



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING

ACTION MINUTES

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

**Date: Wed., July 14, 2004
Time: 7:30 p.m.**

1. ROLL CALL: 7:45 p.m.

Commissioners Present: Chung, DeBose, Radisch, Ritchie (8:10), Sherman, Sternberg (8:15), White

Commissioners Absent: Sheen, (Sanchez-Resnik on leave.)

PRC Staff: Barbara Attard

BPD Staff: Sgt. Delaney, Capt. Hambleton

2. PUBLIC COMMENT

Ryan Houk supports the East Bay Community Law center policy complaint. He is particularly concerned about police action when homeless shelters are closed.

Andrea Prichett discussed the Glennel Givens officer involved shooting, it is about one year old at this time. She would also like to see some guidelines for PRC investigation of officer involved shooting cases.

3. MINUTES OF THE JUNE 23, 2004 MEETING

Sherman/Chung (Moved/Seconded) to approve minutes. Passed unanimously.

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

a) New Filings – 1 new case since last meeting

b) Boards of Inquiry – Upcoming Boards were discussed

POLICE REVIEW COMMISSION OFFICES: 1947 Center St. Third Flr., 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/

5. BPD CHIEF'S REPORT

Capt. Hambleton stated that the traffic substation lease has been extended for 5 years. BPD met with political and government officials about establishing a detox facility in Alameda County. National Night Out will be August 3, and commissioners are invited to attend.

6. COMMITTEE REPORTS (For Discussion or Action)

Caloca ad hoc Committee

Met this morning with the City Manager and City Attorney and will be meeting again.

7. OLD BUSINESS (For Discussion or Action)

a) Caloca Update—None scheduled.

2. Glennel Givens Officer Involved Shooting Case—Update

The subcommittee has a meeting scheduled with Chief Meisner on 7/15/04 to discuss: redactions of police reports obtained for this case; the supplemental report that discusses other robberies attributed to Mr. Givens; and protocols with Oakland Police Department for bank robberies.

a) Tyrone Hughes Death in Custody Case

Barbara Attard gave an update—The family of Mr. Hughes has come forward and filed a complaint. She has requested the Coroner's Autopsy Report. It is due to be completed next week.

8. NEW BUSINESS (For Discussion or Action)

a) PRC Policy Complaint Regarding Homeless Issues filed by Suitcase Clinic Legal Services, Discussion with Tirien Steinbach and Osha Neumann and Captain Hambleton, BPD

Osha Neumann introduced the topic—the policy complaint came after several homeless people came to them with citations. They came up with a series of proposals to attempt to alleviate some of the problems and tensions between the police and homeless people. It is clear that the police are stuck in the middle. This is a policy complaint, but more, because it is a compilation of real stories. The City Council passed a resolution to affirm the basic human rights of homeless people and make citing of homeless people for sleeping outside a low priority and require two (2) verbal warnings before issuing citations. With this complaint they are trying to get beyond the dichotomy between homeless advocates and the people who complain and the police. They are hoping to work with the police, the PRC and the City to come up with some resolution to these issues.

Barbara Attard stated that the staff report in the Commissioner's packet was put together after several meetings with representatives of the Suitcase Clinic Legal Services, Berkeley Mental Health, Berkeley Police Department and staff of the Homeless Commission. There are several

issues in which all parties are in agreement, and only one or two issues that require further discussion.

Tirien Steinbach discussed the proposals:

After 11 a.m. on a daily basis no shelter beds are available in Berkeley. It is critical that the police have the information daily about available beds.

They would like the pocket guide that is used by the City to be updated.

Posted “No Trespassing” signs are often not visible. There should be warnings and a de-emphasis of citing for trespassing when shelter beds are not available. Commissioner Rantsman went to the scene and found that signage is not adequate in some cases.

Sitting on the sidewalk tickets should not be issued. They target homeless people and officers often do not follow the BPD Training and Information Bulletin (TIB).

Suitcase Clinic Legal Services would like some data about citations issued about “quality of life” or other types of citations issued to homeless people—this information should be available.

From Ms. Steinbach’s experience, the impact of a citation is a serious for homeless people. People who have the luxury of having homes do not get these types of citations. It is very difficult for homeless people to deal with the bureaucracy of handling the tickets and they often go into warrants. Homelessness should be decriminalized.

Capt. Hambleton stated that the City Council did not act on these issues last year. At that time they decided that they did not want to change policy. The last time he looked at statistics there were only three (3) 647j tickets given during an 11-month period. Regarding the individual complaints—they should be investigated before any conclusions are drawn from them.

The City wants a service approach to homelessness and BPD is working with the Mental Health Unit of Health and Human Services.

David Wee of the Mental Health Mobile Crisis Team (MCT) said that on April 24, 2001 the City Council adopted the Homeless Human and Civil Rights Resolution. Mental Health then established protocols that the MCT would be first to respond and then law enforcement would be called if needed. The MCT is the repository of complaints from public, city depts., and government officials. They respond and give warnings—it takes 1-2 months before an issue is turned over to the police. There are 4-9 active encampments in Berkeley at any time. An encampment could be 2 or more people who stay in one place for a period of time. The City has a state grant to help place some homeless people into housing.

He stated that the police feel stuck in the middle. They want to update the resource guide. The police are aware that there are no shelter beds available, but once in a while MCT can find a bed for a homeless person.

Captain Hambleton discussed warnings vs. citing. BPD does warn for 647j, but “no trespassing” is a different situation because the posted signs serve as a warning. BPD provides red “No Trespassing” signs for property owners. Posting a sign serves as warning if people are violating a posted No Trespassing sign. BPD will meet with Commissioner Rantsman about the adequacy of the signage.

BPD is in the process of updating the TIB’s. BPD has developed some roll call training. Osha Neuman has drafted one such training that will be adopted. Also, BPD is planning to involve homeless advocates and community members in some future roll call training.

Sitting on sidewalk citations—Hambleton has reviewed some of these and has withdrawn citations that he has felt are inappropriate.

BPD has an old computer system and data entry is not completed in such a way that it can be accessed. BPD is in the process of looking into purchasing a new computer system. (Possibly a \$2 million dollar item.) Until they have an updated computer system providing accurate statistics of enforcement involving homeless people is not possible.

He feels that BPD and the homeless advocates are not that far apart regarding how they feel about these issues.

Commissioner DeBose stated that she believes that there is an “elephant” in the room—homeless people in our community who do not have beds. She feels that spending money on a computer system is not appropriate at this time. People who wanted to have books signed and slept on the sidewalk to get into Cody’s Books were not cited. Targeting homeless people is not acceptable. The real issue is that there are not enough beds.

Commissioner Ritchie—agrees with Commissioner DeBose, and feels that there is some selective enforcement. If people are sleeping on public sidewalk and there is a complaint, people are warned before they are cited. On any given night many people sleep on streets. He discussed the *Eikhorn* decision, which states that people have a defense against citations for sleeping in public if the county does not provide enough beds to shelter all homeless people. If no shelter beds are available officers should use their discretion not to cite.

Osha Neumann—there are some things that they don’t agree with the police about –i.e. warnings where there are posted signs. There are some problems with posted signs. The staff summary left out the second part of item #1—when no shelter beds are available in Berkeley people should not be cited for sleeping. People should be warned before they are cited. He does not believe that property owners necessarily want people cited, they just want them off of their property.

Jim Hines from Neighborhood Services, the City Manager’s office, stated that the issues have been stated very well. The police have worked very hard on these issues and will continue to do so. He feels that there is more agreement than disagreement regarding these issues and hopes that everyone will continue to work together.

Dan McMullen—works with disabled people outside. They were promised sensitivity training a long time ago, but it has not happened.

Jesse Mencken—Wants the right to live, not a concession. There are rights for people in institutions, but not for homeless people.

Michael Diehl—Feels that there has been some progress, but the issue is that homeless people have rights – the PRC should deal with police issues and other bodies should deal with the larger issue of homelessness.

Mike—advised the commission to stop studying sickness and study health.

Andy Ross—agrees with Capt. Hambleton and David Wee—police start with services and use a lot of restraint in dealing with problematic behavior.

Sean Madison, a medical student who has 7 years of dealing with homeless people in the East Bay, feels this is a health issue. Rather than citing people and forcing them to move from place to place, people should be given warnings.

Craig Becker –Telegraph Avenue—has a lot of empathy regarding the issues that were raised. Obstructing the sidewalk violations, people sitting around with all of their belongings, should be enforced for the good of all. Often people who hang out on the sidewalk leave trash.

Nancy Delaney, she has been in Berkeley since the 60's and was a foster child. It took her 3 decades of her life, at times being homeless, before she was able to settle and go back to school. A large percentage of people who are homeless were foster children. She was able to be healed when she was treated well by authority figures.

Roland Peterson, Executive Director of the Telegraph Avenue Improvement District, has complained a lot about problematic behavior, not about homeless people. Issues are needles, blocking sidewalk, defecation in public places.

Julia Reece—lost her house—wants to tell the PRC that we all are human beings, but people give up hope and become repeat offenders when faced with homelessness.

Commissioner Radisch—referred to the 3-647j citations in an 11-month period mentioned by Captain Hambleton, and asked about what other citations are issued.

Captain Hambleton responded that people are cited for BMC sections for trespassing (1552.010). They are handled in traffic court.

Commissioner Sherman—has been on commissions for 25 years, feels that there has been progress. Berkeley does more than the rest of Alameda County as far as services. There are concerns that if we put in more beds, more homeless people will come—will there ever be enough beds. There are several problem areas in the City.

Commissioner Chung—The policy complaint cites several problems—we need to ensure that the revised bulletins are enforced. Feels that it is important to establish more beds and to give 2 warnings—Berkeley could be a model for other cities.

Commissioner DeBose—underlying issue is that people are being criminalized because they do not have a place to sleep. We should put pressure on our government at all levels to provide beds for people who have no home.

Commissioner Sherman—Believes that this is a long-term structural problem that cannot be solved in this room. He read from the Council resolution a section about Berkeley being a human rights city.

Commissioner Ritchie—Believes that BPD would rather not be involved in homeless issues, and attempts to deal with it in a humane sense. There are some officers who are not following the rules regarding searching homeless people’s belongings. It is important that BPD ensure that all officers, and particularly new officers deal with homeless people according to the City’s guidelines. He wants the commission to support the proposals.

Capt. Hambleton believes that more work needs to be done before the commission takes a stand on this. He was appointed to statewide group by POST that worked on a video on homelessness that was designed for law enforcement. He would like to get approval to share it with the Commission. He met with a police official from Australia—they have similar homeless issues there.

Adam Battinger, a concerned student, stated that the policy complaint took a year to put together and should be the basis for action.

Commissioner DeBose stated that there are areas that need more work by the Suitcase Clinic and the Police Department. She wants to pass this as a total document when it is ready.

Barbara Attard stated that at the pre-meeting the Suitcase Clinic representatives and BPD agreed that this would be presented as a work in progress. She suggested that further meetings be convened before a document is presented to the PRC for action.

Ritchie/Sherman (Moved/Seconded) That: 1) A warning must be given for all trespassing on private property violations, 2) If there are no beds available people should not be given citations for 647j for sleeping on public property. There will be a “sunset clause” on this motion at the point that this item is brought back to the PRC for further action.

Vote: Passed—Ayes: White, Ritchie, Chung, Sherman; No: Radisch. Commissioners Sternberg and DeBose not present for vote.

9. COMMUNICATIONS

10. ADJOURNMENT:

Sherman/Radisch (Moved/Seconded) to adjourn at approximately 10:30 p.m. Passed unanimously.