



**POLICE REVIEW COMMISSION
SPECIAL MEETING
Subcommittee: Review of Berkeley Police Department's
Evidence Theft Issues
MINUTES**

**Saturday, January 27, 2007
8:00 A.M. – 11:00 A.M.**

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

1. ROLL CALL AT 8:10 A.M.

Present: Subcommittee Chairperson William White
Commissioner Sharon Anne Kidd
Commissioner Sherry Smith
Andrea Prichett

PRC Staff: Victoria Urbi, PRC Officer
Stephanie Ahn, UC Intern

Public: Two members of the public.

2. APPROVAL OF JANUARY 16, 2007 MINUTES

M/S/C (White/Kidd) Ayes: Kidd, Smith, and Prichett. Abstain: White

3. SUBCOMMITTEE MEMBERSHIP

A. Discuss possible members and parameters for membership: At the last subcommittee meeting, the subcommittee discussed the addition of Andrea Prichett and three community members recommended by Ms. Prichett. The subcommittee voted to add Ms. Prichett as a member of the subcommittee. The subcommittee decided that there would be a total of five members, which includes three Commissioners and two non-Commissioners. Jim Chanin was suggested as a possible additional member pending he could prove his commitment.

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Ms. Prichett stated that Mr. Chanin has a copy of the Kent police reports.

Commissioner Kidd recommended that Mr. Chanin submit his findings on the Evidence Theft issues in writing if he is unable to fully commit to the subcommittee.

Ms. Urbi briefed the subcommittee that she checked with the City Attorney on whether non-Commissioners could be a member of the PRC Subcommittee. The provision in the Ordinance states that a PRC subcommittee may include non-commissioners, but is not required to. On the other hand, the Commissioner's Manual provides that only commissioners may sit on a subcommittee. Because the provisions conflict, the PRC ordinance prevails since it was adopted by the voters. The PRC may, if it desires, appoint non-commissioners to a subcommittee. On the voting rights, the PRC ordinance is silent. Thus, the PRC can decide the scope of the non-members' participation on the subcommittee since the subcommittee would be making a recommendation to the PRC.

4. **BPD'S EVIDENCE THEFT ISSUES** (For Discussion or Action)

A. Discuss update on status of subcommittee members' review of case #06-3074, issues and preliminary findings:

a. **Issues with the District Attorney's (DA) investigation**

The DA assumed that Sergeant Kent was addicted to drugs and that he committed the crimes alone. However, the amount of drugs stolen and bought was large. Why did Scarlet narrow the suspect to only Sergeant Kent? Technically, any person with access to the drug vault could commit the same crime as Sergeant Kent, so the issue of not only who is using the drugs but also who is stealing the drugs must be addressed. The DA also seemed to have a conflict of interest with Sergeant Kent that could have jeopardized his impartiality (as stated in one of the interviews with a CRI).

b. **Issues with the BPD's investigation**

- The BPD chain of command needs to be questioned as to why the two years of Kent's sub par work performance was largely ignored by his supervisors.
- Commissioner Smith proposed looking into the process of officer performance review.
- How do officers deal with the code of silence as it relates to officers' health or substance abuse issues?
- Why was BPD slow in securing evidence, such as search warrants?
- Was Kent afforded differential treatment, i.e. failed to search Kent's home, and failed to properly arrest Kent, (as BPD supervisor was concerned about Kent's safety, and Kent was allowed to negotiate the terms of his discharge).

c. Information to be obtained

- The amount of drugs stolen from the CRIMES database,
- The outcome of all the drugs stolen and in the vault,
- The second search warrant for Kent's personal computer,
- Report on the FBI investigation, and
- Information on Kent's plea bargain (exact stipulations of the plea bargain).

d. Possible witnesses who knew about Kent:

Several witness officers who are narcotics "experts" and trained to spot signs of drug use and failed to question Kent.

e. Further Policy Questions

- How does the police manual address the protocol that occurs when officers begin questioning the performance, behavior, and integrity of fellow officers?
- Was the failure of the BPD to act a sign of incompetence or code of silence?
- Why was the keypad access to the drug vault out of order for so long?
- Were there any active cases involved or affected by Kent's case?
- Was Kent using *all* of the drugs he was buying and selling?

B. Discuss update on other evidence theft issues: PRC Officer Urbi briefed the subcommittee that Chief Hambleton plans to discuss the other evidence theft issue with the subcommittee when he has the information. The Copley case is preventing him from having an open dialogue with the subcommittee and he is checking with the City Attorney on what he could disclose.

C. The subcommittee agreed to propose to the PRC Commission to expand the inquiry of the evidence theft issues into a full investigation. The subcommittee wants to know whether the August 2006 new theft case was related to the Kent case, and what are the ongoing remedies that BPD put in place to ensure something like the Kent case does not happen again.

D. Discuss Peace Officer Standards and Training (POST) report:

- Commissioner Smith questioned the adequacy of policies on the destruction of drugs since the only recommendation made by POST was to have an auditor present on the destruction site.
- Ms. Prichett questioned whether there was some policy about the period of narcotics destruction since there was evidence of some drugs that were kept by the BPD for over 15 years.
- The PRC would like regular updates and progress reports about the POST recommendations from Chief Hambleton, especially what recommendations were implemented, timelines, equipment, processes etc. After the BPD implements the POST recommendations, the Chief asked the City Auditor to review if those recommendations have been in fact done accordingly after a year.

- E. Review workshop dates with community stakeholders, update on speakers and workshop agenda: To be discussed at the next subcommittee meeting on January 30, 2007.
- F. Review workshop dates with BPD: To be discussed at the next subcommittee meeting on January 30, 2007.
- G. Discuss time frame and next steps for subcommittee
 - Chairperson White wanted the subcommittee’s goal to be to develop a case with complaints against specific officers, and to make policy recommendations out of the findings and investigation.
 - Commissioner Smith believes that targeting specific officers would be a diversion to the more overarching responsibility to make policy recommendations.
 - Ms. Prichett wants the subcommittee’s goal to be the identification of areas of concern of the BPD (such as identifying the whistle blower policy, periods of BPD position rotation, etc.), in order to shine the light on problems within the BPD and to effect overall change.
 - Ms. Prichett says the PRC is not responsible personally for the investigation of evidence theft issues, but rather should call for more action and in a more expedited way. The PRC is to help the BPD address reform, in general.
 - Commissioner Smith recommends that the subcommittee should categorize areas of concern for the BPD at the January 30th meeting, which should be included in a report of the subcommittee’s findings to the Commission. This report should then proceed to workshop, allowing for community input, then revised and brought to the City Council. This Areas of Concern report, including possible recommendations for reform, should be done within a six-month time frame.

5. NEXT MEETING DATES AND AGENDA ITEMS

Upcoming meetings: Jan. 30, 4:00 P.M.
 Feb. 8, 5:00 P.M.
 Feb. 21, 5:00 P.M.

Agenda Items: Timeframe and next steps for subcommittee

6. PUBLIC COMMENT

Leo Stedman discussed that the subcommittee should obtain the stipulation of Kent’s plea bargain.

7. ADJOURNMENT

Meeting was adjourned at 11:30 A.M.