



Police Review Commission

POLICE REVIEW COMMISSION SPECIAL MEETING ACTION MINUTES

**North Berkeley Senior Center
1901 Hearst Street
Berkeley, California**

**Date: Wed. January 28, 2004
Time: 7:10 p.m.**

1. ROLL CALL

Commissioners Present: Chung, DeBose, Sanchez-Resnik, Sheen, Sherman,
Sternberg (7:35), Radisch, Ritchie, White

Commissioners Absent: None

PRC Staff: Barbara Attard

BPD Staff: Sgt. Delaney, Lt. Aldinger, Capt. Flemming, Lt. Ahearn, Officer
Schofield

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

Questions for BPD from Commissioners and Members of the Public Re: Canine Program

Capt. Fleming presented the proposed canine program—some highlights of her presentation were:

- After meeting with the Mayor, then City Manager Weldon Rucker requested that BPD put together a proposal for a canine program.
- The proposal is to acquire and train 2 “find and bark” dogs and 2 current officers will be their handlers. They propose German shepherd dogs that would be kept with the officers’ families, which helps to “socialize” them. Dogs are now bred for intelligence and temperament and will receive 160 hours of training.
- Cost estimates for the program are \$30,000 for startup and \$12-16,000 per year for on-going costs. The funding for the program will be from “asset-forfeiture” funds.
- The dogs would be used to track armed suspects in searches in confined areas and missing persons. Suspects sometimes “give up” when they hear that dogs are going to be used to pursue them.
- Use of canines would be prohibited in crowd control situations and would not be used in dealing with homeless persons.
- In the past year canines from other jurisdictions were used 20-30 times. When using dogs from other

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/>

jurisdictions they follow regulations from their jurisdictions and the City of Berkeley has no control over them.

Mayor Bates: Stated that Berkeley is interested only in “find and bark” dogs. He feels that for officer safety it is important that we have dogs to find armed suspects in warehouses and confined areas. Berkeley is now using dogs from other jurisdictions. He asks why we do not have our own dog that is trained to Berkeley standards. He emphasized that the money will not come out of the general fund, but from asset-forfeiture funds. Mayor Bates promised that if the dogs are used inappropriately or they bite anyone in the community inappropriately, he will be appearing before the PRC to ask that the program be discontinued.

Gene Bernardi: She was present when this issue came up in the 1990’s along with helicopters. She is still against both. She asked in what situations dogs from other jurisdictions have been used and whether there were any problems with the dogs in those situations.

Peter Rich: Stated that dogs were used in the past and that there are liabilities associated with use of dogs.

Trudy Washburn: She is in favor of the proposed program and believes that if police dogs are trained properly they will be helpful and act appropriately.

Barbara Allen: She feels if we use police dogs we should have one of our own. They can save police officers lives. Her neighborhood association is in favor of dogs.

Beverly Dove: Feels that there is racism and targeting of groups and she feels that the dogs can be abused. She prefers to see the police involved in other programs.

Karla James: Is against the use of dogs and feels that it’s interesting that this is coming up at the same time that the issue of the use of helicopters is resurfacing. She asked Mayor Bates if there had been a campaign promise to the Berkeley Police Association to start a canine program. **Mayor Bates** responded that there was not a promise; he believes that it is right thing to do. He believes that not having a canine program leaves city open to liabilities.

Vicente Cruz: This morning in Oakland when he got out of his car he was pinned against his car by a police dog—for no reason. He believes that one mistake is too many.

Swaneagle Harijan: She has been working with the homeless and has heard stories of abuses by police officers. She feels that the dogs can be misused and she will begin a water-only fast if the canine program is implemented.

Jane Welford: Is opposed to the use of canines. She feels that money should not be spent on dogs at this time.

Commissioner DeBose: Asked if the asset-forfeiture funds can be used for the midnight basketball program. Capt. Fleming responded that there are specific guidelines for how the funds can be spent.

Commissioner Sherman: Asked about lawsuits from dogs? **Lt. Ahearn** responded that BPD does not have exact figures, but believes that the lawsuits are not higher than departments that don't have dogs. Biggest lawsuits are when dangerous dogs have knowingly been used. In the past 2 years dogs have been used 20-30 times. There have been no problems to date with the use of other department's dogs.

Commissioner DeBose: Would like to see the budget for the use of asset-forfeiture funds for 2002 and 2003. She stated that in some jurisdictions dog's teeth have been replaced with titanium. Are there plans for this in Berkeley? **Lt. Ahearn** said that there were no plans for this at this time.

BPD was asked if it would be possible to use the Berkeley Fire Department dog to find missing persons? BPD responded that they are trained to find people under rubble.

Commissioner Sherman: PRC needs to get input from the public on this.

Break: 8:15-8:25 No further public comment.

3. MINUTES OF THE JANUARY 14, 2004 SPECIAL MEETING

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

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

- a) New Filings –3 since last meeting
- b) Boards of Inquiry—Upcoming boards were discussed.

5. BPD CHIEF'S REPORT

Lt. Aldinger reported that 7 new officers were hired and started police academy training in Sacramento. The new officers are a diverse group, with 2 Asian American females, 1 Hispanic male, and 1 African-American male. BPD has 6 remaining vacancies. Commissioner Sherman asked that Lt. Aldinger pass on the commission's good wishes to Officer Cardoza for his rapid recovery and his quick return to work after having been injured.

6. COMMITTEE REPORTS (For Discussion or Action)

Caloca ad hoc Committee—Has not met since the last meeting, but plans to request a meeting with the new City Manager soon.

7. OLD BUSINESS (For Discussion or Action)

- a) Caloca Update—Upcoming hearings were discussed.
- b) Officer Involved Shooting of Glennel Givens—Update and Scope of Investigation/Review
Commissioner Ritchie reported that the committee working on this investigation has met one time and conducted a site visit. They have decided on the additional items needed from BPD for review and investigation.

Barbara Attard relayed to the Commission the response from the city attorney regarding the PRC's request to BPD for recorded statements from officers who were involved in or witnessed the shooting of Mr. Givens. The city attorney stated that police reports are exempt from the Public Records Act. according to Government Code §6254(f) and that BPD voluntarily releases police reports, in whole or in part, pursuant to its protocol embodied in Special Order 96-39. This case is

unusual because the involved officers were under investigation. The release of the officers' statements is a policy issue that would be addressed by the City Manager rather than the city attorney.

Ritchie/Chung (Moved/Seconded) that the commission authorize the subcommittee to take whatever action is necessary to pursue obtaining necessary documents for this investigation. Passed unanimously.

Sgt. Delaney informed the PRC that the PRC has been given information in police reports for its investigations that members of the public may be denied—BPD may be changing this. In order to protect privacy rights related to information in police reports, BPD is going to be reviewing its policy of releasing information to the PRC.

Commissioner Radisch stated that there are 7 officers who were percipient witnesses who did not give written statements and their taped statements are being withheld.

Andrea Prichett would like the PRC to consider a policy recommendation to the City Council regarding the release of information.

- c) PRC Council Items Update— Barbara Attard reported that the following reports are scheduled to go to the City Council on February 10.
- Legislation Issue: US Senate Bill—S 1277— State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2003
 - Reinforcement of Council Resolution Regarding Helicopters by BPD and Outside Jurisdictions

8. NEW BUSINESS (For Discussion or Action)

- a) Meeting schedule for 2004—Scheduling of Orientation and Workshops
Commissioner orientation was scheduled for February 25.

9. COMMUNICATIONS: The following were mentioned:

- Upcoming BPD Community Policing Town Hall Meeting Thurs., January 29, 2004, 7 PM, Northbrae Community Church, 941 The Alameda
- City Clerk Notification that Form 700 disclosure forms are due
- Police Commendations
- There will be a meeting with the Peace and Justice Commission about police intelligence issues.

10. ADIJOURNMENT

Ritchie/Sherman (Moved/Seconded) to adjourn at approximately 8:50 p.m. Passed unanimously.