



Police Review Commission

**POLICE REVIEW COMMISSION (PRC)
REGULAR MEETING
ACTION MINUTES**

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

**Date: Wednesday, January 25, 2006
Time: 7:30 p.m.**

1. ROLL CALL

7:32 p.m.

Chairperson:

Chung

Commissioners Present:

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

Commissioners Absent:

None

PRC Staff:

Dan Silva, Acting PRC Officer
Victoria Urbi, Investigator

Berkeley Police Department Staff:

Chief Hambleton, Lt. McBride, Sgt. Jester,
Officer Wellington

2. PUBLIC COMMENT

None

3. MINUTES APPROVAL

- a) Approval of the January 11, 2006 and November 9, 2005 Minutes.
Commissioner Smith moved to approve the 1-11-06 Minutes at the 2-8-06 Meeting.
Commissioner Kidd seconded the motion, which passed unanimously

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

a) Presentation from Lisa Caronna, Deputy City Manager:

Ms. Caronna discussed the action the Commissioners took in the Closed Session Meeting. The City Attorney determined that the meeting did not have a legal basis.

- The Brown Act governs all City meetings. When there is a request for a closed session, the PRC Chair must make a request to the City Attorney's office, which makes that determination pursuant to the City of Berkeley Charter. This is true for every City Council and Commission meetings. This is the City's expectation for meetings.
- Mistakes happen, but there is a way to correct the mistake. She emphasized the need to work together in the future. Protocols need to be followed and this applies to everyone. It is difficult to build trust when there is no communication and respect for each other's work.

Commissioner Sherman believed the Commission complied with the Brown Act because the Closed Session Meeting was announced and noticed as a closed session in advance.

Ms. Caronna stated that the Commissioners could only have a Closed Session Meeting if there are "closed session issues" to be discussed. The City Manager is charged with all hiring and firing matters. It is out of the purview for the Commissioners to discuss this in closed session.

Commissioner Smith stated once the City Attorney notified the Commissioners that they were not allowed to have a meeting, the Commission's decision to have a meeting was a per se violation of the Brown Act. The Statute of Limitations ran for the public to make a complaint, so the Commission is not required to cure the violation.

Ms. Caronna stated that there were no complaints made, but the issue is really about the future and to try to have proper meetings before a violation occurs.

Commissioner Ritchie agreed in general with Ms. Caronna, but he believed the Commissioners did not violate the Brown Act. In his years with the PRC, they have had suspect opinions and bad legal advice from the City Attorney's Office. The Commission was dealing with not having a PRC Officer for one year. When Manuela Albuquerque sat in on the final interviews, no candidates were considered to be qualified. One staff member was invited to the interview process, but Commissioner White felt the candidates were not qualified. They did not wish to discuss this in public.

Commissioner Ritchie hopes this does not happen again. He would like to know the status of the PRC Officer position and that staff be finalized.

Commissioner Smith asked Commissioner Ritchie if he stated that this group could feel free to substitute its judgment when they disagreed with the City Attorney's advice.

Commissioner Ritchie stated that the City Attorney's legal advice has very often been wrong

and this is not only his opinion, but other Commissioner attorneys' opinions. In this case, he did not have a problem substituting his judgment.

Mr. Silva stated that none of the Commissioners said anything to him and comments were made that he was not qualified for the PRC Officer position. The Commission had an Acting PRC Officer for one year and they have not had an investigator. Mr. Silva suggested they communicate and be upfront with each other in the future.

Commissioner Ritchie stated the Commissioners were upset that there were not any qualified candidates. He told Mr. Silva to not take anything personally.

Ms. Caronna acknowledged that they take a step forward. Mr. Silva was doing everything on his own, and having Investigator Urbi on board was very dramatic.

Commissioner Kidd stated that when a Commissioner raises her hand, the Chair should recognize that. They met with Ms. Caronna. If Mr. Silva had been working this hard, many Commissioners anticipated that he would get the PRC Officer position. The decision of the hiring panel made the Commissioners suspect of a hidden agenda.

Ms. Caronna stated they were looking for a full range of hiring skills and Mr. Silva has many of those skills. He is in a unique position, because now he has support.

Commissioner Smith stated that she appreciated what Mr. Silva stated. Mr. Silva was rightfully irate about everything that was discussed. She believed Mr. Silva had done an incredible job in the temporary position and the Commissioners owed him a big debt of gratitude.

Commissioner Radish thought the meeting was called because they did not hire an investigator and he apologized for missing the point.

Commissioner Chung thanked Ms. Caronna, but echoed Commissioner Ritchie's sentiment that they need to take action on the PRC Officer position. Her goal is to move forward.

Commissioner Chung asked the Commissioners if any of them might be interested in meeting with Ms. Caronna on the staffing issue. Commissioner Smith, Kidd, and White volunteered.

b) New Filings: There has been two (2) new cases filed since the last meeting. Case #2099 (Zachary Brown) and Case #2100 (Andy Fortner).

c) Upcoming Boards of Inquiry were discussed.

d) Update on Staffing was discussed.

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

BPD Chief Douglas Hambleton's presentation on Alcohol Sales:

Few promotions: Matt Morizono promoted to Lieutenant. David Frankel promoted from Acting Sergeant to Sergeant. Officer J. Lewis promoted to Sergeant. Officer Okies

promoted to Sergeant. In patrol, there are Acting Sergeants Jennifer Wilson and Chris Stines.

Chief Hambleton started considering the rotation of assignments and transfers. Lt. Harris transferred from Detective to Communication Center. Officer Huynh went from Narcotics to Detective. Lt. Williams transferred from Patrol to Traffic. Structural changes within the organization occurred in the Special Enforcement Unit. He pulled out the Lieutenant and replaced him with a Sergeant. The Community Service Bureau needed more management control.

Property crimes have been historically high, so they are holding problem-solving meetings every Wednesday at 3:00 P.M., to discuss strategies on how to address crime in Berkeley. There has been an increase in graffiti in the commercial district. The BPD worked with Public Works and captured the graffiti crimes on video and arrested three people.

Chief Hambleton discussed complaints from neighbors in Willard Park, where Methamphetamine users were involved in property crimes, so the BPD identified people and the problems settled down.

Commissioner Smith asked why Berkeley has more property crimes. Chief Hambleton stated that the student community is not aware of security. One-third (1/3) of crimes has to do with unlock doors and windows. Residential burglary can be reduced by thirty percent (30%) if everyone locked their doors. Fifty percent (50%) of thefts are related to vehicles.

BPD sends officer all over town to take reports. Many police agencies do not do this. This is why we have high crime rates.

Commissioner Herrera asked about statistics on robberies.

Chief Hambleton stated there were 325 robberies throughout the City.

Alcohol Enforcement: Two and a half years ago, BPD received a federal grant for \$80K to do Alcohol Enforcement. Every year, 5-10 students are taken to the hospital with comas for alcohol poisoning, alcohol fatalities and drunk driving problems. The purpose is to reduce availability of alcohol to underage drinkers. BPD has different programs, such as the Minor Decoy Operations, where underage decoys go to liquor stores to buy alcohol.

Last week, the violation rate decreased to 32%. Operation trap door: police check identification cards and cite underage persons with false identifications. Impact inspections: Officer inspects liquor stores and provides education. On the first violation, the Alcohol and Beverage Control (ABC) suspends the liquor license. The Zoning Board can declare the store a nuisance.

Mr. Silva asked if there is anything the Chief could tell the Commissioners about the BPD employee, who was in the newspaper allegedly taking narcotics.

Chief Hambleton stated he could not discuss this, because there is an ongoing investigation.

6. COMMITTEE REPORTS (For Discussion or Action)

PRC Subcommittee: update regarding the Berkeley Police Department's Mutual Agreements Understandings and Policies - 2005 Publication.

PRC Subcommittee regarding PRC Regulations and possible revisions.

Chairperson Chung reported that they met with the American Civil Liberties Union Representative, Mark Schlosberg. She asked the Subcommittee to approve the Mutual Aid Policy, because the City Council is waiting for the PRC to approve this policy. The PRC needs to move on it and the Commissioners can add to it later if they choose.

Commissioner Ritchie stated we should wait to have another Subcommittee meeting to discuss the policy's approval.

Commissioner Sherman asked the Chief if the BPD has spied on political groups.

Chief Hambleton – No agency has asked BPD. They have a General Order on criminal intelligence, which requires that a criminal investigation is open.

Commissioner Herrera inquired about how to arrange a ride a long.

Chief Hambleton stated his office could arrange it anytime by calling 981-5770 or Patrol at 981-5800. Ride-alongs improve the Commission's credibility.

7. OLD BUSINESS (For Discussion or Action)

Commissioner Ritchie asked about the old business items.

a) **Tabled PRC Policy Issues:**

Glennel Givens Officer Involved Shooting Case.

Chief Hambleton was not prepared to talk about the Glenn Givens recommendations, but he is working on it.

Policy Issues Regarding Treatment of Homeless People.

Redaction of Records—Review of General Order Draft.

Mr. Silva spoke with Ms. Caronna on the redaction issue. Staff is required to investigate complaints, but information received in the police reports are redacted. The City Attorney's concern is that PRC is a public agency. Investigator's notes are kept confidential. Police reports that are not redacted can be a part of the confidential file.

8. NEW BUSINESS

None.

9. COMMUNICATIONS

See attached.

10. ADJOURNMENT

Commissioner Ritchie moved to adjourn the meeting. Commissioner Wafer seconded. Motion Passed unanimously.