



POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, June 11, 2008
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER BY CHAIRPERSON WILLIAM WHITE AT 7:05 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
Captain Ahearn

City Staff: Deputy City Manager Lisa Caronna

2. ORDER OF AGENDA

There were no changes to the order of agenda.

3. OLD BUSINESS

A. PUBLIC HEARING: CITY AND POLICE RESPONSE TO DEMONSTRATIONS AT THE MARINE RECRUITER STATION, REGARDING INCIDENTS ON FEBRUARY 12, FEBRUARY 15 AND FEBRUARY 22, 2008.

- i. Lisa Caronna, Deputy City Manager
Ms. Caronna stated that her role regarding the February 12th demonstration was to work with Move America Forward, Code Pink and other groups, who sought to

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demonstrate, along with City staff. City staff met with these groups prior to the demonstration. The City's goal for the February 12th demonstration was for each group to demonstrate, but to be kept separate. Ms. Caronna was the point person that the groups could contact with complaints. Both groups complained to her regarding the February 12th demonstration. The City also tried to keep the Council meeting fair and equal by allowing the same amount of people from each group inside the Council meeting.

Commissioner Sherman stated that the PRC heard about incidents involving demonstrations at the Marine Recruiting Center at the first Public Hearing on March 13th. Ms. Caronna responded that Code Pink was the only group that had a permit for the Marine Recruiting Center. She clarified that the City does not allow objects on the sidewalk. There is a designated space marked for objects when a group obtains a permit.

Commissioner Perezvelez asked what the cost of the February 12th demonstration was. Ms. Caronna responded that the cost was \$94,000. Commissioner Perezvelez asked if overtime was incurred as a result of Code Pink's ongoing protests. Chief Hambleton responded that there was, but that he has tried to minimize it by adjusting schedules.

Commissioner Smith asked if there was a precedent for issuing permits like the one Code Pink has been issued, and if the City anticipated that other groups would request the same type of permit. Ms. Caronna responded that Code Pink's permit was granted by City Council. New state law prohibits this type of fee waiver for future requests.

ii. Doug Hambleton, Chief of Police

Chairperson White asked why the Council meeting was not held at a larger venue. Chief Hambleton responded that BPD does not make decisions on venue for the Council meetings. Ms. Caronna stated that the Council Chambers have video and audio capabilities that are not available at other venues.

Chief Hambleton stated that he saw complaints of individual incidents from the minutes of the March 13th PRC meeting, and that those complaints should be processed through the normal channels of Internal Affairs or PRC. He also stated that PRC opened up a Crowd Control policy subcommittee, and that BPD's Crowd Control policy has not been revised since the early 1990's.

Chief Hambleton stated that he heard complaints from pro-military, anti-war, and merchant groups all stating that BPD was either too hard or too lenient. The goal of BPD is to stay neutral and keep the peace.

Chief Hambleton further stated that prior to the February demonstrations, BPD officers underwent both general Crowd Control training and specific training in anticipation of planned demonstrations. BPD officers are instructed to not engage in individual actions out of safety concern, while in a crowd control situation.

Chief Hambleton also stated that helmets are only worn when there is a safety concern, and that batons are mostly used to move people, not for full strikes.

Chief Hambleton reported that Mutual Aid agreements with County Sheriff and Oakland Police Department were used to help in the February 12th demonstration.

Commissioner Sherman asked who decides how much show of force officers are to use. Chief Hambleton stated that he tries to give his staff autonomy to decide what they need in any given situation.

Commissioner Huang asked if there were guidelines governing Mutual Aid situations and asked how a citizen could complain about an officer that was not from BPD. Chief Hambleton responded that officers follow their training and guidelines from their own agency, although they are similar. He answered that a citizen could complain to either agency through their normal protocols, although he would forward the complaint to the agency of the officer involved.

iii. Commission discussion

Ms. Urbi reported that before she planned the second Public Hearing on Crowd Control, she asked the Commission for suggestions on speakers. The purpose of holding the first hearing on March 13th was to respond to a petition filed by the demonstrators and hear their concerns. The purpose of the second hearing was to hear BPD, City staff and others, who could provide the other version of what happened at the demonstrations.

Ms. Urbi stated that Mark Coplan, a Berkeley Unified School District official, was scheduled to speak regarding the Berkeley High students, but he had a conflict in meetings, so he provided a written statement and requested that she read it.

Commissioner Sherman objected to the reading of the letter, because Mr. Coplan was not present to be questioned. *Commissioner Sherman added the following sentence at the June 25, 2008 Commission meeting prior to the minutes being approved: This action was unprecedented and sets a bad precedence.*

Chairperson White responded that reading the electronic mail message is the same as receiving public comment, which the PRC does and typically Commissioners do not question the public on their comments.

Motion to halt the reading of Mark Coplan's email into the record.

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

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

Commissioner Smith stated that PRC regulations do not provide a basis to halt the reading of the email. Commissioner Sherman responded by asking if PRC would allow this at every meeting.

After the motion failed, Ms. Urbi continued to read the email.

4. **PUBLIC COMMENT**

Bertha Johnson stated that the ordinances and code enforcement are petty issues. She also stated that BPD was not concerned with her safety when she was threatened, while she was in her wheelchair with someone standing over her.

5. **APPROVAL OF MINUTES**

A. Regular Meeting: May 28, 2008

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

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

Abstain: None. Absent: None.

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

A. Hearing update

Ms. Urbi stated that PRC had their first Caloca hearing since 2005. She handed out a memorandum showing that the PRC has closed 23 cases thus far in 2008. The goal of PRC staff is to close more cases through hearings and staff recommendations to the Commission. She also passed out a signup sheet to the Commissioners for upcoming hearings to be scheduled.

B. Status of complaints

There are 75 open cases.

C. Comments

Commissioner Sherman asked about the hearing scheduled on May 29th, in which the complainant did not show. Ms. Urbi responded that the complainant confirmed that she had received the hearing notice, and therefore the case is now closed, unless the complainant petitioned for a rehearing.

Commissioner Perezvelez asked about the disposition of the cases previously heard by the Commission this year when the findings report was sent to the City Manager. Ms. Urbi responded that the Commission does not participate in the disciplinary process. In the past, the City Manager and Chief of Police did not report back to the PRC what actions were taken, and that she did not anticipate a change in this procedure.

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

Chief Hambleton stated that his report to the City Council, which is available on the City's website, indicates that both violent crime and property crime was down in Berkeley in 2007. He added that so far in the first three months of 2008, this trend seems to continue.

Commissioners asked if it was true that there were seven homicides in Berkeley so far this year. Chief Hambleton responded this is true. Moreover, completion of an autopsy report in a case involving a victim who was brutally assaulted and survived, but died several weeks later, could bring the number up to eight.

8. COMMITTEE REPORTS (For Discussion or Action)

A. Evidence Theft Subcommittee

Ms. Urbi reported that the Commission approved the Evidence Theft Subcommittee's report, which was forwarded to the City Council. The City Council will consider this report at the June 24, 2008 meeting. Ms. Urbi encouraged the Commissioners to attend that meeting.

B. Criminal Intelligence Subcommittee

Commissioner Sherman reported that the Criminal Intelligence Subcommittee was in receipt of a final draft of the BPD General Order, and would meet on June 17th to finalize the General Order.

C. Officer-Involved Shooting Subcommittee

Ms. Urbi reported that she would receive the BPD police report of the Anita Gay shooting at the conclusion of the meeting. She stated that once the staff completes their investigation, a board of inquiry consisting of the full Commission will be scheduled. The Officer-Involved Shooting Subcommittee decided to proceed with the policy issues at the conclusion of the staff's investigation and hearing.

D. Crowd Control Policies Subcommittee

Commissioner Huang reported that at their next meeting, Captain Ahearn would bring the framework of a new BPD Crowd Control policy for the subcommittee to work on.

Ms. Urbi stated that she would schedule the next Crowd Control Subcommittee meeting.

9. COMMUNICATIONS

Attached.

9. ADJOURNMENT

Meeting was adjourned at 9:05 P.M.