



POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

**Wednesday, February 27, 2008
7:00 P.M.**

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

**1. CALL TO ORDER BY CHAIRPERSON WILLIAM WHITE AT 7:04 P.M.
ROLL CALL AND ATTENDANCE**

Present: Chairperson William White
Vice Chair Sharon Kidd
Commissioner Kamau Edwards
Commissioner Jonathan Huang
Commissioner George Perezvelez
Commissioner Michael Sherman
Commissioner Sherry Smith

Absent: None.

PRC Staff: Victoria Urbi, PRC Officer
Rebecca Webb, Administrative Support

BPD Staff: Chief Hambleton
Lt. Delaney
Sgt. White

**2. OFFICER-INVOLVED SHOOTING INCIDENT THAT OCCURRED ON
FEBRUARY 16, 2008 (For Discussion or Action)**

A. Public Comment

Greg Getty stated that medical aid was blocked. He does not like the idea of giving electric devices to those who shoot.

Cynthia Lee stated that there is a general disregard for public safety.

Elaine stated that there are conflicting stories as to whether the victim carried a knife, or if she was shot in the back, and wanted to know what the answer was.



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Rosemary Carpendale also expressed that there were conflicting stories. She stated that it seemed there should be a less violent solution. She further stated that a lot of children witnessed the event, and no one talked about that.

Maria De Colombia stated that she had tried to get flyers from the PRC but was turned away. She stated that she was an auditory witness, and did not hear Ms. Gay yelling.

Yancie Young stated that he had a bad experience with the police department and said there needs to be less killing of young black men.

Nikrooz Niknahad stated that this was not a single incident, but that this happens in Berkeley.

Jake stated that the news reported that witnesses had their doubts, however the BPD was already sure that it was justified. The BPD will not conduct a real investigation, but just prove that they are right. It's important to talk to witnesses soon while they still have a clear memory.

Alex seconded previous speakers. She stated that there should be an independent investigation. Obtaining justice means to stop shootings in the future.

Becky Lyman stated that she is a part of Code Pink, and they have been prevented from peacefully protesting the Marines Recruitment Center. She urged for an investigation on this matter.

Patricia Johnson, who is the older sister of Ms. Gay, stated that the PRC is here to help them with this nightmare. She hopes that the PRC investigates the incident as if Ms. Gay were their family member. The police are people who are supposed to have our trust and should have honor.

Gwen Allamby gave her sympathy for the family. She too had an incident in her home, where police entered her home and she felt "traumatized." She stated that the police could not investigate themselves.

Forrest Schmidt stated that the way police handled this knife situation was different from the way they dealt with a man brandishing a knife at the City Council protest. With police departments actively recruiting military to be officers, there seems to be a trend towards a military solution to a social problem.

Abel Macias stated that as a person of color he has had unfavorable run-ins with law enforcement, but was frustrated to hear it happened to a grandmother. He called for an investigation and wanted the officer charged with murder.

Nick Chambers stated that he had previously spoken to the PRC regarding transparency and democracy. There cannot be democracy if there is no transparency. This is not an isolated incident.

Idella Melton stated that she was one of the original organizers for the PRC to oversee police. She wondered why Ms. Gay couldn't have been shot in the foot or other non-lethal means. She also mentioned that she believed that officers currently are recruited from elsewhere, whereas in the past they were recruited from Berkeley, where they knew the climate.

Nathan expressed his condolences to the family and his concern for cooperation from the police department with the PRC unlike during the Evidence Theft investigation.

Andrea Prichett encouraged the PRC to conduct a full investigation in a timely manner. She stated that the Chief was present to discuss more funding for BPD, so that more officers could be put on the street. But, there was an officer-involved shooting and the PRC needs to investigate this incident. She stated that citizens need the PRC, and that the police are out of control and in need of new management.

Kim stated that whether the woman was carrying a knife or not, if she is standing at a distance and therefore not a threat, then this is pre-meditated murder.

Asa Dodsworth asked how do you defend shooting anyone in the back. He said that he had previously given Commissioners a book titled, "Good Cop" because it gave models of community-oriented policing. He further stated that police accountability is the foundation to effective policing.

Ara Ju stated that her cousin was also killed by police in Southern California, that police were a group of gangsters who rule the streets. She commended everyone's efforts.

B. Commission discussion and/or action

Ms. Urbi reminded the Commission that under the current court order, Commissioners could not mention the officer's name or discuss the specifics of the officer-involved shooting. In the event that this case goes to a hearing, the Commissioners should make certain that their comments remain neutral and objective, in order to maintain a fair process for all parties.

Commissioner Smith stated that this is the saddest of meetings and expressed condolences for the family. She noted that it was mentioned that PRC may be pressured to side with the police and assured that the PRC has never been pressured by any entity. She also noted that it was said the officer should be charged and that only the District Attorney could do that.

Commissioner Huang thanked the public and the family for appearing at the meeting. He presented a motion previously prepared.

Motion to conduct an investigation and create a Subcommittee on policy based on his written motion (see attached).

M/S/C (Huang/Sherman) There was no vote and the motion died.

Commissioner Sherman stated that he never experienced any pressure from anyone to be anything but fair. He also stated that justice meant being fair and impartial. He commented that the Commission had not been able to conduct hearings for a year due to the Berkeley Police Association. Now that hearings are closed, justice could only be obtained if this case

is open and transparent to the community.

Chairperson White stated that the problem with Commissioner Huang's motion was that they just received it that day and there was a lot of verbiage that he could not support.

Vice Chairperson Kidd stated that she would like to see a policy investigation that used the same protocol as the Evidence Theft investigation. She said that she thought the Commission should take time to review and edit the motion.

Commissioner Smith stated that the Commission may lack authority to implement several of the provisions requested in the motion. She felt uneasy voting for this motion without assurance from Counsel that such actions were within the Commission's authority.

Commissioner Perezvelez expressed his condolences to the family. He too agreed that the Commission would need advice from the City Attorney on Commissioner Huang's motion.

Ms. Urbi reminded the Commission that there was a motion on the floor and that if this motion did not pass, they could open a new motion to open a misconduct complaint or a policy complaint.

Chairperson White stated that the public would not be allowed to hear this case, due to the new court ruling. Vice Chairperson Kidd asked for clarification whether only Commissioners could sit on the Subcommittee, to which Chairperson White answered that was correct.

Commissioner Sherman stated that it would be difficult to vote on a complex motion such as Commissioner Huang's without more time to review. He asked if it would be appropriate to table this motion for the next meeting until they could discuss with the City Attorney.

Commissioner Edwards stated that people have stated that time is of the essence, and that moving it to a further meeting would extend the process.

Commissioner Huang stated that the motion was specific, but that the spirit of the motion was to open both misconduct and policy complaints. He said he would like to see members of the public involved. He wanted to see the investigations opened, even if leaving the specifics for a later meeting.

Motion to table the previous motion for discussion with the City Attorney until the next meeting. M/S/C (Sherman/Kidd) Motion passed.

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: None.

Motion to open an investigation into the officer-involved shooting incident that occurred on February 16, 2008.

M/S/C (Kidd/Perezvelez) Motion passed.

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: None.

Commissioner Perezvelez asked if it was possible to have two separate cases, one on policy and one on misconduct. Commissioner Kidd responded that it was.

Chief Hambleton stated that this is a tragic situation. He stated that the police department would cooperate with any investigation. He noted that they would release their reports to the Commission when their investigation is complete.

Commissioner Huang stated that he was concerned with how long the Evidence Theft policy Subcommittee took to complete the investigation.

Commissioner Kidd commented to Commissioner Huang that she believed they would move in a timely manner, that the Evidence Theft Subcommittee was the first of its kind, and they are now versed and in practice.

**Motion to open a policy complaint on response to domestic violence incidents.
M/S/C (Perezvelez/Sherman) Motion passed.**

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: None.

3. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

A. Potential Revenue Ballot Measure November 2008: Public Safety Police

Chief Hambleton discussed items the Police Department hopes to get on the November ballot. Although there are some items to benefit other Berkeley departments, he only discussed the needs in the police department.

One item is to fund a new radio system that would be compatible with new law requiring them to be able to communicate with other neighboring departments. The current system does not allow them to communicate with neighboring law enforcement agencies or other public safety agencies within the City of Berkeley. The current system is over thirty years old, although it has had upgrades.

Chief Hambleton also discussed the need to fund additional positions, both sworn and non-sworn. Previous cutbacks have left them with less officers on the streets, although it has been recommended for them to have more.

B. Other BPD Report

Chief Hambleton reported that they have one position open, and expect four to five openings by June or July. They have received good lateral and entry-level applicants and expect to have those positions filled quickly.

C. Commission discussion and/or action

Commissioner Sherman asked Chief Hambleton if these items would be presented as one ballot measure, or split up. Chief Hambleton responded it hasn't been decided how it would appear on the ballot, if at all.

Commissioner White asked if the police department hadn't already purchased a new radio system that never was used. Chief Hambleton responded that what he was referring to was the Computer Aided Dispatch system, not radios. That system did not work, and they

received a refund and purchased a different program that is currently being implemented.

At this time, Chairperson White called for a ten-minute break, and Commissioner Smith excused herself from the meeting.

Motion to table items 5, 6 and 7 on the Agenda to the March 12 meeting.

M/S/C (Kidd/Perezvelez) Motion passed.

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None.

Abstain: None. Absent: Smith.

4. APPROVAL OF MINUTES

A. Regular Meeting: February 13, 2008

Motion to approve minutes. M/S/C (Huang/Edwards) Motion passed.

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None.

Abstain: None. Absent: Smith.

5. PUBLIC COMMENT

There were no additional comments at this time.

6. COMMUNICATIONS

Attached.

Closed Session

The Police Review Commission recessed into closed session to discuss and take action on the following items:

7. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

A. Case No. 2130 – Complainant Keith Soriano

Motion to administratively close Case #2130.

M/S/C (Sherman/Edwards) Motion carried.

Ayes: Edwards, Huang, Kidd, Sherman and White. Noes: None.

Abstain: Perezvelez. Absent: Smith.

B. Case No. 2110 – Complainant Judith Anderson

Motion to administratively close Case #2110.

M/S/C (_____/_____) Motion carried.

Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None.

Abstain: None. Absent: Smith.

C. Case No. 2131 – Complainant Bonita Regina

Motion not to administratively close Case #2131.

M/S/C (Sherman/Huang) Motion carried.

Ayes: Edwards, Huang, Kidd and Sherman. Noes: None.

Abstain: Perezvelez, White. Absent: Smith.

D. Case No. 2148 – Complainant Lisa Marie Conley
Administrative closure recommendation withdrawn by PRC Officer Urbi

8. ADJOURNMENT

Meeting was adjourned at 10:00 P.M.