



## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, October 11, 2006  
7:00 P.M.

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

1. CALL TO ORDER BY ACTING CHAIRPERSON SHARON KIDD AT 7:07 P.M.

2. ROLL CALL AND ATTENDANCE

Present: Acting Chairperson Sharon Anne Kidd  
Acting Vice Chairperson Sherry Smith  
Commissioner Taymyr Bryant  
Commissioner Michael Sherman  
Commissioner William White

Absent: Commissioner Kamau Edwards  
Commissioner Jack Radisch  
Commissioner David Ritchie

PRC Staff: Victoria Urbi, PRC Officer  
Maritza Martinez, Administrative Support

BPD Staff: Lt. B. Agnew  
Lt. Cynthia Harris  
Lucie Krocil

BPA: None

3. AGENDA ORDER CHANGES: None

4. PUBLIC COMMENT

Andrea Prichett of Copwatch expressed discontent that a discussion regarding the Copley Press case and the two closed session meetings were not part of this agenda. Ms. Prichett suggested that

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the PRC should fight for the public to continue to have public hearings.

Commissioners agreed that they were not to discuss this matter in accordance to a stipulation they had signed. Ms. Prichett was concerned that Chief Douglas Hambleton was present at the closed session meeting as he is not a member of the City Council or the Commission. Commissioner Smith stated that the Chief is not a member of the Berkeley Police Association (BPA).

Ms. Urbi stated that there were two closed session meetings on October 3, 2006 and October 10, 2006. There was an opportunity for the public to make comments at both those meetings. Ms. Urbi said that in a prior conversation with Ms. Prichett, they agreed that the PRC would hold a public hearing on October 25 after Copwatch obtained fifty signatures from Berkeley residents in accordance with the PRC Ordinance.

5. APPROVAL OF JULY 26, 2006 MINUTES

Moved this item to the October 25, 2006, meeting.

6. OLD BUSINESS (For Discussion or Action)

Case Proposed for Administrative Closure Pursuant to PRC Regulations Section II-6

A. Case No. 2069: Complainant Haro Halton

- a. Staff Report: On March 14, 2006 this case went to a hearing. Commissioners from that board of inquiry voted to dismiss this case because it violated the 75-day rule when the subject officers were not interviewed within the investigation report deadline, and the Commissioners found no good cause to hear the case. The full Commission then heard the Complainant's arguments for a petition for rehearing and voted to grant the Complainant's request.

On June 5, 2006, a board of inquiry began. The Commission decided to continue the hearing to a later date. Prior to the bifurcated hearing, PRC Officer Urbi recommended to administratively close this case due to a number of regulation violations. The Commission voted to continue to hear the case to its completion. On August 21, 2006, the Commission met in closed session with the City Attorney to discuss the BPA's pending lawsuit and threat to file a restraining order if this case continued to a hearing. The Commission voted to set this case back onto the agenda for this meeting as proposal for administrative closure.

On September 12, 2006, PRC received a call from Mr. Halton's representative, Chris Morray-Jones, who was out of town. Mr. Jones requested that the Commission continue this item until the next business meeting, so that he could be present to argue against the closure of this case.

b. Public Comment

Chris Morray-Jones, complainant Haro Halton's representative, disagreed on having this case dismissed. He stated, "According to the regulations, notice of a hearing was to be given for summary dismissals and the officers and their representatives had plenty of time to provide them and they did not." Mr. Morray-Jones requested that the Commission allow Mr. Halton to appear before them for a closed hearing with the officers not present. He stated, "You give us half an hour to make our case a record."

c. Discussion:

The Commission discussed whether to have a public or a closed hearing. Ms. Urbi advised the Commission that the PRC could not hold any public hearings at this time until after the November 14, 2006 stipulation. She also stated that to allow Mr. Halton to appear before the Commission in closed session would be a violation of the Brown Act.

Commissioner Bryant requested an explanation of the Brown Act. Ms. Urbi provided the conditions under which the Commission could not meet in closed session.

Commissioner Smith stated that if the PRC held a closed session meeting, the PRC would be violating the Brown Act. She stated, "If you don't fall under one of the three enumerated conditions under which you can conduct a closed session, then you must have an open session. The Brown Act protects the public's rights and limits what the Commission can do in a closed session."

Ms. Urbi stated, "Commissioners, let me remind you what occurred at that closed session meeting. The Commission unanimously agreed to put this case back onto the agenda in order to vote to close it. The reason that came about was because if we took this case to a hearing, the BPA's attorney would file a restraining order on this hearing. When our City Attorney goes before the judge to argue this case, the judge is going to deny it because we violated three of the regulations. Due to various other reasons, this case would nearly be a losing argument if a restraining order is filed and it goes before a judge. That's why you voted to put this case back onto the agenda for this meeting."

d. **Action: M/S/C (Kidd/White) Unanimous to move this agenda item until the first meeting in January 2007 (second week of the month). Ayes: Kidd, Smith, Bryant, Sherman and White. Noes: None. Abstain: None. Absent: Edwards, Radisch, Ritchie.**

7. NEW BUSINESS (For Discussion)

A. Commissioner Relations with the General Public, Press and Other Media

a. Staff Report: See communication #7A

Ms. Urbi referred to the Commissioner's manual on Commissioner communications with the press, outside agencies and the general public. This was in reference to wrongful information that was provided to the media regarding one of the Commission's subcommittees.

b. Public Comment: None

c. Discussion

Commissioner Smith suggested as a cautionary practice that rather than talking to the press individually, Commissioners should refer the media to PRC staff.

Commissioner White feels that individual Commissioners, if approached by the press, have the right to speak freely.

Chairperson Kidd stated, “Last night, it was stipulated that the press should only call the Mayor or the Chairperson.” She believed that as a citizen, Commissioners should be able to submit an opinion.

Ms. Urbi clarified that, “...it was agreed that the Mayor and Chairperson Kidd would put together a joint press release and that it would be issued by the Mayor’s office...” There was no stipulation that the press should only call the Mayor or the Chairperson. Also, Ms. Urbi stated that she was not advising that individual Commissioners could not speak to the media, but that they should not speak on behalf of the full Commission. When speaking to the media, Commissioners should make clear to the media that they are only speaking as an individual Commissioner and not representing the PRC.

B. Bay Area Police Oversight Network (BAYPON)

a. Commissioner White’s Report

This organization extends to the cities of Sacramento, Novato, Richmond, San Jose, and Santa Cruz. It has been inactive in the last few years. Commissioner White talked to Don Casimere, Director of the police civilian oversight office in Sacramento and Richmond. He has also talked to Barbara Attard, Auditor for San Jose. Both concluded that BAYPON should be reactivated in order to address the Copley Press decision. They would like to meet within the next three months to discuss the Copley decision.

b. Public Comment: None

c. Discussion

Chairperson Kidd asked Commissioner White if he would be in favor of a subcommittee or the full Commission to participate.

Commissioner White would like the whole Commission to be part of it and requested to set a date for a meeting in order to draft a letter to go out to the BAPON members to meet in Berkeley.

Commissioner Smith suggested that Ms. Urbi check for the location of the meeting and to send via email a series of dates available for the meeting.

Ms. Urbi stated there are two options: the Commissioners could organize the BAYPON meeting themselves or have PRC staff assist in organizing the meeting. Ms. Urbi informed the Commission that staff was currently understaffed.

Commissioner White stated he would like to start the communication via email and would like the PRC office to provide with the addresses and phone numbers of Sacramento, Novato, Richmond, and Santa Cruz oversight agencies.

Commissioner Smith stated that Mark Schlosberg, an ACLU representative, has done major research on the Copley Press.

Chairperson Kidd suggested that the initial meeting should be attended only by the Berkeley Commission in order to formulate a plan before inviting other organizations. Chairperson Kidd suggested meeting the week after Thanksgiving.

8. COMMISSION TRAINING
  - A. Berkeley Police Department's Communications Center – 911 and how to read CAD (Computer Aided Dispatch) Reports – Lt. Cynthia Harris
    1. **Action: M/S/C (White/Bryant) Unanimous to approve that the training be rescheduled until the full Commission is present. Ayes: Kidd, Smith, Bryant, Sherman and White. Noes: None. Abstain: None. Absent: Edwards, Radisch, Ritchie.**
    2. Discussion: Lt. Harris stated that this suggestion should have been made earlier.
  
9. PRC OFFICER'S REPORT (For Discussion)
 

The PRC Officer gave her report on items A through E.

**Item 9C a:** There was one complaint filed since the last PRC meeting.

**Item 9C b:** No boards of inquiry scheduled but the PRC will continue to fully investigate the active cases. Total: 30 open cases.

**Item 9D:** The BPD Mutual Aid Agreements, Understanding and Policies, 2005 report to the City Council was approved on September 19, 2006.

**Item 9E:** PRC Officer Urbi and Investigator Dan Silva attended the National Association of Civilian Oversight of Law Enforcement Conference (NACOLE) in Boise, Idaho last September. It was a good conference. The next NACOLE Conference will take place in September 2007, in San Jose.
  
10. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT (For Discussion)
  - A. BPD representative report by Lt. Agnew:

The BPD is in the process of hiring 5 new officers (new hires) for Academy that starts in November. They are hiring 3-4 lateral officers around the first of the year and a few entry-level recruits for Academy that starts in February. There will be some service retirements in the next few months. There are currently some vacancies. There are some internal investigations that are coming to a conclusion.
  
11. COMMITTEE REPORTS (For Discussion)
 

Ms. Urbi recommended moving this item to the next agenda. All Commissioners agreed.

  - A. Subcommittee: Draft Regulations for Investigations of First Amendment Activities
  - B. Subcommittee: Review of BPD Evidence Theft Issues
    - a. Cancellation of Evidence Theft Policy Subcommittee Workshop scheduled for October 7, 2006.
    - b. Next meeting: October 16, 2006, 5:00 P.M. at South Berkeley Senior Center
  
12. COMMUNICATIONS

See Attached.
  
13. ADJOURNMENT

Meeting was adjourned at 9:10 p.m.