



Police Review Commission

## **POLICE REVIEW COMMISSION REGULAR MEETING MINUTES**

Wednesday, March 25, 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 Vonnie Gurgin  
Commissioner Sharon Kidd  
Commissioner William White

Absent: Commissioner Kamau Edwards  
Commissioner Jonathan Huang  
Commissioner Michael Sherman

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Chief Hambleton  
Lt. Files  
Sgt. Wilson  
Ofc. Wellington

### **2. ORDER OF AGENDA**

Item 11C was withdrawn from the agenda because the complainant called the Police Review Commission and provided a new telephone number.

### **3. OLD BUSINESS**

- a. Discuss cases that expired, because of the one-year statute (Government Code Section 3304) and tolling exceptions.
  - i. Commissioners' question and answer with Acting Assistant City Attorney Sarah Reynoso.



Issues related to Multiple-Officer Exception.

Ms. Reynoso discussed Government Code 3304 and how we got there. This was an end result of the court's final decision where the PRC was required to provide peace officers with the procedural protections of the Public Safety Officers' Bill of Rights, which has a provision for a one-year statute of limitations and has seven exceptions, such as tolling when there is criminal action pending either against the officer or against the complainant. Basically, everything stops and you do not count any days. There are some cases where you tack on extra days, usually, where there are multiple officers involved. Multiple officers alone do not allow additional time beyond the year. Other factors need to be considered, such as the availability of officers, availability of documents, availability of witnesses. A determination on tolling must be based on the specific facts of each particular case.

Commissioner Bloom stated that his reading of Breslin led him to believe that there was a very strong argument that the additional time in this particular case was reasonable. He would like an opportunity for the Commission, before they make decisions and based on her analysis of case holding, that they have an opportunity to have some back and forth discussion, so that the Commission can understand her legal reasoning.

Ms. Reynoso said that determination should be brought to the Commission as part of the administrative closure. "I was giving advice to staff based on information provided. If there are other facts, bring those forward." One set of facts is not going to apply the same to another set of facts. It is all a case-by-case determination. It should be a rare case where we have to look at the tolling, and look at that particular exemption.

- B. 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 police oversight agency.
  - a. Update from Commissioner Sherman on proposed state legislation.  
This item was postponed until the next meeting.

#### 4. PUBLIC COMMENT:

Ruby Cospers wanted to know why she received another letter inviting her to come to this meeting, when she already knew from the previous meeting that her case would be dismissed.

Ms. Urbi responded that this case had not been closed at the last meeting. Since the case was not closed, another letter was sent, which stated that the PRC would still consider her case.

#### 5. APPROVAL OF MINUTES

- a. Regular Meeting: March 11, 2009  
**Motion to approve minutes. M/S/C (Perezvelez/Gurgin) Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez and White.  
Noes: None. Abstain: Smith. Absent: Edwards, Huang, and Sherman.

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

- a. Status of complaints: 26 open complaints
- b. Hearings: Officer-Involved Shooting Hearing is scheduled on April 13. The PRC might have a hearing on April 8, pending one officer's decision to toll the case.
- c. Comments:

**Motion to place the following message of condolence in the minutes.**

**M/S/C (Perezvelez/Gurgin) Motion carried.**

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

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

Ms. Urbi stated, "I was deeply saddened by the horrific tragedy of Sgt. Mark Dunakin, Officer John Hege, Sgt. Daniel Sakai, and Sgt. Ervin Romans from Oakland Police Department on Saturday. On behalf of Chair Smith and the PRC, our most sincere condolences go out to all the officers, their families and loved ones.

BPD works closely with Oakland, and some of the Berkeley officers have ties with the Oakland officers. Berkeley is in a unique geographic area, because we are right in between Oakland and Richmond. This tragedy reminds us that Berkeley police are working hard daily to do their best to protect our community.

The Memorial Service is this Friday, March 27, 11:00 a.m. at the Oakland Oracle Arena."

Ms. Urbi also announced the retirement of Chief Hambleton. Commissioners asked questions related to the involvement of the PRC in the selection of the next Chief.

Commissioner White expressed his gratitude to Chief Hambleton for being very proactive with the PRC.

Commissioner Bloom expressed his gratitude to Chief Hambleton and asked about the Commission's role in the selection of the new Chief.

Chief Hambleton responded that the City Manager is planning a process where the community members will have some input, and he also plans to have the PRC involved in the process. His hiring process involved four different oral panels. One panel included three outside City Managers, a second panel consisted of Chiefs of Police, a third panel with City Division Heads and Department Heads and union leaders, and then in the fourth panel former Commissioner David Ritchie was part of it and several other community members.

Ms. Urbi reminded Commissioners that on April 1 the statement of economic interest is due to the City Clerk's office.

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

Budget is not looking good. There are some vacancies in the clerical unit. BPD is behind on police reports. The crime report will go to Council on April 21. Berkeley has the lowest crime since 1967. Violent crimes are a small percent of crime, but the numbers are up. BPD is putting much more effort into stopping robberies, which is a serious concern. Robbery rate last year

was 496. In 1998-1999 there were 800-900 robberies per year. BPD has trained crime stoppers, who receive rewards, and also has people who provide anonymous tips.

In response to a business community request, BPD plans to move the substation on Adeline Street to a new location. A computer dispatch system is coming online, which is scheduled to go live on April 28, 2009. The Chief stated he has hired 25% of the non-sworn members, 25% of the officers, promoted 40% of the sergeants, and the entire command staff with a few exceptions.

**8. COMMITTEE REPORTS (For Discussion or Action)**

- A. Regulations Review Policy Subcommittee (Bloom, Kidd, Perezvelez, Sherman)  
a. Next meeting: April 20, 6:00 p.m. at South Berkeley Senior Center.

**9. COMMUNICATIONS**

- a. Attached.

**10. PUBLIC COMMENT: Limited to item 11 only.**

No Comments.

<b>Closed Session</b>
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**The Police Review Commission recessed into closed session to discuss and take action on the following items:**

**11. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

- A. Case No. 2157 – Complainant Ruby Cosper  
**Motion to administratively close case #2157. M/S/C (Perezvelez/Smith). Motion carried.**  
Ayes: Bloom, Gurgin, Perezvelez, Smith and White.  
Noes: None. Abstain: Kidd. Absent: Edwards, Huang and Sherman.
- B. Case No. 2186 – Complainant Cynthia Papermaster  
**Motion to administratively close case #2186. M/S/C (Perezvelez/White). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.
- C. Case No. 2204 – Complainant Zina McGee  
This item was removed from consideration for administrative closure.
- D. Case No. 2214 – Complainant Lewanda Parnell  
**Motion to administratively close case #2214. M/S/C (Bloom/Gurgin). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.
- E. Case No. 2215 – Complainant James Miller  
**Motion to administratively close case #2215. M/S/C (Bloom/Gurgin). Motion carried.**

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

- F. Case No. 2216 – Complainant Vanessa Taylor  
**Motion to administratively close case #2216. M/S/C (Perezvelez/Kidd). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.
- G. Case No. 2219 – Complainant Jean Damu  
**Motion to administratively close case #2219. M/S/C (Perezvelez/Gurgin). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.
- H. Case No. 2220 – Complainant Ben Truskier  
**Motion to administratively close case #2220. M/S/C (White/Perezvelez). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.
- I. Case No. 2221 – Complainant Neng Quang  
**Motion to administratively close case #2221. M/S/C (Perezvelez/Gurgin). Motion carried.**  
Ayes: Bloom, Gurgin, Kidd, Perezvelez, Smith, and White.  
Noes: None. Abstain: None. Absent: Edwards, Huang and Sherman.

## 12. ADJOURNMENT

Meeting was adjourned at 9:00 p.m.