



Police Review Commission

POLICE REVIEW COMMISSION (PRC) ACTION MINUTES

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

**Date: Wed., March 22, 2006
Time: 7:30 p.m.**

1. ROLL CALL

7:35 P.M.

Chairperson:

Commissioner Chung

Commissioners Present:

Herrera, Kidd, Radisch, Sherman, Smith
and Wafer

Commissioners Absent:

Ritchie and White

PRC Staff:

Dan Silva, Acting PRC Officer

BPD Staff:

Lt. Morizono and Sgt. Juster

2. PUBLIC COMMENT

None.

3. MINUTES OF THE MARCH 8, 2006 REGULAR MEETING

Acting PRC Officer Dan Silva noted a correction to Item 10: [a.m.] amended to [p.m.] Commissioner Smith requested a correction to Item 2, regarding sentence structure and also requested information be added to state what Mr. Morris's complaint was about. Mr. Silva stated that the items would be corrected.

Commissioners Wafer Moved / Smith Seconded to approve amended Minutes with the above-stated changes. Passed unanimously with Commissioner Kidd abstaining.

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

- a) New Filings: Mr. Silva reported three (3) new cases filed since the last meeting: Case #2103 (Daniel Davis, Late file); #2104 (Michelle Smith); and #2105 (Michael Delacour)
- b) Boards of Inquiry—Upcoming Boards were discussed.
- c) Late Filing /Timely Filing PRC Case #2103 filed by Daniel Davis.
Commissioner Smith questioned the correspondence sent to Mr. Davis, which listed March 17th as the meeting date. She expressed concerns regarding Mr. Davis's awareness to the actual meeting date of March 22nd.

Acting PRC Officer Dan Silva confirmed that he had been in contact with Mr. Davis and that he was aware of tonight's meeting.

Commissioners Chung /Herrera (Moved/Seconded) that the Late Filing Appeal be discussed at the next meeting, to alleviate any possible confusion with the date. Passed unanimously.

- d) Recommendation for Administrative Closure, PRC Case #2060 filed by Aleta Stewart.
Acting PRC Officer Dan Silva discussed the above case.

Commissioners Herrera/Smith (Moved/Seconded) to administratively close. Passed unanimously.

- e) “Strategic Planning for 2006.” The purpose of this item is to plan and discuss
Commissioners Chung/Herrera (Moved/Seconded) to proceed with Item 5, and save Item 4 (e) “Strategic Planning for 2006,” for discussion under Item 8, New Business. Passed unanimously.

5. BERKELEY POLICE DEPARTMENT (BPD) CHIEF'S REPORT

Lt. Morizono reported 148 applicants for the entry level test for police officer—84 were present for testing—67 passed both the written and agility tests. Oral boards will be conducted within the next 1-2 weeks. BPD will interview 25 applicants for patrol officer. BPD has been impacted in its ability to fill some special assignments due to several long-term military leaves. Currently BPD has 6 vacancies and Chief Hambleton projects anywhere from 8-14 vacancies by July 2007.

Lt. Morizono reported that BPD's Narcotics investigation is ongoing and that they are working with the District Attorney's office. He stated that because this is a criminal investigation there is no comment at this time.

6. COMMITTEE REPORTS (For Discussion or Action)

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

Commissioner Radisch stated that the main planner of the draft proposal Commissioner Ritchie was not in attendance at tonight's PRC meeting. Commissioner Radisch discussed the draft proposals and the

timeline for submittal to the City Council. He also requested that a copy be given to the BPD representative for submittal to Chief Hambleton for his review with a possible response by PRC's first meeting in April.

Sgt. Juster asked for clarity concerning the timeline for Chief Hambleton's review of the draft proposal.

Commissioner Chung stated that a hard copy of the draft proposal would be given to the BPD representative, and also that she would e-mail a copy to Chief Hambleton. She reiterated a possible feedback of the draft proposal, by BPD, at the next meeting, scheduled for April 12th.

Acting PRC Officer Dan Silva stated that if Chief Hambleton agrees with the draft proposals, it would then go into, or with the Mutual Aid Packet, for submittal to the City Council.

Commissioners Smith and Chung stated that after BPD's approval, the proposal would then be finalized through the Commission, before going to City Council.

Commissioner Radisch requested that if BPD had any specific objections to the draft proposals, to notify the Subcommittee in writing prior to their next meeting, so that the issues can be discussed at the April 12th meeting.

7. OLD BUSINESS (For Discussion or Action)

Mental Health: Presentation by Terrence Kalahar.

Terrence Kalahar updated the PRC regarding his previous visit with the Commission on January 11, 2006. Mr. Kalahar is a concerned citizen and a Berkeley Mental Health (BMH) employee. He stated that he is not representing nor speaking on behalf of BMH.

Mr. Kalahar's proposal is that Berkeley adopt a policy similar to that of San Francisco, San Diego, Los Angeles, Alameda and San Mateo County. He states that the above counties do not use police in standard 5150 calls, and that they allow the mental health professionals to handle the situation. He suggested Berkeley use practices similar to that of the San Francisco Police Department, "To be called only when a situation impends serious bodily harm, or is life threatening, or a weapon is being used."

Mr. Kalahar commented on the emotions that his clients endure at the hospital with police presence. He is hoping that the Commissioners recommend that police resources be better used in other areas. He stated that he was not there to criticize the police and praised BPD as one of the best police departments.

Acting PRC Officer Dan Silva discussed an e-mail that he received from Harvey Tureck, Berkeley Mental Health Director, requesting time to present the Division's formal position on this issue.

Mr. Kalahar stated that BMH has referred this case to the Quality Improvement Division (QID), which will speak to the Commission's recommended presentation, on April 4, 2006.

Commissioner Radisch asked BPD for any input regarding BMH's police/5150 issue.

Lt. Morizono stated BPD has not been approached in an official capacity to comment on this issue. He requested something in writing before any comment on behalf of BPD.

Mr. Kalahar stated that Mobile Crisis at BMH prefers to work closely with BPD and has a different position. He also mentioned that he has not discussed the police/5150 issue officially with BPD.

Commissioner Sherman stated that no actions would be taken on this issue until after the presentation by Mr. Harvey Tureck. He requested that BPD be given a copy of Communication #4303, from the BMH Commission. He encouraged Mr. Kalahar and all concerned individuals to attend Mr. Tureck's presentation.

Acting PRC Officer Dan Silva confirmed that he would be in contact with Mr. Harvey Tureck and update the Commission regarding any BMH matters. Mr. Silva stated that he would also discuss this issue with Chief Hambleton at their next meeting.

(A complete audio- taped copy of this discussion is available upon request.)

8. NEW BUSINESS

(a) Board of Inquiry: PRC Case #2069, filed by Haro Halton.

Commissioner Chung discussed the Board's Summarily Dismissal, on March 14, 2006. She stated that the BPA representative raised an objection because of the 75-day deadline, regarding officers being interviewed. The Commissioners sitting on the Board concluded after reviewing the regulations, that the report should constitute an interview with subject officer, and was not completed within the 75-day deadline. Commissioner Chung discussed this issue with Acting PRC Officer Dan Silva. She stated that the regulations clearly say that, "in absence of good cause," failure of the investigator to complete, and submit the report within 75-day period may result in a summarily dismissal of the case. She spoke with, Deputy District Attorney Sarah Reynoso, regarding this matter and she agreed with their interpretation, which allows the Commissioners to decide with each complaint whether or not to follow the 75-day calendar rule.

Acting PRC Officer Dan Silva discussed the regulations, which states, "may be dismissed in the absence of good cause." He stated from December 2004 to December 2005, PRC did not have an investigator.

He states that in "absence of good cause," that one-year without an investigator is good cause. Mr. Silva reviewed the last six Boards, five of which were past the 75-day deadline, but were adjudicated. Mr. Silva also discussed the PRC in 1991, with Mr. Bob Bailey as the PRC Officer, with regard to staffing and 75-day deadline issue.

Mr. Silva commented that Mr. Wellington communicated an effort to clear up gray areas and work together in communication with PRC.

Mr. Silva reported that BPA's lawsuit would be heard May 2006, in Superior Court, with City Attorney Manuela Albuquerque appearing on behalf of the Police Review Commission. He has requested that an updated copy of the suit from Attorney Albuquerque, for the Commissioners to review.

Commissioner Chung concluded by citing the Preamble and stated that PRC should make sure that this does not occur again.

Commissioner Sherman asked that since the Board made the ruling does that set precedence.

Acting PRC Officer Dan Silva stated that he spoke with Deputy District Attorney Sarah Reynoso and

was told that the regulations are set up for the Commissioners to interpret on a case-by-case basis.

Chung motioned and Commissioner Sherman seconded that the City Attorney, or Deputy City Attorney brief the Commission regarding their representation of the PRC, regarding the BPA lawsuit, on May 22, 2006. Passed unanimously.

Mr. Silva confirmed that the request would go out tomorrow morning.

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

Commissioner Chung discussed the goals, punctuality, professionalism, community outreach, relationship with BPD and an overall commitment to the accomplishments at the Commission.

i) How to improve the PRC and its relationship with the community and the BPD.

Commissioner Sherman commented on community forums completed in the past and the awareness of holding forums in the future.

Commissioner Smith suggested networking with Neighborhood Services.

Commissioner Herrera stated that one of his biggest concerns was finding information regarding Community Meetings.

ii) Goals and priorities for the upcoming year (e.g. what type of training would be helpful for the Commission).

Commissioner Chung discussed the March 11, 2006, orientation.

BPD Ride-Alongs were discussed.

The Citizen’s Academy was discussed with possible accommodations, regarding Wednesday.

iii) How to improve the efficiency and professionalism of PRC meetings.

Commissioner Chung discussed:

- a) Meetings running to long and appearing disorganized;
- b) Commissioners taking more initiative in filling Boards of Inquiry;
- c) Suggestions for effective contact with the Commissioners;
- d) Conducting meetings at the Council Chambers and the South Berkeley Senior Center;
- e) Changing the meeting time to 6:30 p.m;
- f) Reframing from answering media questions until the Findings are completed, or if an official Policy is set forth;
- g) And maintaining order and professionalism.

Acting PRC Officer Dan Silva stated that PRC is not a court of law. He agreed with order and being professional, but recommended the Commission be loose enough to understand that the

ordinance was created so Berkeley citizen's can ask questions and get answers.

Commissioner Smith stated that it is important that the presiding person, preside and that everybody defer to that person.

Commissioner Chung acknowledged.

- (c) Mr. Silva reported the PRC Officer position is ongoing. He stated that the 2007 NACOLE conference will be submitted for San Jose, CA.

9. COMMUNICATIONS

See attached.

10. ADIJOURNMENT

Commissioner Chung moved to adjourn and Commissioner Herrera seconded the motion. Passed unanimously.