



## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, May 28, 2008  
7:00 P.M.

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

**1. CALL TO ORDER BY CHAIRPERSON WILLIAM WHITE AT 7:00 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  
Joel Tondreau, PRC Investigator

BPD Staff: Chief Hambleton  
Lt. Reece  
Sergeant White

City Staff: Barbara Coleman, Berkeley Mental Health Administration

**2. ORDER OF AGENDA:** No changes were made.

**3. PUBLIC COMMENT:** None.

**4. APPROVAL OF MINUTES**

A. Regular Meeting: May 14, 2008

**Motion to approve minutes. M/S/C (Kidd/Perezvelez) Motion carried.**

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



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Abstain: Commissioner Sherman.

**5. OLD BUSINESS**

A. Annual Report of 2005-2007: staff update on Commission's concern regarding the increase in allegations.

Ms. Urbi discussed why there was an increase in allegations as compared to last year. Ms. Urbi informed that per past practice, complaints against officers are entered into the database system and names are not deleted until there is case resolution. Attendant this practice, there were no cases brought before the commission last year due to the litigation and the change of hearings from open to closed hearings. PRC was unable to close any cases last year, because the Commission had to revise its Regulations to comply with a court order, which did not occur until November of 2007.

Chief Hambleton took issue with the numbers, which he described as impossible. He expressed his position that the numbers should be closer to Internal Affairs's numbers. Discussion ensued regarding the large number of complaints as tied to parole search situations involving multiple officers where all, some, or just one of the officers involved in a particular parole search may or may not be implicated as the target of a complaint or allegation.

Ms. Urbi stated that the numbers presented in the report are accurate, but she will work with staff to determine whether and if necessary, any changes should be made to the database. Chairperson White requested that there be review of the database to ensure that historical procedure is not compromised. Commissioners Huang and Kidd agreed to work with Ms. Urbi to review the database to ensure that the historical procedure is not compromised prior to any altering of the database, if any.

**6. NEW BUSINESS**

Update on City of Berkeley's Alcohol and Other Drugs projects and services: presentation by Barbara A. Coleman, MA from Berkeley's Mental Health Administration

John McGaffy, of Safe House, gave a presentation regarding the new facility in San Leandro, which opened on February 28, 2008. The facility has 50 mats for men and women to permit stays of 5 to 8 hours upon being picked up by police and which can be an alternative to jail. Discussion ensued with Mr. McGaffy and Chief Hambleton making reference to a facility in Portland, Oregon (actually visited by the Chief), which facility they described as producing positive results.

Mr. McGaffy further discussed that two EMT's are available around the clock at Safe House, who take blood pressure and perform other health-related functions. He expressed certain benefits of utilization of the facility over the alternative procedures presently being used. Mr. McGaffy further informed that vehicles and staff from Safe House are available around the clock to return those who arrive at the facility back to their destinations of origin. Discussion ensued concerning practicalities of transport to San Leandro by Berkeley Police; the period of time it would take vis-à-vis alternative procedure.

A handout was distributed entitled "SAFE HOUSE, A new Sobering Center operated by HEPPAC on behalf of Alameda County Behavioral Health Care Services," and a two-side SAFE HOUSE

card, which includes “How To Admit A Client.”

Barbara Coleman, from Berkeley’s Mental Health Administration, discussed the above- related and provided a summary of a five-year mental health work plan, along with a 13-page document entitled “Findings and Recommendations Five Year Work Plan”.

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

- A. Staff update. Joel Tondreau, a new temporary Investigator, was introduced and he provided some work history background information.
- B. Hearing update. Four hearings have been scheduled on May 29, June 4, June 10 and June 16.
- C. Status of complaints. PRC Officer Urbi informed that there are 80 total complaints with one filed today. Five cases to be recommended for closure at today’s closed session.
- D. There are two Commission vacancies.
- E. Comments: None.

**8. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT**

Chief Hambleton reported on staffing updates and that with staffing retirements he had six vacancies and four job offers made. On June 19, six recruits from the Sacramento Academy will begin, so that with the six vacancies, he will have twelve new officers. Per quarterly report on crime, Chief Hambleton apprised violent crime is down slightly, assault is down slightly, robberies up slightly and property crimes are up, the latter of which he attributes, possibly, to the economy. The Chief further reported that there were 5 homicides last year and that this year there were already 7. In distinguishing with violent crimes generally, he considers homicides more random.

The Chief made reference to the South Campus fraternity party stabbing. Chief Hambleton reported that the Southside patrols increased and he made reference to the implication of alcohol consumption. Also, he referenced a recent shooting, approximately ½ week ago, in the 2500 block of Durant with people in custody.

Chief Hambleton reported on the status of the Anita Gay shooting. The investigation and autopsy are done. The report is three inches thick; redactions, to include social security numbers, are being performed prior to the report being made a public record. The report is due to be completed next week. The Chief described the event, per review of report, to include the mother charging down some stairs with a raised knife when the officer shot her. The daughter is stated to have reported that the officer saved her life.

Chairperson White asked why the police reports are being redacted, when all PRC records are now confidential records as per court order. Lt. Reece explained that BPD still need to follow legal requirements and redact certain confidential information.

The Chief informed that after Anita Gay, there has been discussion about permitting Tasers.

Commissioners inquired whether Tasers could have been used in the Anita Gay situation. Chief

Hambleton informed that Tasers would not have worked in the Gay incident. When asked if rubber bullets would have worked he responded in the negative. Chief Hambleton informed that Mark Schlosserberg of the American Civil Liberties Union (San Francisco Chapter) is not against Tasers. Chief Hambleton believes a policy could be crafted for use of tasers that could be useful in avoiding the use of deadly force.

Commissioners took note of the fact that none of them are aware of any Berkeley hearing having transpired on the subject of the use of Tasers.

The Taser envisioned by the Chief shoots a cartridge and two probes hit the individual; it has a range of 15 to 18 feet. He also mentioned there are about seven different types, that it is worn on the opposite side of the firearm, with a different feel to it, to permit the officer does not fire a live round from a sidearm by accident. He also mentioned that shotgun rubber or bean bag type loads can be dangerous since officers can mistakenly have the weapon loaded with buck shot; he stated there are cases like this in other cities.

Several Commissioners made reference to a \$21 million lawsuit in San Jose now involving a Taser related death.

Commissioner Smith (Chair of Subcommittee on Officer-Involved Shooting Policies) suggested that once the staff completes their investigation of the Anita Gay incident and the Subcommittee reviews the relevant policies, it would be more appropriate to review Tasers at that time. The matter was left as a future topic of discussion.

Ms. Urbi asked how much the Tasers would cost the City and did he envision every officer in BPD carrying a Taser. The Chief stated that he did not have price estimates yet, because it depended on the type of Taser, which ranges in price.

Activist related activity of Code Pink at and around the Marine Corp recruiting office on Shattuck Avenue was addressed. Chief Hambleton informed that there is police presence in the area whenever Code Pink is present, because there have been concerns about painting the sidewalk pink and damaging the doors to the facility. Further, merchants in the area want the law enforced such that he cannot ignore it.

## **9. COMMITTEE REPORTS (For Discussion or Action)**

### **A. Evidence Theft Subcommittee**

#### **a. Discussion of draft report**

On the issue of Early Warning Systems (EWS), Chief Hambleton took issue with the language in the ROUGH DRAFT Action Calendar, part (e), and informed that he believes the Commission is confused about what EWS is about. Commissioner Smith informed that Jim Chanin, a Subcommittee member, obtained the language from the City of Oakland's EWS and the intent was to adopt best practices. The Chief informed that he wants to have the language eliminated and believes that the regular use of force procedures covers the subject.

After further discussion, Commissioners determined not to move to remove any language regarding EWS.

- b. Vote on draft report to City Council

**Motion to untable and to vote for presenting to City Council, Item 2 Recommendation, “That Counsel requires BPD to conduct a complete audit of the 286 evidence envelopes that was found tampered by former Sergeant Cary Kent.”**

**M/S/C (Sherman/Smith) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Noes: None. Abstain: None. Absent: None.

**Motion to adopt Item 2 Recommendation that BPD conduct a complete audit of the 286 evidence envelopes that was found tampered by former Sergeant Cary Kent. M/S/C (Huang/Sherman) Motion failed.** Ayes: None. Noes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Abstain: None. Absent: None.

**Motion to approve the Evidence Theft Subcommittee’s report to City Council on additional recommendations and areas of differences, excluding Item 2 Recommendation, above.**

**M/S/C (Huang/Kidd) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman, Smith and White. Noes: None. Abstain: None. Absent: None.

**B. Criminal Intelligence Subcommittee**

- a. Next meeting on June 9, 2008, 5:30pm at South Berkeley Senior Center

**C. Crowd Control Policies Subcommittee**

- a. Crowd control public hearing on June 11, 2008.

Ms. Urbi stated that this hearing is a continuation from the Public Hearing on March 13, 2008 when the Commission heard citizen concerns regarding the police response to the demonstrations at the Marine Recruiter Station. Deputy City Manager Lisa Caronna and Chief Hambleton will be present to discuss the concerns and BPD’s crowd control policies.

- b. Update by Commissioner Huang: The Subcommittee is waiting for BPD to release a revised crowd control policy, so that they could review the new policy.

**10. COMMUNICATIONS**

Attached.

**11. PUBLIC COMMENT: None.**

**Note: Commissioner Smith was unable to attend the closed session meeting.**

## Closed Session

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

**12. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

NOTE: The Commission voted to close all three cases in Item 12 as a group after PRC staff provided a summary for each case.

A. Case No. 2069 – Complainant Haro Halton

**Motion to Close Case No. 2069.**

**M/S/C (Huang/Perezvelez) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None. Abstain: None. Absent: Smith.

B. Case No. 2179 – Complainant Jacob Crawford

**Motion to Close Case No. 2179.**

**M/S/C (Huang/Perezvelez) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None. Abstain: None. Absent: Smith.

C. Case No. 2145 – Complainant Peter Weiss

**Motion to Close Case No. 2145.**

**M/S/C (Huang/Perezvelez) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None. Abstain: None. Absent: Smith.

**13. RECOMMENDATION FOR SUMMARY DISMISSAL**

NOTE: The Commission voted to close both cases in Item 13 as a group after PRC staff provided a summary for each case.

A. Case No. 2169 – Complainant Cynthia Lee

**Motion to Close Case No. 2169.**

**M/S/C (Kidd/Sherman) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None. Abstain: None. Absent: Smith.

B. Case No. 2170 – Complainant Cynthia Lee

**Motion to Close Case No. 2170.**

**M/S/C (Kidd/Sherman) Motion carried unanimously.** Ayes: Edwards, Huang, Kidd, Perezvelez, Sherman and White. Noes: None. Abstain: None. Absent: Smith.

**13. ADJOURNMENT**

Meeting was adjourned at 9:55 P.M.