



POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

**Wednesday, March 26, 2008
7:00 P.M.**

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

**1. CALL TO ORDER BY CHAIRPERSON WILLIAM WHITE AT 7:06 P.M.
ROLL CALL AND ATTENDANCE**

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

Absent: Commissioner Huang

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

BPD Staff: Chief Hambleton
Lt. Files
Sgt. White

City Staff: Acting Assistant City Attorney Sarah Reynoso

2. ORDER OF AGENDA

There were no changes to the order of agenda.

3. PUBLIC COMMENT:

There was no public comment.



4. OLD BUSINESS

a. COMMUNITY SUPPORT FOR THE CIVILIAN OVERSIGHT PROCESS

- i. Commission discussion with Acting Assistant City Attorney, Sarah Reynoso
Motion to un-table Commissioner Huang's February 27 motion regarding investigation of officer involved shooting.

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

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

Abstain: Perezvelez. Absent: Huang.

Commissioner Sherman asked if the revisions had been made to the motion as was discussed in the March 12 PRC meeting. Ms. Urbi responded that she had not yet been able to meet with Commissioner Huang to facilitate the revision.

Motion to re-table Commissioner Huang's February 27 motion regarding investigation of officer involved shooting.

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

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

Abstain: Perezvelez and Smith. Absent: Huang.

Commissioner Sherman addressed Ms. Reynoso stating that since it will be at least eighteen months before the appeal process of the BPA lawsuit is decided, he would like to know what the Commission's options are in engaging community support. He suggested possibly writing an open letter to the community, writing an Assembly Bill, or initiating a Berkeley ballot initiative.

Ms. Reynoso responded that the Commission has many options for reaching out to the community. If the Commission chooses to write a letter, it can only state facts and not opinion without City Council approval. There already is a bill, SB 1019, which the City Council has already resolved to support. She also clarified that a ballot initiative cannot overturn state law.

Andrea Prichett stated that there have been talks in the community about restructuring the PRC if the appeal is lost, to be more like the Office of Citizen Complaints in San Francisco, which also imposes discipline.

- ii. Commission action
No action was taken.

b. DISCUSS PUBLIC HEARING ON CROWD CONTROL FROM MARCH 13, 2008

- i. Update on meeting with City Manager, Chief of Police
The meeting that took place included Commissioners' White and Sherman, Ms. Urbi, Chief Hambleton and City Manager Phil Kamlarz. Commissioner Sherman stated that there was also a meeting on March 14 that included City Councilmembers, and members of the protest groups.

Ms. Urbi stated that PRC learned that BPD and City officials have been meeting with the protest groups. PRC received clarification that the protest groups cannot block sidewalks. Chief Hambleton addressed the PRC's concerns that dispersal orders had

not been given before police started clearing people out. Dispersal orders are only given when an unlawful act is occurring and the police are preparing to arrest demonstrators.

Commissioner Sherman stated that at the Public Hearing on this issue, the Commission resolved to conduct a second meeting to give the public an additional forum to speak. One of the concerns at the Public Hearing was regarding a dispersal order. There is nothing in the Police Regulations currently that require police to give the public a warning that they will be clearing the crowd.

ii. Debrief

Chief Hambleton stated that BPD is caught in the middle between anti-war, pro-military and merchants who all say that BPD is too strict or not strict enough. He also stated that BPD does not have primary enforcement for tables or noise permits. They are handled by Public Works and Health and Human Services.

Commissioner Perezvelez asked what was the reason behind the police action when they went in to remove the posters in the windows of the recruiting station. Did the Marines ask to be protected when they removed them? Chief Hambleton responded that the Marines wanted to remove them and since there had been conflicts in the past, BPD wanted to make sure there was no violence associated with that.

Commissioner Sherman stated that the City Council set aside space in front of the recruitment office to keep it manageable.

Judith Scherr asked Chief Hambleton if there were different orders given to officers. She noticed a different demeanor of the officers, who were there on March 19 compared to the ones that were there on March 22, who seemed much more at ease.

Chief Hambleton responded that they had anticipated much more attendance on March 19, which was why officers were out in heavier gear and anticipated more hostility. On March 22, the crowd was much more friendly and compliant, which does put the officers more at ease.

iii. Discuss next steps

Commissioner Sherman restated that the Commission had already committed to holding another public meeting on this subject. He asked if it could be done in conjunction with a regular PRC meeting. Chairperson White answered that it could be held as part of a regular meeting.

PRC regular meeting on May 14 was set to include this item on the agenda.

5. APPROVAL OF MINUTES

a. Regular Meeting: March 12, 2008

Motion to approve minutes. M/S/C (Sherman/Perezvelez) Motion died.

Commissioner Smith raised concern with Item 7.a. that reads that a motion was brought and failed, and then a substitute motion to table the subject was carried.

Ms. Urbi explained that after the discussion of the original motion, a substitute motion was made, but the Commission believed that the original motion was still on the floor and had to be voted on.

Andrea Prichett further explained that the Commission had believed that the Substitute motion had died because they needed a majority of the entire Commission for it to pass. This led to the Commission going back to the original motion.

Acting Assistant City Attorney Sarah Reynoso stated that the substitute motion did, in fact, pass, and therefore the original motion should not have gone to vote.

Commissioner Smith stated that the Commission will remember this in the future, that when a substitute motion is made, the original motion is then void.

Substitute Motion to approve minutes, with discussed clarification changes to Item 7.a. M/S/C (Sherman/Perezvelez) Motion carried.

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

Abstain: Edwards and Smith. Absent: Huang.

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

a. PRC staffing update

Ms. Urbi reported that PRC office has an opening for a temporary investigator not to exceed six months. She encouraged Commissioners to pass the job announcement to those who are interested.

Staff has completed the 2005-07 Annual Report. The Commission previously approved the 2005-06 report in December 2007, but staff has now added 2007 statistics so as to cut back on printing. Ms. Urbi asked Commissioners to review the report and respond by April 2 if they have any changes or suggestions.

b. Hearing update

There are two cases ready to go to hearing. The next step is checking schedules for when to set the date. Notices will be sent at that time.

c. Status of complaints

There are 81 open cases. Since December when the Commission began reviewing cases, the Commission has closed fourteen cases. Since the last meeting, there have been two new complaints and one policy complaint.

7. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Chief Hambleton stated that staffing is the same as last meeting. There are two openings and he is expecting more retirements coming up. There is still an opening for one sergeant.

8. COMMITTEE REPORTS (For Discussion or Action)

a. Evidence Theft Subcommittee

i. Report from last Subcommittee meeting

Chairperson White stated that Chief Hambleton presented the Subcommittee with

copies of two new General Orders and one new Police Regulation as a result of the policy recommendations.

Chief Hambleton explained to the Commission the changes made to the orders. The revisions to General Order P26 more clearly defines the guidelines for reporting misconduct. These provisions have also been added to the Police Regulations to make it more prominent. Police Regulations have also been updated regarding intoxication to include all intoxicants. General Order E-13 institutes an Early Warning System, which is not disciplinary action, but an informal way of recognizing areas of improvement. Supervisors will receive a printout quarterly that targets specific areas, which can lead to counseling sessions with officers.

Chairperson White stated that the Subcommittee is reviewing the new orders and will meet again April 7 to discuss further action.

ii. Status of City Council report

There was no update on the status of the City Council report.

b. Criminal Intelligence Subcommittee

i. Next meeting: April 8, 5:30 at South Berkeley Senior Center

Commissioner Sherman stated that the Subcommittee is nearly complete. Captain Gustafson has yet to meet with Chief Hambleton for final approval.

c. Domestic Violence Response Subcommittee

i. Set next meeting

Commissioners' Smith, Edwards and Perezvelez agreed to meet on April 1 at 7:00 p.m. This date is subject to change if a more suitable date becomes available.

Ms. Urbi stated that the BPD liaison is Captain Harris.

Commissioner Smith motioned a point of order to move the agenda.

d. Crowd Control Policies Subcommittee

i. Commission or Chair choose Commissioner members

Chairperson White appointed Commissioners' Sherman, Kidd and Huang to the Subcommittee.

Ms. Urbi stated that the BPD liaison is Captain Ahearn.

ii. Set next meeting

The first meeting was set for April 2, 5:30 p.m. at the South Berkeley Senior Center. This date is subject to change if members who were not present have a conflict.

9. COMMUNICATIONS

Attached.

10. ADJOURNMENT

Meeting was adjourned at 8:36 P.M.

Closed Session

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

11. RECOMMENDATION FOR CLOSURE

- A. Case No. 2115 – Complainant Andrea Prichett
Motion to Summarily Dismiss Case #2115.
M/S/C (Sherman/Perezvelez) Motion carried.
Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: Huang.

- B. Case No. 2129 – Complainant Bruce May
Motion to Administratively Close Case #2129.
M/S/C (Sherman/Smith) Motion carried.
Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: Huang.

- C. Case No. 2149 – Complainant Michael Wolf
Motion to Administratively Close Case #2149.
M/S/C (Sherman/Smith) Motion carried.
Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: Huang.

- D. Case No. 2180 – Complainant Robert Eberwein
Motion to Administrative Close Case #2180.
M/S/C (Edwards/Perezvelez) Motion carried.
Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.
Abstain: None. Absent: Huang.

Open Session

12. POSSIBLE REPORT OF ACTION TAKEN AT CLOSED SESSION

There were no public present to report action taken.

13. ADJOURNMENT

Meeting was adjourned at 9:07 P.M.