



Police Review Commission

**POLICE REVIEW COMMISSION (PRC)
REVISED ACTION MINUTES**

**South Berkeley Senior Center
2939 Ellis Street
Berkeley, California**

**Date: Wed., February 8, 2006
Time: 7:30 p.m.**

1. ROLL CALL

7:35 P.M.

Chairperson:

Commissioner Chung

Commissioners Present:

Herrera, Ritchie, Sherman, and Smith

Commissioners Absent:

Kidd, Radisch, Wafer, and White

PRC Staff:

Dan Silva, Acting PRC Officer
Victoria Urbi, Investigator

BPD Staff:

Lt. McBride and Sgt. Murray

2. PUBLIC COMMENT

None.

3. MINUTES APPROVAL

a) Approval of the January 11, 2006 Minutes.

Commissioner Smith moved and Commissioner Ritchie seconded the approval of the minutes.
Commissioner Herrera abstained.

b) Approval of the January 25, 2006 Minutes.

Commissioner Herrera moved and Commissioner Smith seconded the approval of the minutes.

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

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/

a) **NEW FILINGS** – There were Zero (0) new cases filed since last meeting.

b) **UPCOMING BOARDS OF INQUIRY to be discussed.**

Case #2060 scheduled for February 13, 2006 has been postponed because that is a holiday and the subject officer will be unavailable on that day.

Case #2092 scheduled for February 16, 2006 has been postponed until March 16, 2006.

NEXT TWO HEARINGS:

Case #2069 scheduled on February 23, 2006.

Case #2064 scheduled on February 27, 2006.

BOARD OF INQUIRY ON FEBRUARY 7, 2006:

Case #2049 - Complainant Calvin Morris was not present. The Board waited until 6:30 P.M. Staff sent the Commissioners a message that Mr. Morris was present after all the board members left the building. There was an issue concerning Mr. Morris not being able to enter the building.

The Commissioners who were scheduled to hear the case decided to dismiss the case due to Complainant's absence at the Board of Inquiry. Commissioner Ritchie stated that the staff scheduled a Board of Inquiry and all the witness officers and BPD representatives were present, but the Complainant had a problem with entering the building.

OUTSTANDING FINDINGS REPORTS DUE:

Case #2066 – Hearing held on 12-8-05. Commissioner Kidd needs to submit a findings report.

Case #2054 – Hearing held on 1-12-06. Commissioner Ritchie needs to submit a findings report.

Case #2067 – Hearing held on 1-30-06. Commissioner Wafer needs to submit a findings report.

c) **UPDATE ON STAFFING.**

Acting Officer Silva provided an update on commissioner elections in response to Chairperson Chung's inquiry on whether the Commission should have elections in February.

Chairperson Chung was elected on September 14, 2005 and Vice Chairperson Kidd was elected on September 28, 2005. Under the Ordinance, elections occur after one year that the officers have served their term. Elections will occur in September after the officers have served one year.

d) **RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

PRC Case #2059 filed by Aaron Shuman

Commissioner Ritchie moved and Commissioner Herrera seconded the approval of the administrative closure recommendation. Passed unanimously.

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

BPD representative Lt. McBride stated that Chief Hambleton is currently accepting applications for entry and lateral officers. Three officers are off duty because of the war in Iraq.
(A complete audio taped copy of this discussion is available upon request.)

Chairperson Chung asked about an update on the heroin investigation involving a BPD officer.

Lt. McBride stated that the case is still a personnel issue and is still under investigation.

6. **COMMITTEE REPORTS** (For Discussion or Action)

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

Commissioner Ritchie brought information for the Subcommittee to review for the Mutual Aid Policy. PRC staff will distribute the packets to the Subcommittee.

Chairperson Chung stated the next PRC Subcommittee meeting will be on February 22, 2006. The Subcommittee has received drafts on comments of the Mutual Aid pacts. It is her goal to pass the Mutual Aid Policy, so they can pass it on to the City Council by the end of February.

7. **OLD BUSINESS** (For Discussion or Action)

a) **Tabled PRC Policy Issues:**
Glennel Givens Officer Involved Shooting Case.

Acting Officer Silva stated that Investigator Urbi will work with the Commission on a recommendation of this case.

Commissioner Ritchie stated that at the last PRC meeting, the Chief stated the Berkeley Police Department was working on this issue and recommended the Commission wait until the Chief reports back to the Commission on their findings or recommendation.

Policy Issues Regarding Treatment of Homeless People.

Commissioner Sherman asked what is the next step for the Commission.

Commissioner Ritchie stated that Chief Hambleton spoke with Osha Neuman. Mr. Neuman would draft a general order, which the Chief would review. At this point, the Commission need not take any action until this occurs.

Redaction of Records—Review of General Order Draft.

Acting Officer Silva gave an update on a message from Deputy City Attorney Sarah Reynoso on the redaction issue. Ms. Reynoso cited the law, but Acting Officer Silva stated that the PRC is charged with investigating police misconduct complaints and we are unable to fully conduct investigations when police reports have witness names redacted.

Commissioner Ritchie stated that the PRC has not had a problem with the redaction of police reports during his many years serving on the Commission. The problems only began when Captain Pittman became in charge of the records. He does not know if Captain Pittman established the recent policy of redacting the records.

Commissioner Ritchie stated that within the particular records law on redaction, there is an area that is within the discretion of an agency and the agency can choose to be less restrictive. He suggested that when Acting Officer Silva deals with the Deputy City Attorney on this issue, he consult with Commissioner Radisch, who has extensive experience on redaction of records.

b) **CALOCA Appeals Chart**

Acting Officer Silva asked the Commission if they wished to invite Deputy City Attorney Sarah Reynoso to provide an update on the Caloca appeals.

Commissioner Herrera asked for clarification on what is a Caloca hearing.

Acting Officer Silva stated it is an appeals process for officers when allegations have been sustained against them after a Board of Inquiry.

Commissioner Smith requested if Ms. Reynoso can prepare for the Commission an executive summary on why the Administrative Law Judge (ALJ) is overturning four out of five cases and what the Commission can do to lower this number of overturned cases.

Acting Officer Silva stated the Commission already receives in their meeting packets the ALJ's decisions and their rationale for overturning sustained allegations.

Commissioner Smith clarified that she does not wish to see their rationale on particular cases, but an executive summary on the analysis of the rationale for overturning cases and to show a common thread of what the Commission can do to make sure findings are not overturned.

Commissioner Herrera stated that he would like a copy of the ALJ's decisions and Ms. Reynoso's analysis.

Chairperson Chung expressed her disappointment with the appeals process because it goes against the concept of civilian review, where it should be civilians reviewing police misconduct complaints. The Caloca Appeals involves attorneys and judges reviewing cases and not civilians.

Commissioner Smith stated perhaps the ALJ might be impatient with the ramblings of some of the PRC's Findings Reports. Findings Reports should be more concise and the PRC should have a high standard.

Commissioner Chung clarified that civilian review should not be all attorneys, but it should be representative of everyone in the community, e.g. youths.

Commissioner Smith stated that just because someone is an attorney does not necessarily mean they have background on criminal law. Attorneys are trained in analyzing issues within a legal framework and with a sense of fairness. Also, those who appoint commissioners do not look at those currently serving on the commission to determine if there is a cross section of the community being represented.

8. NEW BUSINESS

a) **“Strategic Planning for 2006.”** The purpose of this item is to plan and discuss:

1. How to improve the PRC and its relationship with the community and the BPD.
2. Goals and priorities for the upcoming year (e.g. what type of training would be helpful for the Commission).
3. How to improve the efficiency and professionalism of PRC meetings.

Commissioner Chung asked staff if all four Commissioners who were absent informed the staff in advance of their absence.

Acting Officer Silva stated that they did, except Commissioner White.

Commissioner Sherman requested the discussion on Strategic Planning be postponed until the next meeting since four Commissioners were absent. The Commission voted unanimously to table the discussion.

Acting Officer Silva stated the staff will scale down the next meeting's agenda since this item will take a lot of time to discuss these important issues.

b) Orientation for new Commissioners.

Investigator Urbi stated that Commissioners Herrera, Kidd, Smith and Wafer have not attended a Commissioner Orientation. Staff will conduct the orientation on a Saturday for three hours. The proposed dates are March 11, 18 and 25th. She provided a sign up sheet.

Commissioner Ritchie stated that in the past, staff held the orientations before the PRC meetings to ensure that all staff could attend, since Saturdays are difficult to get full participation. It is imperative that all new Commissioners attend the orientation regarding writing findings reports, the history of PRC and the regulations.

Acting Officer Silva stated that there is a lot of information to cover and would require three hours, which would be difficult to do before a PRC meeting.

9. COMMUNICATIONS

See attached.

10. ADJOURNMENT

Commissioner Herrera moved and Commissioner Ritchie seconded to adjourn the meeting at 8:35 P.M.
Passed Unanimously.