



Police Review Commission

POLICE REVIEW COMMISSION (PRC) ACTION MINUTES

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

**Date: Wed., May 24, 2006
Time: 7:00 p.m.**

1. **ROLL CALL**

7:05 P.M.

Chairperson:

Chung

Commissioners Present:

Kidd, Radisch, Ritchie, Sherman, and White

Commissioner(s) Absent:

Herrera & Smith

PRC Staff:

Dan Silva, Acting PRC Officer

BPD Staff:

Lt. Lee & Sergeant Juster

2. **PUBLIC COMMENT**

None

3. **MINUTES APPROVAL**

Approval of the May 10, 2006 PRC minutes,

Commissioners White / **Moved** / Ritchie **Seconded** for approval of Minutes. Motion **Passed unanimously**.

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

a) New Filings: Mr. Silva reported that there were no new complaints filed since the last meeting.

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b) Boards of Inquiry to be discussed.
Discussion of Boards of Inquiry: Mr. Silva distributed the schedule of the upcoming Boards of Inquiry for Commissioner sign up.

c) Findings
Mr. Silva reported that there are outstanding findings in the Leonard Turner Case 2078 with writers, Commissioner Herrera (Majority) & Chung (Minority)

Mr. Silva reported that there are outstanding findings in the Paul Popa Case 2092 with writer, Commissioner White.

d) Review of new Sgt. Kent's related complaints.
Mr. Silva reported on Ms. Andrea Prichett's Case 2115 as not being an aggrieved person in the matter, as called for in the PRC's Regulations. Mr. Silva reported that the PRC Regulations II 1. d. State, "If there is no aggrieved person able to initiate a complaint, or in any case involving the death of a person, the Commission may, at any time, with five (5) affirmative votes, authorize an investigation or such other action as it deems appropriate. If such an investigation results in a Board of Inquiry, the Commission may designate any person to act in the role of the complainant."

Commissioner Ritchie questioned, why the complaint was recorded as a late file? Mr. Silva stated that the date of incident is recorded as the first date that an officer or official of the City or employing agency becomes aware of the incident. That date in this matter is January 18, 2006.

Commissioner White stated in lieu of the complaint, an appointment of a sub-committee could be a remedy. In viewing the complaint, it does appear that any of the accusations may result in sustained findings. However, a sub-committee could go in and get the relevant information and make it public with policy recommendations.

Commissioner Ritchie stated that his inclination was to do a basic investigation without the assumption that we would hold a Board of Inquiry, but to get all the information that we can and then make a decision and do it on our own volition instead of accepting this complaint.

Commissioner Radisch stated that he had a problem with doing anything at least without more information coming from a citizen or someone else. When he was a prosecutor, he was dealing with standards of proof beyond a reasonable doubt and probable cause and now as a defense attorney representing parolees he is dealing with standards of probable cause and reasonable suspicion. Everything that he knows about this case at this stage indicates that there is not even a reasonable suspicion of police misconduct. Until the PRC gets to that stage, he does not believe that the Commission should be wasting its time with it.

Commissioner Sherman stated that he felt the same as Commissioner Radisch regarding the matter.

Commissioner White stated that he was looking for a policy recommendation regarding the possibility of drug testing within the police department.

Commissioner Sherman stated that he was fundamentally opposed to drug testing.

Commissioner Chung stated that the Commission owes the public and all the people that have come to our meetings, to conduct a basic investigation.

Commissioner Kidd stated that she respectfully disagreed with Commissioner Chung and that the subject officer had already been sentenced and the case had already been completed. Commissioner Kidd stated that she was in favor of creating a sub-committee that could create some changes that would compliment the changes the police department has in place now. This case was a wake-up call but that it's already out of the Commission's hands, so the Commission needs to move forward so that it won't happen again.

Commissioner Sherman reminded everyone that the City Manager had sent a written communication requesting that the Commission stay any action on the matter until P.O.S.T. (Police Officers Standards & Training) had completed their examination and recommendations.

Commissioner White stated that he did not want this issue swept under the rug. Berkeley should be in the forefront of policies and procedures that would prevent these types of incidents from occurring.

Commissioner Chung proposed the formation of a sub-committee to examine the department's complete investigation of the Sergeant Kent investigation and report back to the full commission, while waiting for the results of the P.O.S.T. material.

Commissioners Chung / **Moved** / Kidd **Seconded** for approval of the formation of a sub-committee to examine the department's complete investigation of the Sergeant Kent investigation and report back to the full Commission. Motion **Passed with** Kidd, Ritchie, Sherman, Chung and White (Yes) and Radisch (No)

Commissioner Ritchie made a motion that Andrea Prichett's Case 2115 not be accepted based on the reading of the PRCs Regulations, II. 1. a. "Complaints may be made by an aggrieved person."

Commissioners Ritchie / **Moved** / Radisch **Seconded** not to accept Case 2115 based on the reading of the PRCs Regulations, II. 1. a. "Complaints may be made by an aggrieved person." Motion Passed unanimously

5. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

- BPD representative. Lt. Lee informed the Commission that the department had nothing to report this evening.

6. COMMITTEE REPORTS (For Discussion or Action)

PRC Subcommittee: update regarding the Berkeley Police Department's Mutual Agreements. Understandings and Policies - 2005 Publication / Draft Regulations for Investigations of First Amendment Activities

The Commission instructed Mr. Silva to contact Captain Gustafson for his available dates to meet with the PRC Subcommittee regarding the Draft Regulations for Investigations of First Amendment Activities

Commissioner White made a motion that the Commission approve the Berkeley Police Department's Mutual Agreements Understandings and Policies - 2005 Publication and send it on to the City Council.

Commissioners White / **Moved** / Radisch **Seconded to approve** the Berkeley Police Department's Mutual Agreements Understandings and Policies - 2005 Publication and send it on to the City Council. Motion **Passed unanimously**.

7. OLD BUSINESS (For Discussion or Action)
None

8. NEW BUSINESS
None

9. COMMUNICATIONS
The Commission briefly discussed their communications received from the City's Planning Department.

Commissioner White suggested that the Commission host a reception in the fall, for BAYPON (Bay Police Oversight Network). The Commission by consensus instructed Commissioner White to take the lead with staff support on hosting the event.

10. ADIJOURNMENT
Commissioners Sherman / **Moved** / Kidd **Seconded** to adjourn the meeting. Motion **Passed unanimously at 8:25 p.m.**