



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, November 12, 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 Jonathan Huang
Commissioner George Perezvelez
Commissioner Michael Sherman
Commissioner Sherry Smith

Absent: Commissioner Kamau Edwards

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Lt. Files
Sgt. J. Wilson

2. ORDER OF AGENDA

Motion to move Item #11 to Item #5. M/S/C (Perezvelez/Smith) Motion carried.

Ayes: Huang, Kidd, Perezvelez, Sherman, Smith and White.

Noes: None. Abstain: None. Absent: Edwards.

3. PUBLIC COMMENT:

Mr. Isaac Taylor commented about a search that was conducted in his residence, and has been dissatisfied with the response from BPD. Commissioners advised Mr. Taylor to open a complaint with PRC and Internal Affairs.

Mr. Russell Bloom asked if the complainants, whose cases are proposed for closure, have any other recourse and whether Internal Affairs investigated their complaints. Chairperson White and PRC Officer Urbi responded that the complainants have been given a status update throughout the process. The City Attorney's office advised the PRC not to close any cases during 2007 when the PRC was awaiting the court decision. Commissioner Perezvelez responded that Internal Affairs always conducts a simultaneous investigation.



Mr. Mahmoud Mohammed stated that he did not understand why his case would be closed if the PRC was the one who stopped closing cases. He further stated that he was not satisfied with Internal Affairs. Commissioner Smith responded that the PRC has also been stuck with the situation through no fault of their own.

Commissioner Sherman asked if complainants are contacted and receive an outcome from Internal Affairs. Sergeant Wilson responded that if complainants file directly with Internal Affairs, they will receive an outcome through a findings letter. However, if Internal Affairs opens a case that was initially filed with the PRC, then Internal Affairs would not send the complainant a findings letter.

4. APPROVAL OF MINUTES

A. Regular Meeting: September 24, 2008

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

Ayes: Huang, Kidd, Perezvelez, Sherman and White.

Noes: No. Abstain: Smith. Absent: Edwards.

B. Regular Meeting: October 15, 2008

The Commission requested that Ms. Urbi research whether the Commission can approve minutes when a quorum of the Commissioners, who were at that meeting, are not currently present.

5. Public Comment: Limited to Item #6.

Mr. Steven Lewis discussed his case, which was before the Commission for closure.

Closed Session

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

6. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE DUE TO 1 YEAR DEADLINE PER GOV. CODE 3304.

- A. Case No. 2049 – Complainant Calvin Morris
- B. Case No. 2086 – Complainant Clarence Sayles
- C. Case No. 2095 – Complainant Theodore Bolton
- D. Case No. 2099 – Complainant Zachary Brown
- E. Case No. 2105 – Complainant Michael Delacour
- F. Case No. 2107 – Complainant Jonathan Ford
- G. Case No. 2108 – Complainant Karla James
- H. Case No. 2109 – Complainant Zachary Brown
- I. Case No. 2112 – Complainant Jonathan Ford
- J. Case No. 2113 – Complainant Lee Lavrov
- K. Case No. 2116 – Complainant Jewel Evans
- L. Case No. 2117 – Complainant Jewel Evans
- M. Case No. 2118 – Complainant Theodore Bolton
- N. Case No. 2120 – Complainant Thuon Chen
- O. Case No. 2122 – Complainant John Phelps
- P. Case No. 2123 – Complainant Bertha Williams
- Q. Case No. 2124 – Complainant Patrick Lee
- R. Case No. 2125 – Complainant Eleazer Clark

- S. Case No. 2126 – Complainant Larry Smulian
- T. Case No. 2127 – Complainant Peter Weiss
- U. Case No. 2128 – Complainant Mohamed Mahmoud
- V. Case No. 2131 – Complainant Bonita Regina
- W. Case No. 2132 – Complainant Tong Yang
- X. Case No. 2133 – Complainant Jonathan Ford
- Y. Case No. 2135 – Complainant Jerry Chin
- Z. Case No. 2136 – Complainant Melvin Washington
- AA. Case No. 2137 – Complainant Steven Lewis
- BB. Case No. 2140 – Complainant Janet Schrim
- CC. Case No. 2141 – Complainant Charnaye McNeil
- DD. Case No. 2142 – Complainant Ollie Beasley
- EE. Case No. 2143 – Complainant Ronda Williams-Madero
- FF. Case No. 2146 – Complainant Peter Weiss
- GG. Case No. 2147 – Complainant Jonathan Ford
- HH. Case No. 2148 – Complainant Lisa Conley
- II. Case No. 2150 – Complainant Ollie Beasley
- JJ. Case No. 2151 – Complainant Grace Smith
- KK. Case No. 2152 – Complainant Cynthia Russell
- LL. Case No. 2155 – Complainant Cynthia Russell
- MM. Case No. 2159 – Complainant Charnaye McNeil
- NN. Case No. 2163 – Complainant Juan Johnson
- OO. Case No. 2164 – Complainant Ras Drinkard
- PP. Case No. 2165 – Complainant Tychicus Johnson

Motion to administratively close Items 11A through 11PP.
M/S/C (Smith/Huang) Motion carried.

Ayes: Huang, Kidd, Perezvelez, Sherman, Smith and White.

Noes: None. Abstain: None. Absent: Edwards.

Open Session

7. **OLD BUSINESS**

A. Discuss City Council’s vote that directed the City Attorney to not pursue the California Court of Appeal Case No. A118537 and Case No A119758.

a. Commission Discussion.

Commissioner Huang stated that his belief was that the City Attorney would discuss with the City Manager ways to work the Court of Appeal’s decision to the PRC’s advantage. Ms. Urbi responded that the Commission can make changes to the PRC Regulations. Current regulations already provide that the Chief of Police can take action with PRC’s findings reports.

Commissioner Smith stated that the current Regulations were written to comply with the Court’s decision, which has not changed.

Commissioner Huang stated that the current Regulations were written with consideration that the PRC was not a disciplinary body, however the Court has decided that PRC is a disciplinary body, and PRC may want to maximize the Court’s decision.

Ms. Urbi stated that the current Regulations works well, that there are no major flaws that need to be corrected, and that the PRC has various projects with a higher priority. The court stated that the PRC is part of the disciplinary process, not a disciplinary body.

B. Staff update on thank you letter to State Senator Gloria Romero

Ms. Urbi reported that the City Manager's office directed that any communication from the entire Commission to another government body has to come through the City Council since PRC is advisory to the City Council. The exception is that an individual can send the letter, so Ms. Urbi prepared the letter from Chairperson White, and the Commission would be carbon copied on the letter.

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

A. National Association of Civilian Oversight of Law Enforcement Conference Update

Ms. Urbi attended the conference in Cincinnati, Ohio. The turnout this year was low, most likely due to budget cuts. If commissioners were interested in the particular meetings, Ms. Urbi could provide them with information.

Lt. Files asked Ms. Urbi what the response was from NACOLE regarding the Court's decision to close hearings. Ms. Urbi responded that throughout the rest of the nation, there are open hearings; California is probably the only state with closed hearings, so it was surprising.

Next year's conference will be in Austin, Texas.

B. Hearing update

Case #2193, which was up for hearing went to mediation, and was successful.

C. Status of complaints

There were 80 open cases before the closures in this meeting. There was a petition for rehearing in Case #2178, however it was sent past the deadline.

D. Commission vacancies

There are two vacancies, however there may be changes pending the outcome of the City Council elections.

Mr. Russell Bloom stated that he has applied for the Commission under Council Member Maio.

E. Comments:

Commissioner Smith asked Ms. Urbi the status of the Anita Gay case, to which Ms. Urbi responded that the officer was scheduled for November 13 for interview. It was reiterated that the entire Commission will sit as the Board of Inquiry, which should be scheduled for December.

Commissioner Sherman asked in which ways does using electronic mail violates the Brown Act. Ms. Urbi stated that when she sends Commissioners an electronic mail, they should not hit the 'reply to all' button, because a quorum of the Commission might discuss Commission business through electronic mail without the public's knowledge or input.

Commissioner Sherman asked Ms. Urbi to place discussion of News Article: "Police Misconduct Complaints: The Right Not to Remain Silent" on the next agenda.

Ms. Urbi asked the Commission for availability for training. Commissioner Sherman suggested that Ms. Urbi hold off on the training until the Council Members appoint new Commissioners. Ms. Urbi responded that the Commission has had two vacancies for two years now, and that might mean waiting for some time.

The Commission decided to meet for the training on December 9, at 5:30 p.m.

The Commission holiday party will be either December 10, or December 19.

9. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Lt. Files stated that the next crime report to the City Council is scheduled for January 27, which will address concerns that came up after the double homicide. An analysis of surveillance cameras will also be discussed.

There has been new information reported that violent crimes are down 2.1 percent. There has been an increase in robberies. Property crimes are mostly the same as last year. The police department continues to be fully staffed, however, they are expecting some retirements over the next several months. They do have a list to fill the future vacancies. The budget is much better than in neighboring cities, however is expected to be tighter over the next few years.

10. COMMITTEE REPORTS (For Discussion or Action)

A. Criminal Intelligence Subcommittee

a. Commission discussion on final BPD draft policy.

Commissioner Sherman reported that the policy is in its final draft. He thanked those who were involved in helping with the subcommittee, and stated that he believed the policy addressed all concerns properly.

b. Action

Motion to approve the policy and make the recommendation to City Council.
M/S/C (Sherman/Kidd) Motion carried.

Ayes: Huang, Kidd, Perezvelez, Sherman, Smith and White.

Noes: None. Abstain: None. Absent: Edwards.

B. Crowd Control Policies Subcommittee

Commissioner Huang reported that Chief Hambleton is reviewing the draft of the new Crowd Control policies. Ms. Urbi added that Captain Ahearn said it should be returned to the Subcommittee in December.

11. COMMUNICATIONS

A. Attached.

12. ADJOURNMENT

Meeting was adjourned at 9:00 p.m.