



POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

**Wednesday, May 23, 2007
7:00 P.M.**

**North Berkeley Senior Center
1901 Hearst Ave., Berkeley**

1. CALL TO ORDER BY CHAIRPERSON SHARON KIDD AT 7:06 P.M.

ROLL CALL AND ATTENDANCE

Present: Chairperson Sharon Kidd
Commissioner Kamau Edwards
Commissioner Sherry Smith
Commissioner William White

Absent: Vice Chair Michael Sherman
Commissioner Jonathan Huang

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

BPD Staff: Sgt. Juster and Lt. Greenwood

Other Staff: Lisa Caronna, Deputy City Manager
Sarah Reynoso, Deputy City Attorney

2. ORDER OF AGENDA

Moved Item #4 (Revised Regulations and Closed Hearings Procedures) to Item #3 (Public Comment).

Moved Item #3 (Public Comment) to Item #9.

Moved Item #8B to Item #4.

3. REVISED REGULATIONS AND CLOSED HEARING PROCEDURES

a. Commission Discussion

Ms. Reynoso said the regulations have been revised to reflect changes from the April 25, 2007 Public Hearing.

Motion to approve the revised regulations and opening statements. M/S/C (Smith/White)



1947 Center Street, Third Floor, 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/

Motion passed unanimously. Ayes: Kidd, Smith and White. Noes: None. Abstain: Edwards. Absent: Sherman and Huang.

A question was raised whether three votes constituted a quorum. Ms. Urbi stated that under the Ordinance, an affirmative vote of a majority of those present is required to take action.

4. Subcommittee: Review of BPD's Evidence Theft Issues.

a. Commissioner White's update: The subcommittee was informed that the PRC Investigator could not interview officers in policy cases.

b. Discussion

Jim Chanin stated that there is concern regarding the prohibition of the PRC Investigator from questioning officers on policy complaints. He stated his understanding of the reasons why officers could not be interviewed: 1) It would violate the court ruling. 2) It could jeopardize the lawsuit. 3) Questioning officers is unnecessary in a policy complaint.

Mr. Chanin stated that when we are dealing with policy issues, it is necessary to make recommendations; therefore, he considers the lawsuit to be irrelevant. The complete secrecy of the Berkeley Police Department in all aspects is not legally correct and it sets unwanted precedence. The Chief would be the only person testifying in policy inquiries for the Commission. Mr. Chanin totally disagrees and believes the PRC staff could interview officers on policy issues.

Ms. Caronna said that regarding the court appeal, "... what we don't want to do, from our perspective, is get another court case that comes to us when we already have the court case and the appeal that Council has already offered us to go ahead and do. We have to figure out what kind of things are really important to go after, but there is only so many of these that we can manage internally as a City to really follow up and do a good job."

Ms. Caronna said that we need to find a path so that we could work together on making recommendations. According to the court ruling, the PRC cannot talk about an individual officer. The big question is how do we get to policy issues without involving police officers. The goal is to have a discussion to make good recommendation without crossing the line of confidentiality and maybe they could draft some questions to achieve this.

Ms. Reynoso said the idea is not to stop the investigation and not to prohibit the PRC from asking questions, but to work on the scope of the questions and how we pose the questions so that they are not directed to officers but instead to policy.

Chairperson Kidd stated that they had discussed at the subcommittee meeting the questions that should be asked to officers, that the questions should be hypothetical and if necessary officers should be picked at random (not necessarily be involved in the case) and ask policy-related questions. If there is no policy in force, to ask the police department to provide a recommendation.

Ms. Caronna suggested to get to those issues and to work on the questions in a way that is actually not crossing the line, so that it's more the general question about the department versus the incident that happened.

Chairperson Kidd responded that the Commission was not aware of what the questions were that were asked by the investigator of the officers or how it was going to be approached.

Commissioner Smith thinks that being represented by the City Attorney represents a conflict of interest.

Ms. Caronna said that the City Council makes decisions and we all bear some responsibility. It is against the charter for the PRC to have its own attorney.

Ms. Reynoso said that the City Attorney had made a great effort to support the PRC against the BPA. She stated, "I think it is unfair to say that we aren't out there supporting you. We have proposed to go forward on the appeal."

Commissioner Smith said she had mentioned to Chief Hambleton that there seemed to be a lack of adequate supervision of the officers with regard to the evidence theft issues. She would like to know if officers are adequately trained and supervised in order to recommend policy.

Ms. Urbi said, in response to Chairperson Kidd's comment, the interview questions were formulated from an Evidence Theft Subcommittee meeting. The interview questions were not created by staff but were the exact concerns of the subcommittee from the January 27, 2007 meeting.

Ms. Caronna recommended that a commissioner and community member from the subcommittee meet with Ms. Caronna, Chief Hambleton and Ms. Urbi to review the scope of policy questions. It was agreed that subcommittee Chair White and Mr. Chanin attend that meeting.

5. PRC OFFICER'S REPORT

- A. Status of complaints: There are fifty-four open cases.
- B. Commission vacancies: Commissioner Radisch has resigned. Currently there are three commission vacancies from the Mayor, Councilmember Maio and Councilmember Olds.
- C. Comments:
Since the PRC regulations have been approved, a hearing was scheduled on case #2081 filed by Ken Lewis on June 7.
Commissioners were reminded to submit their timesheets quarterly. Staff created a report showing each commissioner's hours to assist in completing the timesheets.

6. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT: No report.

7. APPROVAL OF MINUTES

A. Regular Meeting: May 9, 2007

Motion to approve minutes. M/S/C (Smith/Edwards) Motion passed unanimously. Ayes: Kidd, Edwards, Smith and White. Noes: None. Abstain: None. Absent: Sherman and Huang.

8. COMMITTEE REPORTS (For Discussion or Action)

A. Subcommittee: Draft Regulation for Investigations of First Amendment Activities.

a. Commissioner Sherman's update: (Commissioner Sherman is out of town).

b. Discussion: Staff reported that the next meeting is scheduled on June 27.

B. Subcommittee: Review of BPD's Vehicle Pursuit Policy

a. Chairperson Kidd's update

Recommendations for policy changes are due on May 25. The next subcommittee meeting is on May 29.

b. Discussion: None.

9. PUBLIC COMMENT: None.

10. COMMUNICATIONS

11. ADJOURNMENT

Meeting was adjourned at 8:10 p.m.