



Police Review Commission

**ACTION MINUTES OF THE
POLICE REVIEW COMMISSION REGULAR MEETING**

**North Berkeley Senior Center
1901 Hearst Street
Berkeley, California**

**Date: Wed., February 26, 2003
Time: 7:30 p.m.**

1. ROLL CALL: 7:40 PM
Commissioners Present: Liu, Ritchie, Sherman, Sternberg, Weinberg, White
Commissioners Absent: DeBose, Sanchez-Resnik, Yang
PRC Staff: Barbara Attard
BPD Staff: Acting Chief Meisner, Sgt. Delaney, Capt. Hambleton

2. PUBLIC COMMENT

Claudia Pitas discussed concerns that she has about findings written on PRC case number 1938. Complainant Shale Well expressed similar concerns and her support of Ms. Pitas' statement.

3. MINUTES OF THE JANUARY 8, 2003 REGULAR MEETING

White/Sternberg (Moved/Seconded) to approve the meeting minutes. Passed unanimously with Liu abstaining.

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

- a) New Filings—Four since last meeting.
- b) Boards of Inquiry—Upcoming boards were discussed.

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c) Late Filing Request from Wally Ghnaim, PRC Case #1945

Christina Garcia spoke on behalf of her client Wally Ghnaim asking for late filing in this case.

Sherman/White (Moved/Seconded) to approve the Late Filing Request for 1945. Passed unanimously.

d) Administrative Closure, Complainant Anna Marie Balance PRC Case #1956

Sherman/White (Moved/Seconded) to approve recommendation for administrative closure. Passed unanimously.

e) PRC Quarterly Statistical Report for 2002

Barbara Attard presented the statistical report and gave an overview. The level of incoming complaints in 2002 was lower this year, with 46 complaints received as compared to 57 in 2001. Over half of the cases closed in 2002 were heard a Boards of Inquiry, 26 of 50. Of the cases that went to Boards of Inquiry, 21 resulted in one or more sustained allegations of misconduct. Two cases were referred to Berkeley Dispute Mediation Service (BDRS) for mediation in 2002.

f) Policy Issues Update

- High Speed Chase—State Policy—Council Item to be prepared
- Alameda County Probation Stipulation Computer Updates—BPD Revising Policy—Will review before writing letter
- Juvenile Miranda—Change in BPD Policy—Will review before writing council item
- Use of Force at Demonstrations—Need to bring back to PRC

Commissioner Sherman asked what training is conducted regarding crowd control.

Acting Chief Meisner stated that there is on-going monthly training for the crowd control team, and when there is a demonstration there is roll call training as well.

Captain Hambleton stated that there is training at pre-demonstration briefings.

Acting Chief Meisner asked that the Commission help with urging demonstrators to be non-violent.

5. BPD CHIEF'S REPORT—See below, New Business, Item d.

6. COMMITTEE REPORTS (For Discussion or Action)

7. OLD BUSINESS (For Discussion or Action)

a) Caloca Update

Barbara Attard reported that there have been 11 requests to date. She asked for feedback from the Commission as to what information Commissioners wanted to be placed in the packets—Commissioners stated that they would like the officer's initial request. Attard also directed the Commission to City Manager Weldon Rucker's letter; she reiterated that Mr. Rucker stated that only the Commissioners who had heard the case would be able to attend the *Caloca* hearing. There is no new information on the BPA lawsuit.

Commissioner Sternberg stated that he had read Mark Schlosberg's letter regarding legislation regarding *Caloca* and urged Commissioners to write in support of the position taken in the letter. Sternberg also stated that he witnessed a *Caloca* hearing. He feels that the process as it is currently set up is a heavy burden on the PRC staff. The *Caloca II* case places the burden of proof on the PRC and he feels that it is not reasonable for staff to carry this burden. He asks that the PRC support staff in its efforts to secure funding for an additional ½ time position for this purpose. Commissioner Sternberg also stated that he believes that the *Caloca II* case states that the appeal hearings; should be open public meetings.

Chair Ritchie stated that the PRC often makes decisions on the basis of the demeanor of the complainant and/or the officer. In the *Caloca* hearing the PRC and complainant are at a disadvantage because the officer is present with a representative, but the complainant is not.

Commissioner Sternberg stated that the Commission may need to avail itself of the funds that were set aside by the Council for dealing with the process. Commissioner Sternberg suggested that Commissioners read the *Caloca* cases for more information. The cite for *Caloca II* is 102 Cal. App. 4433.

Barbara Attard suggested that a subcommittee be formed to further explore *Caloca* issues. Chair Ritchie and Commissioner Sternberg agreed to be on the subcommittee. Attard stated that issues that are being raised should be brought to the City Manager before taking further action.

b) PRC Council Items—

ADA Training for BPD—Information Item went to Council on February 11. Barbara Attard discussed the training program and acknowledged the work of the committee involving Captain Hambleton and Cathy Christiansen of BPD and Don Edwards and Eric Dibner, staff to the Commission on Disabilities. The committee met for nearly one year to put the program together.

Opposition to Council Rules Committee—Went forward on Consent Calendar on February 25, the City Manager's recommendation to review the process in 6 months was passed.

8. NEW BUSINESS (For Discussion or Action)

a) Election of PRC Chair and Vice Chair

Sternberg/Ritchie (Moved/Seconded) —Bill White for PRC Chairperson—

Elected by unanimous acclamation.

Ritchie/Sherman (Moved/Seconded) —Jon Sternberg for PRC Vice-Chairperson –Elected by unanimous acclamation.

Commissioner Sherman thanked and commended Chair Ritchie for his work for the PRC over the last year.

b) Development of PRC Workplan-Continued to next meeting

c) Recognition of Handling of Critical Mass

Chair Ritchie stated that he believes that the model that has been set up with Critical Mass—that of BPD meeting with demonstrators before the demonstration has proven to be successful and hopes that it will be used in other situations.

Barbara Attard reiterated the complaint history of Critical Mass and the policy recommendations that

were made to improve the process. Both BPD and Critical Mass embraced the recommendation to meet before the rides, and there have been no complaints this year. Attard stated that BPD, Critical Mass participants, the PRC and the Council be commended regarding their efforts in improving the relationship between BPD and Critical Mass.

Sherman/Ritchie (Moved/Seconded) to commend BPD, Critical Mass, the PRC and the Council for all efforts to improve the relationship between Critical Mass and BPD. Passed with Liu and Sternberg abstaining.

d) City of Berkeley Budget Process

Barbara Attard gave a general overview of the City's budgeting process and the difficult financial situation that the City faces. All departments were asked to submit budget proposals with 5%, 10%, and 15% cuts over the next two years.

BPD Budget—Acting Chief Roy Meisner

- In light of the City's budget shortfalls, the BPD analyzed its budget—cars and radios cannot be touched.
- A 5% cut to the BPD budget represents 17.5 Full Time Employees (FTE) officer positions. In order to save money, some positions have been civilianized.

- In addition to facing possible cuts, moving the courts to Oakland has had a serious impact on staffing as it has increased time involved for search warrants, courts, and arrests.

- There will be additional realignment as well. Strategies being considered are:
 - Reassigning positions for better coverage
 - Use of retirees
 - Better crime solving / community policing techniques

- BPD was also impacted by (Peace Officer Standards and Training) POST notification that training will not be reimbursed at the level that it has been in the past.

- BPD has asked for additional funding for the following:
- Increased overtime for training, for special events, and for increased parking enforcement staff.

Commissioner Sherman suggested political action to encourage funding at the federal level.

Chair Ritchie asked if BPD has been asked to do anything in relation to homeland security. Chief Meisner responded that the City has pro-actively worked on ensuring that the City is prepared to respond in case of a terrorist incident—training regarding terrorist attacks; keeping abreast of the national alert signals; the Health and Human Services (HHS) department has conducted some training in these areas as well. There have been no specific requests for BPD to contact people or conduct investigations for homeland security purposes.

Chair Ritchie suggested that the tactic that the BPD has taken in meeting with Critical Mass before rides would be a good one to use in handling other situations faced by BPD.

Acting Chief Meisner and Captain Hambleton stated that BPD contacted demonstrators before a demonstration last Friday. They believe that this is an effective means of maintaining the peace at demonstrations.

PRC Budget

Barbara Attard discussed the PRC budget submittal. Cuts in funding levels at 5%, 10% and 15% were included in the submittal, as part of the budget process. It is not possible to reach even the 5% level of cuts without incurring a cut in staffing. The budgeting for the requested cuts in funding levels were not recommended cuts. The cuts in staffing would be detrimental to meeting agreed-upon time lines and would seriously hinder the efficient functioning of the PRC.

Staffing for the PRC has been minimal for the last 7 years. Before this period, PRC staff included two investigators and three clerical positions. The addition a new program, the *Caloca* Appeal Hearing process (*Caloca*), has significantly increased the PRC workload. If the appeal requests continue at the present rate (requests in 8 cases over a 2 month period), Attard anticipates that staffing will be problematic in the next year. The PRC staff was functioning at maximum levels before the *Caloca* appeal process was instituted. *Caloca* has added a whole new function to the process, and a whole new set of strict deadlines. In order to accommodate the *Caloca* program, this budget includes a request for an additional .5 FTE at the investigator level.

9. COMMUNICATIONS

- IRS Forms Due
- Email Request from Mark Schlosberg Regarding Recommendations to Speaker Herb Wesson—To be placed on the agenda for the next meeting.
- City Clerk Training for Commissioners April 29 (Mandatory for Chair/Vice Chair)

10. ADIJOURNMENT

Weinberg/Sherman (Moved/Seconded) to adjourn meeting at approximately 10 PM. Passed unanimously.