



POLICE REVIEW COMMISSION (PRC) MINUTES

Meeting of Wednesday, June 14, 2006 – 7:00 P.M.
South Berkeley Senior Center, 2939 Ellis Street, Berkeley, California

1. CALL TO ORDER BY CHAIRPERSON ANNIE CHUNG at 7:07 P.M.
2. ROLL CALL AND ATTENDANCE

Present: Chairperson Annie Chung
Vice Chairperson Sharon Anne Kidd
Commissioner Michael Sherman
Commissioner Sherry Smith
Commissioner William White

Absent: Commissioner Danny Herrera
Commissioner Jack Radisch
Commissioner David Ritchie

PRC Staff: Victoria Urbi, PRC Officer
Dan Silva, Investigator

BPD Staff: Lieutenant Morizono
Sergeant Murray

2. PUBLIC COMMENT

Lisa Caronna, Deputy City Manager, discussed the Memorandum from the City Manager regarding the change of the PRC Officer. Ms. Caronna thanked Investigator Silva for serving as Acting PRC Officer for a year and a half. He helped her pursue an in depth understanding of the casework and issues before the PRC. She enjoyed working with him. He will continue to bring his skills and talent by continuing to work with the PRC. She acknowledged all the great work he has done and for stepping up to the challenge of Acting PRC Officer.

Ms. Caronna announced to the Commission that Victoria Urbi has accepted the PRC Officer position, as stated

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in the agenda packet. Ms. Urbi has worked as a PRC Investigator for the last six months and will continue to work closely with Investigator Silva. She looks forward to working with both Ms. Urbi and Investigator Silva as the Commission moves forward. She also acknowledged Chairperson Chung, who is moving on to a new job. She appreciated all the dedication that Chairperson Chung has brought on to the Commission.

Commissioner Sherman thanked Chairperson Chung for her work and he thanked Investigator Silva for serving as the Acting Officer for the long period of time that there was no investigator.

Chris Topeko: A mayoral candidate. He and Copwatch advocates went to the City Council Meeting on June 13, 2006, to participate in the police crime reduction strategy meeting. They expressed concern regarding former Sgt. Kent's case because the case seemed to reach a "wall of non-action." The citizenry must be made aware of what is going on concerning police officers, who get off for crimes that people are thrown in jail for.

Zachary Running-Wolf Brown: A mayoral candidate. Mr. Brown stated that the former Sgt. Kent problem is a department problem with BPD. The BPA is trying to dismiss the PRC Board and he was present to support the PRC. Mr. Brown wishes to have an investigation of the Kent matter.

Unidentified homeless woman stated that many homeless people are thrown in jail. The criminalization of homeless people, who cannot speak or wish to remain anonymous. The Kent matter is a hypocritical situation.

Jay: Member of Copwatch and student at U.C. Berkeley. He stated that something went really wrong with this case because there were so many angles that police would have taken in any other case, but they did not in the Kent matter. Police did not investigate Kent's vehicle or home. They did not ask him to name anyone else who was involved in the case, which is the first thing people do in normal drug cases. Someone does not want the people to know what happened. PRC is needed to step up and investigate. Kent committed a crime in this community and nothing happened. He is now getting a pension.

Jacob Crawford: Member of Copwatch. Mr. Crawford wants PRC to do something with the investigation of how BPD investigated the Kent matter. He had an officer, who was part of the drug task force, brandish an M-14 at him yesterday.

3. APPROVAL OF MINUTES OF MAY 24, 2006 MEETING

Commissioner White moved to approve the minutes of May 24, 2006 meeting and Vice Chairperson Kidd seconded. **The motion carried. The Board voted 4-0-1 with Chairperson Chung, Vice Chairperson Kidd, Commissioner Sherman and Commissioner White voting in favor and Commissioner Smith abstaining.**

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

a) New Filings: There has been one (1) new filing since the last meeting – Case #2120 (Thuon Chen)

b) Discuss Boards of Inquiry

June 21 – Crawford Hearing: Comm. Chung, White and Kidd.

June 29 – Bolton Hearing: Comm. Chung, Kidd and Sherman.

July 5 – Morris Hearing: Comm. Radisch. Need 2 more Commissioners.

July 10 – Halton Hearing: Comm. Kidd, Radisch and Smith.

c) Discuss Findings

Outstanding Findings:

- Case #2078 – Writer: Comm. Herrera
- Case #2092 – Writer: Comm. White stated he has his findings.
- Case #2100 – Writer: Comm. Sherman.

d) Appointment of PRC Officer

Investigator Silva stated that he has been the Acting Officer for 18 months. He gave his best because he believes in civilian review and transparency of government. He has seen civilian review expand from Berkeley since 1973 to 2006. Over 106 cities across the nation have some form of civilian review. That is quite a testament to the City of Berkeley. Berkeley is the first elected body by ordinance in the country. Investigator Silva is staying in the Investigator position, because he still believes in civilian review. Berkeley is one of the finest places to work.

One of his last recommendations was that Berkeley should hire Victoria Urbi. He is not saying that the City did this based on his recommendation, but it is the truth. He met Ms. Urbi in Oakland through the Citizens' Police Review Board. She is the "new guard" and much younger than Investigator Silva, who will be sixty years old in August. She brings to the position her "...youth, experience and wisdom, which all are quite formidable."

Ms. Urbi is one of the "quickest learners" that he had the pleasure of working with, and has a "delightful personality." Most importantly, the PRC is ready for "...new, young blood leadership." Investigator Silva introduced the new PRC Officer, Ms. Urbi.

Chairperson Chung welcomed PRC Officer Urbi and thanked Investigator Silva for his accomplishments on the Commission.

See attached text of speech by PRC Officer Urbi.

e) Complainant Andrea Prichett's appeal of PRC Commissioners' decision not to accept her Complaint No. 2114

Ms. Prichett referred to the minutes and understood that the reason her complaint was denied was because she is not an aggrieved party. The issue is also whether or not her complaint was late. Ms. Prichett read from the Regulations, page 2, "Initiation of Complaints," which states, "Complaints may be made by an aggrieved person. No complaint will be deemed filed with the Commission until it has been reduced to writing and signed by the Complainant."

Ms. Prichett noted that the language is "may" and that complaints do not have to be made by an aggrieved person. She understands that with five Commission votes, the Commission may accept complaints without an aggrieved person. She fears that once the Chief issues his report, it will go back to business as usual. Her concern is that there needs to be a Board of Inquiry because she believes these officers should be compelled to be interviewed by the PRC to explain their involvement in or their understanding of misconduct that occurred.

286 envelopes were tampered with and this violates policies of this department. There are five possible subject officers and five of them have the keys. PRC needs to determine who are the subject officers. The Special Enforcement Unit has been compromised by this scandal, because when a case hits the court, the credibility is blown. She wants the PRC to initiate an investigation. She understands the PRC created a subcommittee, which should compel these officers testimony before the commission.

Ms. Prichett stated that the investigation depends on how the Commission interprets their Regulations and what the Commission is willing to do to defend their interpretation. The public is asking how much drugs were actually seized. She asked, "How much drugs would be in 280 envelopes? The hypothesis that Kent took that much drugs – is this possible? Is this normal of one single addict? If you're talking about restoring relations, there's an erosion of public confidence. This is the mother of other complaints. If we don't get to the root of this problem, there will be many other complaints of wrongful arrests, wrongful evidence, etc..."

Copwatch will help PRC. There is the same cops and the "...new guy, Officer Chu; there has been some speculation about him." The notion that the complaint is late, she pleads "excusable neglect" (See Regulation, Section II, 1-B). There was no subject officer at the time she filed her complaint, because BPD did not release any information on the identity of the officer.

Commissioner White asked if this was an action item.

PRC Officer Urbi advised the Commission that if there is no aggrieved party to the complaint, the Commission can vote with five affirmative votes to authorize an investigation. Another consideration is the 4-19-06 memorandum from the City Manager, which states that Chief Hambleton has asked P.O.S.T (Peace Officer Standards and Training) to conduct an independent review of BPD's narcotics handling procedures. The City Manager felt the appropriate role of the PRC was to review and comment on POST's recommendations after they conduct their review.

Commissioner Sherman believed this is "apples and oranges" because POST is reviewing how evidence is handled. He asked whether the Commission has the capability to launch a full-scale investigation. The District Attorney's office already investigated this case and interviewed the officers. He did not believe we have subpoena power.

Commissioner White and Ms. Prichett stated that PRC does have subpoena power.

PRC Officer Urbi advised that the subpoena power is through the City Manager, who can ask the Chief to order the officers to attend the interviews and hearings. This is an administrative order, as opposed to a court-ordered subpoena.

Ms. Prichett stated that PRC must reserve the right to interview officers. If the District Attorney is the only one who is asking the questions, there is a conflict of interest. Sgt. Kent's job was to provide evidence to the D.A.'s office. PRC should think of itself as an independent civilian review body. PRC has experience that the D.A. does not have. PRC has been watching these cops over time. PRC must claim this power and not wait for BPD to give information to PRC. This creates the perception that PRC is just a "paper pushing, powerless, ineffective agency." If the PRC investigates this case, PRC establishes for the record some foundation and guidelines and if there are further allegations in the future, PRC has something to work with. The problem did not go away by Sgt. Kent retiring and the problem is eroding the department.

Commissioner Sherman requested a Point of Information. If PRC decided beyond what the Commissioner did at the last meeting, what are the alternatives?

PRC Officer Urbi advised that the item on the agenda is whether or not the Commission should accept the appeal of Ms. Prichett's complaint to investigate BPD's handling of the Sgt. Kent matter.

Ms. Prichett stated that her complaint is requesting PRC investigate Sgt. Lindenau, Sgt. Reece, Lt. Yuen,

Captain Gustafson, because these officers had access to the drug vault.

Commissioner Chung stated that at the last meeting when the Commission decided to form a subcommittee, Commissioner Ritchie stated the PRC reserves the right to initiate an investigation after review of the documents. Due to the extensiveness of the report, the subcommittee should review the police reports first before deciding to initiate an investigation. Commissioner Chung has met with Mayor Bates and she informed him about the City Manager's recommendation to wait for the POST recommendations. Commissioner Chung also believes that PRC should wait for the POST recommendations.

Commissioner Sherman moved to accept Ms. Prichett's appeal. The motion died for lack of a second. Commissioner Sherman requested to table his earlier motion until the next meeting, because the Commission was short several commissioners. He moved to reconsider the item until the next meeting.

Commissioner Smith stated that at the last PRC meeting, there was a unanimous decision not to accept the complaint on the grounds that by any definition of an aggrieved party that Ms. Prichett did not have the aggrieved party status. Commissioner Smith stated that the Commission has already decided not to authorize an investigation. Therefore, a motion to table would not be in order.

Ms. Prichett stated that the minutes do not specify the purpose of the subcommittee.

Commissioner Kidd asked if a subcommittee was formed and who was on it.

Commissioner Chung stated that the subcommittee consists of Commissioners Kidd, White and Smith.

Investigator Silva stated that the Commission formed a subcommittee to review BPD's investigation and report back to the Commission as to the future course of action will be. BPD's investigation is in the PRC office. He stated that Commissioner Ritchie stated the subcommittee can recommend an investigation.

Ms. Prichett asked when the subcommittee meets and can the public attend the meetings.

Commissioner Chung stated that the subcommittee would decide when the meetings would be held.

Commissioner Kidd stated the subcommittee would have to meet first to decide on the agenda. The subcommittee will decide whether to allow Ms. Prichett to sit on the subcommittee. Alternatively, Ms. Prichett can meet with the subcommittee to share her ideas, so that the subcommittee can determine whether to implement her suggestions.

Commissioner Sherman emphasized the seriousness of this issue. The Commission should look into this matter. He stated PRC has just received the report. He shares the concern of Copwatch.

5. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Lt. Morizono stated that on the previous night, the Chief made a presentation to the City Council on the department's crime reduction efforts throughout the City. Some of the highlights from the 2006 First Quarter Report are:

- Part 1 crimes were up 3.6% from 2004 to 2005.
- In 2005, there were 546 incidents of Part 1 crimes, which were up from 527 in 2004.
- During the same time period, property crimes were 8.6%. In 2005, there were a total of 3400

- auto burglaries that comprises a total of 6% of the total property crimes reported for the year.
- Total incidents of violent crime went down 5%. This year, there were 133 incidents of violent crime compared with 140 incidents during the First Quarter last year (through March).
 - Property crimes are down 3.1% for the First Quarter of this year as compared to last year's First Quarter.

Police Hiring – at the end of the month, BPD will bring in seven new officers. They will enter the FTO (Field Training Officer) Program. The Chief is looking to send an additional four officers to police academies.

Commissioner White asked what are Part 1 crimes. Lt. Morizono stated these are murder, rape, robbery, felony assault, burglary, grand theft, auto theft and arson.

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.

Chairperson Chung is working on a letter to move forward the 2005 Publication to the City Council with a note that the subcommittee is working on a Draft Policy Proposal regarding First Amendment activity. Chairperson Chung asked Sgt. Murray who the contact person is for working the Draft Policy Proposal.

Sgt. Murray stated the contact person is Captain Gustafson.

PRC Officer Urbi stated that Captain Gustafson informed staff that he had been away for two weeks, which was why he could not provide a time to meet with the subcommittee. However, Captain Gustafson noted that he was present at the meeting with the Chief and the PRC subcommittee. His understanding from that meeting was that BPD would propose language for the policy and would provide this to the subcommittee for review.

Commissioner Chung asked for a time line on BPD's response to the proposal.

7. OLD BUSINESS (For Discussion or Action)

Police report of Sgt. Kent's investigation and attachments - Commissioner Chung stated that the Commission has discussed this.

8. NEW BUSINESS

None.

9. COMMUNICATIONS

Attached

10. ADJOURNMENT

Chairperson Chung announced that this was her last meeting as Chair. She joined in August 2002. She has learned a lot from the experience. She wished to thank everyone for the opportunity. She has

contacted the Mayor's office and will be assisting them in finding a replacement.

Commissioner Sherman stated that he has been incredibly excited and impressed with her energy, commitment and hard work that she has put into this commission. She will be sorely missed. He wished her all the best.

PRC Officer Urbi advised that since the Chair has resigned, Vice Chairperson Kidd should become the Acting Chair. She recommended that at the next meeting, the Commission hold an election to elect an Interim Chair until Commissioner Chung's term formally expires on September 14, 2006. This will be placed on the agenda for the next meeting.

The Board adjourned at 8:30 P.M.