



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING

ACTION MINUTES

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

**Date: Wed., July 28, 2004
Time: 7:30 p.m.**

1. ROLL CALL: 7:45 p.m.

Commissioners Present: Chung, White Sheen Sternberg Ritchie (7:50)

Commissioners Absent: DeBose, Radisch, Sherman, (Sanchez-Resnik on leave.)

PRC Staff: Barbara Attard

BPD Staff: Sgt. Morizono, Lt. Hester

2. PUBLIC COMMENT—None

3. MINUTES OF THE JULY 14, 2004 MEETING

White/Ritchie (Moved/Seconded) to approve minutes. Passed unanimously with Sheen abstaining.

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

a) New Filings – 1 new case since last meeting

b) Boards of Inquiry— Upcoming Boards were discussed

c) Recommendation for Summary Dismissal of PRC Case #2019 Filed by Karen Oliver

White/Ritchie (Moved/Seconded) to approve the Board of Inquiry recommendation of summary dismissal. Passed unanimously.

d) Late/Timely Filing Request PRC Case #2031 filed by Frances Conway

Removed from agenda, documents not filed.

POLICE REVIEW COMMISSION NEW OFFICES: 1947 Center St. Third Flr., Berkeley, CA 94704

TEL: 510.981.4950 TDD: 510.981.6903 FAX: 510.981.4955

e-mail: prc@ci.berkeley.ca.us http:// www.ci.berkeley.ca.us/prc/

5. BPD CHIEF'S REPORT

Lt. Hester discussed the following:

- National Night Out will be held August 3.
- BPD is working with the IT department on purchase of a much-needed new public safety computer system.

6. COMMITTEE REPORTS (For Discussion or Action)

Caloca ad hoc committee—

It was reported that the *ad hoc* committee had a meeting with the City Manager.

Commissioner Sternberg stated that he believes that PRC should not participate in the *Caloca* process because it is not part of the PRC process. It is burdensome to staff. He spoke with Mark Schlosberg, he would like to meet with the *ad hoc Caloca* committee.

Chair Sternberg would like the Commission to revisit the idea of independent counsel.

Jim Chanin stated that he does not believe that the City Attorney (CA) is zealously defending the PRC. The CA has a delicate balance and defends the City. He feels that the CA is in a conflict position.

Chair Sternberg feels that the CA is not being responsive to the request of PRC to meet with them.

Commissioner Ritchie said that he has always felt that City Attorney has conflict of interest in dealing with PRC matters.

7. OLD BUSINESS (For Discussion or Action)

a) Caloca Update—Upcoming hearings were discussed.

b) Glennel Givens Officer Involved Shooting Case—Update

Commissioner Ritchie reported that the subcommittee met with Chief Meisner and some command staff on several issues:

- Redactions
- Past robberies attributed to Givens
- Protocols in place when there is mutual aid—BPD sent a follow-up memo to the subcommittee regarding mutual aid issues.

Chair Sternberg stated that the sub-committee will soon be ready to prepare report.

Commissioner White asked if the report would include recommendations for protocols for PRC investigations for officer-involved shootings.

c) Tyrone Hughes Death in Custody Case

Barbara Attard reported that she has requested the coroners report; it should be forthcoming in the next week.

d) Investigation of Complaint of PRC Case #2005, filed by Theodore Bolton—
Recommendation for Policy Review

Ritchie/Sternberg (Moved/Seconded) to adopt the staff recommendation for Summary Dismissal proceed as policy item with 3 policy issues: 1) redaction issue, 2) establishing responsibility of BPD supervisory personnel if a task is completed by non-sworn personnel, and 3) to ask the Council to ask the City Manager to open any union

negotiations needed to extend PRC jurisdiction to employees of BDP not covered at this time. Passed unanimously.

8. NEW BUSINESS (For Discussion or Action)

a) Resignation of Commissioner Sternberg as PRC Commission Chair and Election of Officer(s) to Fill Vacant Position(s)— Removed from agenda

b) Subject Officer Testimony at PRC Board of Inquiry Hearings—Invoking 1040 Evidence Code

Jim Chanin discussed the board of inquiry in PRC Case #2006 in which officers invoked 1040 of the Evidence Code, a procedure used in court to avoid disclosing information that could endanger confidential informants. Mr. Chanin stated that in an interview Officer Friedman answered most questions asked of him, but at the hearing Officer Friedman invoked 1040 of Evidence Code in what in Chanin's opinion seemed selective and self serving. The City Manager upheld the authority of the officer invoking this, and the Chief issued a directive.

Barbara Attard stated that there needs to be a procedure in place for invoking 1040 of the Evidence Code to protect confidential informants.

The Commission asked that this be placed on the agenda for the next meeting and that procedures be discussed for having a commissioner or staff be informed of the need for the confidentiality.

c) NACOLE Conference

The upcoming NACOLE conference was discussed. Commissioner White would like to see the Bay Area Police Oversight Network (BAPON) resurrected.

d) Informing Complainants of *Caloca* Appeal Process and Right to Appear if Officer Appears Sternberg/White (Moved/Seconded) To ask staff to generate a notice to complainants that any sustained findings in their case could be appealed and that they have the right to attend the appeal if the officer attends. Passed unanimously.

e) Upcoming Meetings—Not discussed.

9. COMMUNICATIONS

August 3 "Community Night Out"— was discussed. Commissioner White suggested that we do slide show for BTV to inform people about the PRC.

Solid Waste Management Commission Public Workshops to Gather Input for the Development of a Solid Waste Management Plan

10. ADIOURNMENT

White/Ritchie (Moved/Seconded) to adjourn at approximately 9:10 p.m. Passed unanimously.