



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING ACTION MINUTES

North Berkeley Sr. Center
1901 Hearst Avenue
Berkeley, California

Date: Wed., January 26, 2005
Time: 7:30 p.m.

1. ROLL CALL

7:35 P.M.

Commissioners Present:

Chung, Kidd, Radisch, Ritchie, Sherman,
Smith, Wafer, White

Commissioners Absent:

Sheen arrived after Roll Call

PRC Staff:

Dan Silva

BPD Staff:

Captain Hambleton, Lt. Yuen and
Sergeant Murray

Acting PRC Officer Dan Silva welcomed recently appointed Commissioners Kidd and Wafer and read the "Oath/Affirmation" to the Commission, swearing in Commissioner Kidd.

2. PUBLIC COMMENT

None

3. MINUTES OF THE JANUARY 12, 2005 MEETING

Commissioner Smith moved to correct the minutes of January 12, 2005, in the following places:

- 1.) Under the public comments section the word "Respectively" will be changed to "Respectfully."
- 2.) Under the public comments section "Dr. Carol Huges Willoughby," will be changed to "Dr. Carol Hughes Willoughby"

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- 3.) Under Commissioner White on page 3. “Do to the turnover of several Commissioners,” will be changed to “Due to the turnover of several Commissioners.”

Commissioner Wafer moved to correct the minutes of January 12, 2005, by removing him as absent. As Commissioner Wafer had not been notified of the meeting and was not duly appointed at the time.

COMMISSIONERS White **Moved**/ Chung **Seconded** to approve the 1/12/05 Minutes with the corrections. **Passed** with Commissioners Kidd, Radisch & Wafer **abstaining**.

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

- a) New Filings - Three new cases were filed since the last meeting. The Commission was advised that a fourth complaint was pending, regarding the January 16, 2005, “Rally Against Global Terrorism in Berkeley”

Commissioner Sherman stated that he was at the rally, as were a number of other Commissioners from this Commission as well as the Peace and Justice Commission. He wanted to commend the Berkeley Police for doing a remarkable job considering the potential for disagreement that was present at the rally. Commissioner Sherman stated that he saw the two arrests that were made and he thought that they were done professionally and he wanted his remarks on the record.

Commissioner Sherman stated that the article that is contained in the PRC packet regarding the event is a one sided piece of propaganda from a person or group with a particular agenda and he wanted his remarks on the record.

Commissioner Ritchie stated that he was also at the rally and that he seconded Commissioner Sherman’s criticisms of that particular article.

Commissioner Smith reiterated her concerns regarding the use of staff time in including various articles in the Commissioner’s packets and voiced her feeling that staff should not waste their time on things of this nature.

- b) Boards of Inquiry – Various methods of scheduling upcoming Boards were discussed by the Commission at length. The Commissioners directed staff to continue presenting sign-up sheets at each PRC Commission meeting.
- c) Appeal for Acceptance of Late/Timely Filing of PRC Case #2049, filed by Calvin Morris. The Item was carried over to the January 26th meeting because the required sixth Commissioner needed to vote on the appeal was not in attendance.

Mr. Morris appeared before the Commission and presented his reasons for filing his complaint beyond the 90-day filing period.

COMMISSIONERS White / Radisch (Moved/Seconded) to approve the Late File Passed/ with Commissioner Smith Voting No and No commissioners abstaining.

5. BPD CHIEF'S REPORT

Lieutenant Yuen stated he would like to thank Commissioner Sherman for his acknowledgement of the police work at the January 16, 2005, rally. He stated that the goal of the BPD that day was to allow for a peaceful demonstration of free speech and the protection of 1st Amendment rights of both parties. Prior to January 16, 2005, members of the police department met with both sides explaining that they wanted both sides to police themselves as well. Lieutenant Yuen stated he and other members of the police department received thanks from

the news media, people attending, City Council members, Commissioners and the City Manager. The Mayor wrote a formal letter thanking the department.

Commissioner Ritchie stated that he was there and he could not make any comments regarding any potential complaints that might have been made in individual cases; from what he saw the police department did an excellent job in handling what was potentially a volatile situation.

Captain Hambleton pointed out that a lot of the credit should go to Lieutenant Yuen for the way he and his officers handled the event.

Commissioner Sherman concurred with the remarks of Commissioner Ritchie and Captain Hambleton.

Commissioner White requested information on the BPD hiring process for the new Chief.

Lieutenant Yuen indicated that based on his information, the interviews are scheduled for February 16, 2005; after that the process goes to the City Council and the City Manager.

6. COMMITTEE REPORTS (For Discussion or Action)

Caloca ad hoc Committee:

Commissioner Ritchie reported that the ad hoc Committee has not met in many months and perhaps should be removed from the agenda packet.

Commissioner Radisch expressed his reservations regarding dis-continuing the discussion of "*Caloca*" because of staff time required in the process and the high number of cases appealed and over turned.

Commissioner Ritchie reported that Commissioners White, Chung and he had met with the City Manager concerning funding for the Commission and staff positions. During this meeting they were informed that the City and BPA were working on changing how these hearings are being conducted; the hearings will possibly be sent to an Administrative Law Judge in Oakland for hearing on the appeals.

Acting PRC Officer Dan Silva reported that he has been instructed by the City Manager's office to cease writing the response briefs in Caloca cases as of January 18, 2005. He pointed out that the response briefs would now be replaced with the actual transcripts from the Boards of Inquiry.

Commissioner Ritchie urged all of the Commissioners to contact their appointing Council members regarding the maintaining the funding for the PRC.

Commissioner White reported that there is a follow up meeting with the City Manager on February 23, 2005, concerning funding for the Commission and staff positions.

7. OLD BUSINESS (For Discussion or Action)

a) *Caloca* Update—Upcoming hearings

Acting PRC Officer Dan Silva reported on the pending cases before the appeal process.

Commissioner Sherman moved that Item 8b on the agenda (Policy Issues Regarding Treatment of Homeless People) be taken out of order because of the number of people in attendance for that item.

COMMISSIONERS Sherman / White (Moved/Seconded) **to approve the** moving of Item 8b on the agenda. **Passed** with Commissioner Smith voting No and no Abstentions.

Ms. Tirien Steinbach and Mr. Osha Neumann presented an up-date on the work of their *ad hoc* Committee:

Ms. Steinbach stated that since they first filed the policy complaint they have had productive meetings with Captain Hambleton regarding the policies and practices of the police department when handling homeless people. She stated that through a series of conversations with Barbara Attard, Captain Hambleton, Osha Neumann and herself they have come to agreement on most issues regarding the department's policies on handling homeless people.

Commissioner Smith requested an explanation of, "Roll Call Training."

Captain Hambleton explained that the department has seven patrol teams that report to work at different times. When they report for work at the roll call they are periodically exposed to training sessions regarding various issues. Some times the officers are exposed to videos and/or Sergeants presenting different materials; and sometimes-different people are brought in from outside the department for presentations.

Ms. Steinbach and Mr. Neumann provided a detailed report to the Commissioners regarding the issues that Berkeley's homeless population faces and their recommendations.

Mr. Neumann requested in light of the discussions their committee has had, that they be allowed to come back to the PRC in a number of months, and after the department's policy has been put into effect, to report on whether there has been a change in the practices of the police department in dealing with Berkeley's homeless population.

Captain Hambleton reported on the revisions of the departments, "Training Bulletins" and agreed with Mr. Neumann's request that they be allowed to come back to the PRC in a number of months and after

the department's policy has been put into effect and report on how the new training and policies are working.

Mr. David Wee, the program supervisor for Berkeley's Mobile Crisis Team and supervisor for their Homeless Outreach Team spoke about their work, as many times they are the first point of contact with the homeless here in Berkeley.

Mr. Silva reported that the Berkeley City Council allocated \$10,000 for the Berkeley Emergency Storm Shelter at their last meeting.

Commissioner Ritchie thanked the committee for their up-date report and commended them on their good work.

The commission returned to their next scheduled item:

- b) Glennel Givens Officer Involved Shooting Case—Review of Report and Recommendations from the *ad hoc* Committee-

Commissioner Ritchie presented the report for discussion.

Commissioner Radisch stated that the committee consisted of Commissioners Ritchie, Sternberg and himself and that Commissioner Sternberg is no longer with the Commission. Commissioner Radisch stated that he agreed with the report, conclusions and recommendations for the most part.

Commissioner Radisch stated that one of the conclusions of the report was that Sergeant Juster at the scene on Haste Street should have taken control and directed the Oakland officers who were at that scene throughout what followed. The conclusion was in some ways critical of Sergeant Juster and Commissioner Radisch cannot agree with that conclusion for a number of reasons.

Commissioner Radisch stated that he finds no fault with either officer involved with the shooting. He stated that while agreeing with a portion of the conclusion that the one Oakland officer may have touched off the situation that led to the shooting, he is not absolutely clear that that's true.

Commissioners Ritchie expressed his concerns regarding the two Berkeley Sergeants and three Oakland Officers at the scene. In his opinion the situation devolved into chaos. He believes they should have been looking for the possibility of confronting the suspect at that time. Commissioner Ritchie believes that there should have been more coordination and command taken by one of the Berkeley Sergeants who was in charge of that particular location. He believes it is warranted that that criticism be noted.

Commissioner Radisch stated that the committee visited the scene more than once. They reviewed all the reports, had several sub-committee meetings including meetings with Chief Meisner and other Command level officers. Commissioner Radisch does not think any of them (Sternberg, Ritchie or himself) ever thought that this was a case that involved anything other a justifiable homicide. He has no problems with the recommendations in the report and thinks this type of training is excellent.

Commissioner Ritchie stated that there is a necessity that who ever is in command of a particular situation that they no what is going on and the people around them, that they are responsible for, are aware that they are going into a situation where there is a potentially armed suspect.

Commissioner Ritchie stated that none of those elements where present at this time. He believes that it is essential that there is someone coordinating the police actions and that they do it in a rational manner because otherwise you are taken over by the events that are happening.

COMMISSIONERS White / Sheen (Moved/Seconded) moved that the ad hoc Committee's report be accepted and that the suggest policy recommendation be written up and presented.

Passed Unanimously

Commissioner Radisch stated he had no opposition or abstentions except for the qualified remarks he made about the portion of the conclusions, other wise he is voting to adopt the resolution.

c) Tyrone Hughes Death in Custody Case—Review of Report and Update

The Commission decided by consensus to hear the Tyrone Hughes Death in Custody Case Review of Report and Update at the **February 23rd**, Meeting.

8. **NEW BUSINESS** (For Discussion or Action)

a) Redaction of Records – Review of Draft General Order – Completion of Policy Case #2005, filed by Theodore Bolton

The Commission decided by consensus to hear the Redaction of Records – Review of Draft General Order – Completion of Policy Case #2005, filed by Theodore Bolton at the **February 23rd**, Meeting.

The Commission directed Mr. Silva to meet with the new Commissioners, Smith, Kidd and Wafer and orient them on the PRC Hearing Procedures.

9. COMMUNICATIONS

There was no additional discussion regarding communications.

10. ADJOURNMENT

Commissioners Sheen /Sherman (Moved/Seconded) to adjourn at approximately 10:05 p.m. **Passed** unanimously.