



Police Review Commission

## POLICE REVIEW COMMISSION (PRC) ACTION MINUTES

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

**Date: Wed., April 12, 2006  
Time: 7:30 p.m.**

1. **ROLLCALL**

**7:41 P.M.**

Chairperson:

Chung

Commissioners Present:

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

Commissioners Absent:

N/A

PRC Staff:

Dan Silva, Acting PRC Officer  
Victoria Urbi, Investigator

BPD Staff:

Sergeant Murray

2. **PUBLIC COMMENT**

Commissioner Chung announced that due to the number of speakers that were present she was allowing each speaker two minutes to address the Commission.

**Mr. Zachary Running Wolf** told the Commissioners that it is more appalling for a police officer to get caught with drugs than an ordinary citizen. The citizens need accountability within the police department. Mr. Running Wolf stated that he was present to support Cop Watch in calling for an investigation into BPD's *Drug Evidence Investigation*.

**Mr. Asa Dodsworth** stated that if the police department protects its officers over the truth, then the community couldn't count on the police to defend or protect them. The tampering with drug evidence within the police department is a clear and present danger to all parties and the

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City as a whole.

**Ms. Aubryn Sidle** stated that she is appalled that the community had to come out to demand that there be an investigation into BPD officers tampering with drug evidence.

**Mr. Jacob Crawford** told the Commissioners that he challenges the Commission to exercise their authority and their right to investigate this scandal. There are 189 pieces of evidence that have been tampered with. How does anyone know that these drugs are not being sold back into the streets?

**Ms. Karen Hilton** stated that she is present because of the police cover up. She calls it a cover up because it has not been disclosed to the community publicly. The police would like this to slide under the radar but the challenge to the community and the Police Review Commissioners is to investigate this more fully. There are also policy issues and issues regarding citizen oversight of the department.

**Andrea Prichett** stated that she is present because she is concerned about the Police Review Commission. Cop Watch filed a Public Records Act Request to get information. Did the Commission? Cop Watch received a copy of the search warrant after reading Will Harper's article. Cop Watch decided to take it upon ourselves to go find it. Did the Commission? Where is the Commission's investigation? The City of Berkeley is depending upon the Commission and observing what the Commission will do to expose this scandal. Right now there may be people sitting in jail based on false evidence generated by members of the Special Enforcement Unit (SEU). The City has had a drug addict in charge of intake of evidence and sending it on to the District Attorney's Office so that they can prosecute cases. Five officers had keys to the drug vault. The Commission has dealt with allegations of police officers planting drugs on members of the community. When there is an insecure drug vault it is up to the Commission to act. The Chief of Police has violated the Public Records Act Request and is trying to sweep this issue under the rug. Now the Police Department is trying to tell the Community that the "drug addict" has retired so everything is fine. The City has other officers. They are the experts, specialists in drug detection. How many days did they say good morning and go into the drug vault. They walked right by him. He was nodding out in front of his Lieutenant and they did not notice. Well, if they did not notice then they are not qualified for SEU; if they did notice then they are not qualified to continue in their post. We are here to support you in doing the job that needs to be done. But if the Commission is not going to do it then you need to step aside and let some body take on that position and fight for Civilian Review and police accountability.

**Mr. Steve Freedkin** stated that he is the chair of the Berkeley Peace and Justice Commission (BPJC). BPJC is pleased to see that the Commission is working to develop a proposal regarding regulations for investigation of first amendment activities. This will ensure that the police department is not used in any way to stifle free speech, to stifle freedom of association, to stifle other first amendment rights and is very careful not to assist the U. S. Department of Homeland Security or other agencies in doing so.

**Ms. Janice Schroeder** stated that she is not a member of Cop Watch but she is a very concerned resident who is present to urge the Commission to take a very strong role in getting full transparency in the case involving Sergeant Kent as well as the other four officers. The

police patrol vehicles have on them the statement that they are “here to protect and serve” and yet right now she does not feel protected. She does not feel very safe; she is a teacher that is concerned for her students. There are times that she has to give students a ride home and the only time that she is pulled over is when she has a student of color in her car. She is very concerned that the Commission has not taken a role in demanding a full investigation and she urges the Commission to do so.

**Mr. David Schroeder** read portions of the search warrant that listed the contents of the evidence envelopes to the Commission and then asked, “Is this a police department or a pharmacy?” He is hoping that the Commission is going to do something about the unacceptable situation. He does not feel safe on the streets with officers who may be under the influence. He does not see the City doing anything. This is a chance for the Commission to shine. The PRC is a model for the Nation; other cities have based their Commissions on the PRC. This is the time to stand up and do what is right.

**Mr. Jerry Chin** is a Berkeley resident who is tired of officers stopping people in the community and when you ask them why did they stop you, they say because we are protecting you.

**Council Member Kriss Worthington** stated that hopefully all of the Commissioners are working their hearts out trying to do a real good job in a very difficult and challenging situation. He believes that the fault in this situation lies not with the members of the Police Review Commission but with the City Council. The City has refused the financial support necessary to sustain this Commission in an effective way. The people of Berkeley deserve to have this Commission fully funded. Parts of the City have stood in the way when the Commission tried to take care of its staffing issues. The Community needs to put enormous pressure on the City Council in the June budget code to reinstate the cuts that were made in funding the Commission. I am here to offer you encouragement and support. If the Commission is going to ask for reinstatement of the cuts there are several council members who will stand behind me in support.

**Ms. Beverly Dove** stated that she is here to address busting a situation, not busting people. If there is a situation that is oppressing people that is unjust and unfair then that situation needs to be dealt with. This is more significant and more important than impeachment because this is like a stain on a dress. The dress can be taken to a cleaner. We need to clean this mess up.

**Mr. Michael Diehl** stated that he works with people out in the streets. He sees a lot of people go to prison for using drugs. The drug war is a disaster and should be called off. If we can't keep officers off of heroin then where are we going with it? There have been rumors about this for years. In the 80s, Mr. Diehl was a mover. While moving an officer into the Berkeley hills he asked the officer how did he get so much money and the officer told him, “We take the drugs, we sell them; that's how I supplement my income.” There are rumors of officers using speed so they can stay up at night harassing people and telling people what they are doing. Mr. Diehl thinks this is the tip of the iceberg and that the Commission should really take a look at the situation.

**A student from U. C. Berkeley** who's name could not be determined on tape suggested to the Commission that they might consider an outside investigator to conduct the investigation. He

believes that the Law Enforcement Agencies in Alameda County are linked in a way that could disrupt the investigation. He pointed out that there has been no investigation of the officer's home even though other drug dealers have their homes and place of work searched. In the case of Officer Kent the investigators only went into his office drawer, his office locker, and the surrounding work area.

**Commissioner Sherman** stated that he wanted to thank the members of Cop Watch for appearing before the Commission on such a very important issue. Commissioner Sherman stated he could not speak on the issue, as it was not on the agenda. However he wanted to draw people's attention to item #6 on the agenda. "Update regarding the Berkeley Police Department's Mutual Agreements Understandings and Policies." Commissioner Sherman stated that the PRC and the Peace and Justice Commission are working on a draft of Regulations for Investigations of First Amendment Activities; and what will be the reaction and inter action of the Berkeley Police Department if Bush's Justice Department, Homeland Security and F.B.I. come into Berkeley to infiltrate and inform and send undercover agents into groups that are against the war? He encouraged the audience to follow this issue as he considers this issue an extremely important one.

**Chairperson Chung** thanked everyone for coming and giving the Commission feedback on very important issues. The Commission will consider what was said and will report back on the next step involved.

**Commissioner Ritchie** asked Sergeant Murray if there was regular drug testing within the Berkeley Police Department?

**Sergeant Murray** stated that there is no drug testing of its employees in the City of Berkeley. However he acknowledged that there are testing requirements by State authorities such as DMV in order to operate certain vehicles or machines.

3. MINUTES APPROVAL

Acting PRC Officer reported that the approval of The Minutes of March 22, 2006, would be carried over until the next Commission meeting of April 26, 2006.

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

Acting PRC Officer reported that there were three (3) new cases filed since the last meeting: Case #2106 (Charles Smith, Late File); #2107 (Jonathan Ford) and #2108 (Karla James).

a) Acting PRC Officer reported on the up-coming Boards of Inquiry

b) Late file Petition Case 2103 Daniel Davis

Commissioner Radisch **Moved** / Smith **Seconded**, not to accept the Late Case #2103 Motion **Passed unanimously**.

c) Late file Petition Case 2106 Charles Smith

Commissioner Herrera **Moved** / Kidd **Seconded**, to accept the Late Case #2106 Motion **Passed** with Commissioner White abstaining

d) Petition For Rehearing Case 2049 Calvin Morris

Commissioner White **Moved** / Radisch **Seconded** to accept the Petition For Rehearing Case 2049. Motion **Passed** with Smith voting **No** on the motion and Chung abstaining.

- e) Petition For Rehearing Case 2069 Haro Halton  
Commissioner Ritchie **Moved** / Kidd **Seconded** to accept the Petition For Rehearing Case 2069 based on the fact that under the PRC Regulations, the Commissioner have the discretion to hear this case and others. Motion **Passed** with Smith abstaining.
- f) Petition For Rehearing Case 2092 Paul Popa & Others  
Investigator Urbi reported that Mr. Popa was out of town and had a flight canceled preventing him and his family from appearing this evening. By consensus the Commissioners will hear the item at their April 26<sup>th</sup> meeting.
- g) Administrative Closure Recommendation Case 2102 Haro Halton. By consensus when the complainant elects to close their own case, **No** vote is needed by the Commission. Case Closed.
- h) Administrative Closure Recommendation Case 2100 Andy Fortner  
The recommendation is withdrawn by staff due to the fact that the complainant has made himself available to staff.
- i) Administrative Closure Recommendation Case 2077 Randal Potter By consensus when the complainant elects to close their own case, **No** vote is needed by the Commission. Case Closed.
- j) Recommendation for Summary Dismissal Case 2064 Frank Briggs  
Commissioner Sherman **Moved** / Herrera **Seconded**, to accept the staff recommendation for Summary Dismissal of Case 2064 Motion **Passed unanimously**.
- k) Administrative Closure Recommendation Case 2070 Philip Gofer  
By consensus when the complainant elects to close their own case, **No** vote is needed by the Commission. Case Closed.
- l) Copy of Berkeley Police Association lawsuit against City of Berkeley Police Review Commission.  
Staff reported on the status of the lawsuit against the Commission and will keep them advised of upcoming developments.

5. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

BPD representative Sergeant Murray had nothing to report at this time and had to leave due to a hostage situation within the City Of Berkeley.

The Memo from Chief of Police Douglas Hambleton regarding Draft Regulations for Investigations of First Amendment Activities was distributed to the Commission.

6. COMMITTEE REPORTS (For Discussion or Action)

Commissioner Ritchie provided a PRC Subcommittee Update regarding the Berkeley Police Department's Mutual Agreements Understandings and Policies

Mr. Steve Freedkin, Chair of the Berkeley Peace and Justice Commission requested that the Commission hold off on a final vote sending the Draft Regulations for Investigations of First Amendment Activities to the City Council.

Commissioner Sherman suggested that because of the tremendous overlap on this issue the Peace and Justice Commission and the PRC should find a way of working together on the final language that gets passed.

Commissioner Radisch felt the Chief's e-mail response was lacking in specific objections regarding the draft document.

After lengthy discussion, the Commissioners decided by consensus to hold off on any vote or action on the matter until those Commissioners who have not reviewed the total Berkeley Police Department's Mutual Agreements Understandings and Policies packet have done so. Chairperson Chung advised those Commissioners that they have the next two weeks to get that done at the PRC office.

7. OLD BUSINESS (For Discussion or Action)

None

8. NEW BUSINESS

None

9. COMMUNICATIONS

Attached.

10. ADJOURNMENT

Commissioner Sherman **Moved** / Herrera **Seconded** to adjourn the meeting. Motion **Passed unanimously at 9:40 p.m.**