisch (Moved/Seconded) to approve recommendation for administrative closure. Motion failed.

Sherman/Chung (Moved/Seconded) to reopen discussion on case. Sanchez-Resnik wonders why he stopped responding. Ritchie would like staff to contact Mr. Warren directly and have him come in for a photo spread.

f) Review for Petition for Acceptance of Case Under Provisions of PRC Regulations II.1.b. Late/Timely Filing—PRC Case #2004 Cynthia Russell

Ritchie/Sanchez-Resnik (Moved/Seconded) to deny appeal for late filing. Passed with Chung abstaining.

5. BPD CHIEF'S REPORT

Lt. Agnew informed the PRC that Capt. Hambleton, acting chief of police, asked that an overview of requested budget cuts be presented to the PRC.

6. COMMITTEE REPORTS (For Discussion or Action)
Caloca ad hoc Committee—No report

7. OLD BUSINESS (For Discussion or Action)

a) Caloca Update—Upcoming hearings

Upcoming hearings were discussed.

b) FBI Surveillance of the Anti-War Movement—Review and Consideration of Support for Peace and Justice Item

Commissioner Sherman discussed an *ad hoc* subcommittee meeting regarding this issue and several articles regarding police actions against demonstrators and directives from the federal government that demonstrators against the war on Iraq should be considered possible terrorists.

Ritchie/Sternberg (Moved/Seconded) to support the Peace and Justice Commission item regarding FBI Surveillance of the Anti-War Movement. Passed unanimously with Radisch voting aye for recommendations 1, 3 and 4 only.

Commissioner Radisch has concerns about the responsibilities placed on BPD as the result of this item.

c) Officer Involved Shooting of Glennel Givens—Update and Scope of Investigation/Review

Commissioner Sternberg stated that the incident impacts the community and the PRC. He would like to discuss the parameters of commission action and would like to undertake a complete investigation of this incident.

Questions raised were:

- Has the communications tape been transcribed?
- The commission requests copies of the interview tapes and transcripts.

Sherman/Radisch (Moved/Seconded) to set up a subcommittee to work on this case. Motion withdrawn.

Osha Neumann stated that he feels that it is absolutely astounding that PRC is being told that commission cannot have the interviews of the involved officers for its investigation. He feels that this interferes with the power of the PRC.

Sternberg/Sherman (Moved/Seconded) to amend the September 10 original motion which authorized obtaining and reviewing documents for the Givens cases to investigate the Glennel Givens officer involved shooting death. To including: conducting/obtaining interviews, audio tapes, video tapes, transcriptions, and any other evidence that has not been obtained. etc. Passed unanimously.

Andrea Prichett stated that the PRC should have protocols regarding officer-involved shootings. She also asked that the PRC determine whether there were finger prints taken from the gun.

Commissioners Ritchie, Sternberg, Radisch volunteered to work with staff on this case.

8. NEW BUSINESS (For Discussion or Action)

a) Request for Approval to Submit Lie Detector Test as Evidence for Upcoming Case

No action taken on this.

b) Meeting schedule for 2004

In December the PRC will meet on December 1 and December 15. The PRC decided to access articles via computer through the NACOLE update rather than having staff provide hard copies as part of the PRC packet.

c) PRC Budget

Barbara Attard informed the PRC that staff was asked to present a budget including 20% reductions. If this budget passes PRC will lose a staff position—a 25% cut in staffing. This would make completing investigations, reports, and transcriptions very difficult.

d) PRC Office Relocation

PRC offices will be relocating to 1947 Center Street, 3rd floor in mid-February.

9. COMMUNICATIONS

10. ADIJOURNMENT

Sherman/Radisch (Moved/Seconded) to adjourn at approximately 10 P.M. Passed unanimously.