



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, January 28, 2009
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER BY CHAIRPERSON SHERRY SMITH AT 7:00 p.m.

ROLL CALL AND ATTENDANCE

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

Absent: None

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Chief Hambleton
Lt. Rolleri
Sgt. Wilson

1. ORDER OF AGENDA

There were no changes to the order of agenda.

2. PUBLIC COMMENT:

Ruby Cospers discussed an incident that she had filed a complaint about. Ms. Cospers stated that she was frustrated that the case was to be closed due to the one-year expiration deadline after an investigation had already taken place.

Chairperson Smith responded that the Commission could help remedy cases like hers with a discussion later in the agenda regarding a policy Subcommittee that will review a pattern of allegations of improper search and the impact on third parties.



3. APPROVAL OF MINUTES

A. Regular Meeting: January 14, 2009

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

Ayes: Bloom, Gurgin, Kidd, Perezvelez, Sherman, Smith and White.

Noes: None. Abstain: Edwards, Huang. Absent: None.

4. NEW BUSINESS

A. Discuss BART officer-involved shooting and determine whether Commission should recommend to City Council that a letter be sent to BART Board of Directors offering the Commission's assistance in creating a civilian oversight of police board.

Commissioner White stated that in the past when he has attended NACOLE Conferences, he learned that PRC has been a resource of information. PRC should give BART a heads up that PRC exists, and could be a resource to them as well.

Commissioner Perezvelez raised concern on whether the City Council is the right way to go, or should PRC go to the Mayor. Commissioner Smith responded that PRC is advisory to City Council, and the Mayor does not have the power without City Council to recommend the use of a City Commission.

Commissioner Sherman asked if BART was a state agency. Chief Hambleton responded that BART is a regional district, and they have about 200 officers.

Commissioner Sherman stated that there is legislation being introduced on the state level to start a civilian oversight agency for BART.

Commissioner Perezvelez asked Ms. Urbi if she knew whether BART had approached Oakland for expertise on civilian oversight. Ms. Urbi responded that she was not aware of such a request, but she believed that other civilian oversight experts have sent letters to lend their expertise.

Commissioner Sherman suggested tabling the issue until the next PRC meeting, after he can do more research on the legislation and report back to the Commission. Ms. Urbi stated that the Commission could still decide to send a letter to the City Council and research the legislative outcomes at the same time.

Commissioner Bloom stated that he felt it would be helpful if the City made a recommendation and offer of help to establish oversight for BART Police, and that it would have additional weight if BPD supported that recommendation, and asked Chief Hambleton if he believed it would be valuable for BART Police to have oversight. Chief Hambleton responded that he refrains from making opinions about other departments as a matter of policy.

Chairperson Smith stated that the Commission will hold off on action until the next meeting when the Commission will receive a report from Commissioner Sherman.

B. Discuss number of cases involving search of homes and the impact on third parties.

a. Staff report

Ms. Urbi stated that Commissioner White had requested this be discussed because of the discussion last meeting concerning this topic. Staff researched and found there has been an increase in the number of home search-related complaints that

PRC received through the past five years. There was a suggestion to form a subcommittee to review BPD's policy on searches of homes and how that affects third parties.

Commissioner Sherman asked Chief Hambleton for clarification about exercising search clauses. Chief Hambleton explained what the different types of searches are and when they are allowed to be used. He stated that search clauses are an effective tool in apprehending suspects.

Commissioner Bloom asked if there was a policy for officers, when they are executing a search clause, to explain to uninvolved third parties that a search clause exists. Chief Hambleton responded that is standard procure for an officer to do that.

b. Action to form a Subcommittee

Motion to form a Subcommittee to review BPD's policy on the search of homes and how the search impacts third parties. M/S/C (Kidd/Perezvelez) Motion carried.

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

Chairperson Smith appointed Commissioners White, Huang, Edwards and Gurgin to the Subcommittee.

C. Discuss BPD's Crime Report update to City Council from the January 27th meeting.

Chairperson Smith stated that the report was shorter than expected due to an unexpected lengthy public comment. Chief Hambleton added that what was originally just going to be a presentation by BPD, was changed to include the Fire Department, and therefore the Council decided to add a second part to the meeting scheduled for February 17.

Commissioner Sherman stated that the report was very good and informative, although due to the time constraints, he was not able to hear more information on surveillance cameras.

Chief Hambleton stated that City Council has asked for analysis of surveillance cameras. BPD researched surveillance cameras with vendors who sell them, and other police chiefs who have them. He discussed the different kinds of cameras and their abilities, effectiveness and cost.

Chief Hambleton stated that crime has gone down, almost near a 30-year low. BPD has gone out of their way to share more information about what the police department is doing and raising people's awareness about crime, which has contributed to more cause for concern about crime.

Commissioner Edwards asked if there was any particular crimes that were coming up more often, and Chief Hambleton responded that robbery crimes has increased in the last few years, and a significant decrease in felony assaults.

Chairperson Smith reminded the Commission that the video of this report is available on the City's website.

Note: Chairperson Smith changed the order of the agenda to allow the Chief to go first before the PRC Officer's report.

5. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Chief Hambleton stated that there are several vacancies. An area of concern is a large turnover in records, resulting in a lag in data entry. He has authorized some overtime in this department, however, the budget is extremely tight. The City Manager has requested departments to slow down spending in the current fiscal year, and looking at a 4% cut next fiscal year, and another 4% the following year. Chief Hambleton has already presented his budget cuts to the City Manager. He is concerned about crime going up in the economic downturn.

Chairperson Smith asked Chief Hambleton if he was going to make a presentation about tasers in the near future. Chief Hambleton responded that he had agreed to delay that presentation until after the Anita Gay hearing, which he had believed was going to happen in January. He is not ready to talk about tasers at this time.

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

A. Status of complaints

There are 29 open complaints, and no new complaints since the last meeting.

a. Hearing update

The last hearing scheduled, which was for complainant Virgil Luckett, could not be held because the officers were not available.

B. Update on investigation of the Anita Gay case

The closed hearing is scheduled on February 18, 2009. PRC staff checked the officer's schedule and his attorney's schedule to confirm their availability. PRC staff also informed the Commission that the Chief will sit in the closed hearing as the Duty Command Officer (DCO).

Motion to send a letter to the City Manager recommending that the Chief recuse himself as the DCO at the Anita Gay hearing and select a different DCO, because of a perception of a conflict of interest and that the Commission has an interest in moving this hearing forward on February 18, 2009. M/S/C (White/Sherman) Motion carried.
Ayes: Bloom, Kidd, Huang, Edwards, Gurgin, White. Noes: Sherman, Smith.
Abstain: Perezvelez. Absent: None.

Motion to send a letter to Chief Hambleton requesting an unredacted police report of the Anita Gay case, color photographs and all evidence related to the case. M/S/C (White/Edwards) Motion carried.
Ayes: Bloom, Sherman, Kidd, White, Perezvelez, Gurgin, Edwards Huang, Smith.
Noes: None. Abstain: None. Absent: None.

Motion to send a letter to the City Attorney requesting whether the officer-involved shooting case involving Anita Gay should be a public hearing, since the police report names the subject officer. M/S/C (Sherman/White) Motion failed.
Ayes: Sherman, Kidd, White. Noes: Perezvelez, Gurgin, Edwards Huang, Smith.
Abstain: Bloom. Absent: None.

Ms. Urbi reported that although PRC is not considered a department, it has been requested to also present a budget representing a 4% cut. She encouraged Commissioners to contact their council members to ask them not to make cuts to PRC's already small budget.

Ms. Urbi also reminded Commissioners that they are eligible for stipends, and on a quarterly bases, should turn in their timecards to receive that stipend.

C. Comments:

Commissioner White stated that he felt Chief Hambleton should not sit as DCO on the hearing as it will demonstrate a conflict of interest since he would be reviewing the report. He also felt that the Commission needed an unredacted report

Commissioner Edwards stated that Chief Hambleton may cause undue influence on the Commission, and that another BPD representative should be able to handle any policy question the Commission may have at the hearing.

Commissioner Bloom suggested that having the Chief as DCO may be beneficial since he has the highest authority and knowledge on policy.

Commissioner Kidd stated that any person the Chief sent as a representative would have the ability to interpret the standard policies.

Commissioner Sherman stated that it is a matter of perception of the Chief appearing to be both judge and jury.

Commissioner Edwards asked if there was a procedure in place that defines the role of DCO. Commissioner Bloom responded that he felt that would be a task that the Regulations Subcommittee could undertake.

Commissioners felt that it was important to move forward and not delay the February 18 date for the Board of Inquiry.

7. COMMITTEE REPORTS (For Discussion or Action)

D. Regulations Review Subcommittee (Bloom, Kidd, Perezvelez, Sherman)

a. Update on Subcommittee meeting from January 26th.

Commissioner Bloom reported that the Subcommittee discussed a few recommendations. The goal is to make the Commission's work more efficient and effective. The next meeting will be March 16 at 6:00 p.m. Commissioner Perezvelez has been selected as the Chair of the Subcommittee.

8. COMMUNICATIONS

E. Attached.

Chairperson Smith stated that the February 25 meeting will be cancelled due to the Board of Inquiry hearing for the Anita Gay case on February 18, and the lack of agenda items for that meeting.

9. PUBLIC COMMENT: Limited to item 10 only.

There was no public comment.

Closed Session

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

10. HEARING DECISION UPDATE

A. Case No. 2154 – Complainant Virgil Lockett

11. ADJOURNMENT

Meeting was adjourned at 10:00 p.m.