



Police Review Commission

ACTION MINUTES OF THE POLICE REVIEW COMMISSION REGULAR MEETING

North Berkeley Senior Center
1901 Hearst Street, Berkeley, CA

Date: Wed., April 23, 2003
Time: 7:30 p.m.

1. ROLL CALL: 7:40 PM

Commissioners Present: Cabrera, DeBose, Ritchie, Sanchez-Resnik, Sherman, Sternberg, White, Yang

Commissioners Absent: Radisch

PRC Staff: Barbara Attard

BPD Staff: Sgt. Morizono, Lt. McBride

2. PUBLIC COMMENT

3. MINUTES OF THE MARCH 26, 2003 REGULAR MEETING
Sherman/Sternberg (Moved/Seconded) to approve minutes. Passed with Cabrera, DeBose, Sanchez-Resnik, Yang abstaining.

MINUTES OF THE MARCH 12, 2003 REGULAR MEETING
Yang/Sherman (Moved/Seconded) to approve minutes. Passed with White, Sternberg, Cabrera abstaining.

MINUTES OF THE FEBRUARY 26, 2003 REGULAR MEETING
Sanchez-Resnik/Ritchie (Moved/Seconded) to approve minutes. Passed with Cabrera, DeBose, Sanchez-Resnik, Yang abstaining.

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

- a) New Filings—3 since last meeting
- b) Boards of Inquiry—Upcoming May 1 Board of Inquiry was discussed.
- c) Recommendation for Administrative Closure, PRC Case #1958 Filed by Larua Pryor
Recommendation for closure withdrawn because complainant called and indicated that she wants to pursue her complaint.
- d) Recommendation for Administrative Closure, PRC Case #1960 Filed by Eleazer Clark Sherman/Yang (Moved/Seconded) to approve recommendation for administrative closure. Passed unanimously.
- e) Request for Acceptance of Late-Filed Case, PRC Case #1961 Filed by Kay Payne Sternberg/Ritchie (Moved/Seconded) to approve request for acceptance of late-filed case based upon clear and convincing evidence that failure to file the complaint within the initial ninety (90) calendar day statutory period was the result of surprise or excusable neglect —based upon the chaos in her life resulting from her having to leave her residence and her paperwork being misplaced, causing confusion about the filing date. Passed unanimously.
- f) Request for Acceptance of Late-Filed Case, PRC Case #1965 Filed by Aliyeh Khobod Sanchez-Resnik/Yang (Moved/Seconded) to approve request for acceptance of late-filed case based upon clear and convincing evidence that failure to file the complaint within the initial ninety (90) calendar day statutory period was the result of mistake—complainant Khobod was given incorrect information about the filing period. Passed unanimously.

5. BPD CHIEF'S REPORT

Lt. McBride informed the PRC that BPD has been updating Training and Information Bulletin #233 and will be forwarding it to the PRC.

6. COMMITTEE REPORTS (For Discussion or Action)

Caloca Sub-Committee

Commissioner Sternberg informed the Commission that the *Caloca* subcommittee has met and will be meeting with the City Attorney regarding some serious issues and concerns that they have regarding the *Caloca* process. They will keep the PRC informed.

7. OLD BUSINESS (For Discussion or Action)

- a) Policy Issue—PRC Case #1791—Complaint filed by Carol Denney—
RE: Issues Regarding Police Actions In Crowd Control Situations*

Barbara Attard explained the policy recommendation, and Carol Denney informed the PRC about her concerns and observations from the KPFA demonstrations. The following action was taken regarding issues raised in this complaint:

- Non-violent, non-resisting, voluntary arrestees committing civil disobedience were given pain compliance holds by officers making arrests.

Ritchie/Sternberg (Moved/Seconded) to recommend that BPD conduct roll call training for all officers regarding acceptable/unacceptable use of force on Category 1 “Cooperative” and Category 2 “Non-violent/non-cooperative” protestors. It should be emphasized that April 28, 1992 Council Action authorized the following level of force— Category 1—“No force should be necessary;” Category 2—No use of pain compliance holds or impact weapons (i.e. batons).” Passed with White abstaining.

- A Berkeley police officer tore a “Save KPFA” protest sign out of the hands of a KPFA supporter.

Because the BPD Crowd Management Team Manual is silent on the issue of what should be done if protest signs are confiscated, the PRC asked that Lt. Yuen or another BPD representative appear before the PRC to answer questions regarding this issue, i.e. are protests signs booked as property, evidence, destroyed?

- Onlookers were forced back too far to be able to witness the treatment of arrestees in violation of their right to observe.

Because the BPD Crowd Management Team Manual is silent on the issue of how it is determined what distance demonstrators are to be kept from police action (i.e. arrests) at demonstrations, the PRC asked that Lt. Yuen or another BPD representative appear before the PRC to answer questions regarding this issue.

- b) AB 834 (Amended Bill)—Amendment to PC 832.5 Requiring Destruction of Complaint Records— Follow-up

Barbara Attard informed the PRC that she was informed by the ACLU that this item did not make it out of the Public Safety Committee.

- c) Marijuana Arrests—Issue of Comments Made by Assistant District Attorney
RE: Prosecution of Mr. Betterton

Barbara Attard informed the PRC that staff followed up on Mr. Betterton’s allegations—the judge stated that he did not hear the alleged comments, and the public defender stated that Mr. Betterton overheard a private conversation and misunderstood the intent of what was said. The public defender stated that his office would be making a “motion to suppress” and did not expect the district attorney to follow through with charges. The Commission asked that staff follow up on this.

- d) Report on Drugs, The Drug War, and Public Health
—Report Completed by Dave Ritchie

Commissioner Ritchie presented the report and asked the PRC to endorse it.

Sherman/Cabrera (Moved/Seconded) to endorse the report. Passed unanimously.

8. NEW BUSINESS (For Discussion or Action)

- a) Policy Issue—PRC Case #1903—Complaint filed by Mr. Colin Scott
RE: Issues Regarding Handling of Child Custody Cases

Barbara Attard discussed the issues raised by Mr. Scott. No action was taken.

- b) Proposed Emergency Resolution From the Meiklejohn Civil Liberties Institute
RE: Use of Wooden and Rubber Bullets Fired by Oakland Police Officers at Peaceful Demonstrators on April 7, 2003

The commission asked that this item be brought back for possible action to the May 28, 2003 meeting.

9. COMMUNICATIONS

- Invitation to Annual Commissioner Workshop (Mandatory for Chair and Vice-Chair)
April 29, 2003

10. ADIJOURNMENT

Sherman/Cabrera (Moved/Seconded) to adjourn. Passed unanimously.