



## **POLICE REVIEW COMMISSION (PRC) MINUTES**

**Meeting of Wednesday, June 28, 2006 – 7:00 P.M.  
North Berkeley Senior Center, 1901 Hearst Avenue, Berkeley, California**

1. CALL TO ORDER BY ACTING CHAIRPERSON SHARON KIDD at 7:00 P.M.
2. ROLL CALL AND ATTENDANCE

Present: Acting Chairperson Sharon Anne Kidd  
Commissioner Danny Herrera  
Commissioner Jack Radisch  
Commissioner David Ritchie  
Commissioner Michael Sherman  
Commissioner Sherry Smith  
Commissioner William White

Absent: None.

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Lieutenant McBride  
Sergeant Juster

BPA: Henry Wellington

3. PUBLIC COMMENT

**Zachary Running Wolf Brown:** A Mayoral candidate and Native American leader. Mr. Brown expressed dismay over the handling of former Sergeant Kent's investigation. He hoped PRC would bring this issue to the City Council. Mayor Bates said this is a personnel problem, but it's a criminal problem. There is a cover up. He has personally seen former Sergeant Kent on duty and it takes a lot to consume five garbage bags of dope.

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**Andrea Pritchett:** Copwatch member. Copwatch has made a serious effort to become acquainted with the police report investigating former Sergeant Kent. They have read and discussed it. They are concerned that there is not an intensity of activity occurring with the PRC. The report revealed serious questions and possibility of other crimes that may have occurred, the possibility that the SEU is unable to police itself. Why was not the Chief more concerned and aware of the problem? Command staff knew that evidence was not making it to court on time and this did not raise a suspicion?

PRC has a thirty-seven (37) year legacy to protect. The BPA's lawsuit against PRC and their attempt to close public hearings – this is a “big year” for PRC. She hopes PRC will report to the City Council members about what is going on. The PRC has many complaints, but this is the “mother of all complaints.” Copwatch can provide any support the PRC needs. But PRC needs to step up.

**Jake Gelender:** Copwatch member and U.C. Berkeley student. He read a passage by Inspector Scarlett from the 900 page report (one of the two investigators): “Uh, you know, a lot of these things, no one has done anything wrong. We still just got to be sure, because you know, in the public's eye, we got to make it appear like you're doing the right thing and an investigation is being done. You know....not to say that anyone has done anything wrong.” This was one of the chief investigators.

When the subcommittee approaches this, they need to make the investigation as broad as possible and step out of these documents given by BPD and the District Attorney's Office. It does not appear that the investigators were really trying to get at the heart of the issue.

#### 4. APPROVAL OF JUNE 14, 2006 MINUTES

Commissioner Smith moved to approve the minutes of the June 14, 2006 meeting and Commissioner Sherman seconded. **The motion carried. The Board voted 4-0-2 with Acting Chairperson Kidd, Commissioners Sherman, Smith and White voting in favor and Commissioner Herrera and Radisch abstaining.**

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

A. New Filings. There were no new filings since the last meeting. There are 29 open cases.

B. Discuss Boards of Inquiry.

June 29 – Case #2075, Bolton: Comm. White, Kidd, and Sherman.

July 5 – Case #2049, Morris: Comm. Radisch, Ritchie and Kidd.

July 10 – Case #2069, Halton: Comm. Smith, Kidd and Radisch.

August 2 – Case #2079, Crawford: Comm. Herrera, Smith and White.

C. Findings Reports.

- Case #2078 – Writer: Comm. Herrera. Report was due on April 26.

- Case #2100 – Writer: Acting Chairperson Kidd (minority opinion). Report was due on June 15.

PRC Officer Urbi also reported that Commissioner time sheets are due as we reach the end of the fiscal year. Please turn them in as soon as possible.

D. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

- BPD representative.

A complete taped copy of this agenda item is available upon request.

E. ELECTION OF INTERIM CHAIRPERSON

Commissioner Ritchie stated that PRC's past practice has been that the Vice Chair assumes the position of Chairperson until the elections.

**Commissioner Ritchie moved that Acting Chairperson Kidd become the Interim Chair and Commissioner Radisch seconded. The motion carried. The Board voted 7-0-0.**

Commissioner Sherman asked if this is written into any document or only a practice. There may be some situations in the future where PRC may not want this to happen. Commissioner Ritchie confirmed this is a past practice.

PRC Officer Urbi advised that the Commission would need to elect an Interim Vice Chairperson.

Commissioner Sherman nominated Commissioner Radisch. Commissioner Radisch declined the nomination. Commissioner Radisch nominated Commissioner Smith to act as Interim Vice Chair. Commissioner Smith accepted the nomination.

**Commissioner Radisch moved that Commissioner Smith assume the Vice Chair and Commissioner Ritchie seconded. The motion carried. The Board voted 7-0-0.**

F. COMMITTEE REPORTS (For Discussion or Action)

- a. Subcommittee: Draft Regulations for Investigations of First Amendment Activities.

PRC Officer Urbi reported that Commissioner Ritchie asked her to check on BPD's time frame for the language that BPD planned to propose. Captain Gustafson will assign Lieutenant Lee to draft the language next week. The Chief, Capt. Gustafson and Lt. Lee have all been on vacation, so they have not had a chance to work on this. Capt. Gustafson expects that drafting the language for the policy will take some time, as there may be some disagreements. Lt. Lee also has patrol duties in addition to working on this policy.

PRC Officer Urbi informed Capt. Gustafson that the last meeting with the subcommittee and Chief Hambleton occurred on May 4, 2006, which was almost two months ago. PRC Officer Urbi asked for a realistic time frame. Capt. Gustafson stated that they will have a proposal within approximately a month, but he could not confirm until he discussed this with the Chief. After BPD provides the proposed language to the subcommittee, the parties can further discuss the policy.

Commissioner Sherman stated that Berkeley has received nationwide publicity recently pertaining to a draft resolution by the Peace and Justice Commission to impeach President Bush. KTVU News and other media have covered this story and it is pertinent to First Amendment activities.

- b. Subcommittee: Review of BPD Investigation and Police Report #06-3074.

Interim Chairperson Kidd stated that Commissioner White and PRC Officer Urbi met earlier in the day. Interim Vice Chairperson Smith was present but at a different location. Interim Chairperson Kidd was unable to attend due to a conflicting schedule.

Commissioner White reported that he and PRC Officer Urbi named the subcommittee: "Review of BPD Case #06-3074." The subcommittee's purpose will be to review the report and determine whether a complaint should be filed or to recommend policy. The subcommittee consists of Commissioner White, Interim Chairperson Kidd and Interim Vice Chairperson Smith. Commissioner White will act as Chair of this subcommittee.

**The next subcommittee meeting is scheduled for Wednesday, July 26, 2006, 5:30 P.M. at the PRC Office.** The meeting is open to the public. Interim Chairperson Kidd and Interim Vice Chairperson Smith will receive the packet and review it before the next meeting.

Ms. Pritchett made a comment and PRC Officer Urbi advised that this section of the agenda is not open for Public Comment. Commissioner White stated that he would recognize Ms. Pritchett and allow her to speak.

Ms. Pritchett stated that Copwatch has reviewed the reports for hours. The meeting on July 26 occurs in one month and this is not sufficient for this investigation.

Commissioner White stated this is a process. The meeting was scheduled in a month in order to give time to the subcommittee to read the report. They are going to be thorough and careful.

Commissioner Sherman stated that at the last meeting, they discussed the role of Copwatch and he asked for clarification on Copwatch's role in the subcommittee.

Commissioner White stated that Copwatch would not be a part of the subcommittee. They can participate in Public Comment.

PRC Officer Urbi advised that since only Commissioner White attended the subcommittee meeting and Interim Chairperson Kidd and Interim Vice Chairperson Smith were not present, the decisions made at this meeting could be discussed at the next meeting. If there was any point of disagreement, the other two commissioners should raise those issues at the next subcommittee meeting.

Commissioner Sherman stated that it sounds like Copwatch already did a lot of work. He suggested that if they are not a part of the subcommittee, the subcommittee should take full advantage of their energy, dedication and resources and make use of that. This would save the PRC time.

Interim Chairperson Kidd suggested the subcommittee hold a workshop on a Saturday, 9:00 A.M. – 12:00 P.M. with perhaps two members of Copwatch to discuss their findings of the report. Interim Chairperson Kidd asked if this was in accordance with the other two subcommittee members and the PRC Officer.

PRC Officer Urbi stated that she would not comment on the suggestion but advised that the Brown Act does not allow a Commission to limit the number of members from the public to attend public

meetings.

Interim Vice Chairperson Smith stated the subcommittee should establish ground rules for the workshop, so that there are not long dissertations. She would like to use the resources of Copwatch but not have the meeting run by them.

Interim Chairperson Kidd stated they would be in charge of the workshop and Ms. Pritchett can provide a presentation to the subcommittee.

Commissioner White stated he has a scheduling conflict on Saturdays, but he is available on Sundays. The subcommittee will decide on a date for the workshop.

Mr. Wellington stated that the subcommittee has a meeting on July 26 and an additional meeting on a Saturday solely with Copwatch. He suggested having one longer meeting.

Interim Vice Chairperson Smith liked the idea of meeting for one hour with the subcommittee and a public meeting, where other resources and organizations would be invited to discuss the issue.

Ms. Pritchett stated that a public meeting where they could only speak for three minutes on Public Comment is not sufficient. There needs to be a dialogue on the investigation. PRC could have a hearing later to receive Public Comment, but the subcommittee is not at this point.

Interim Vice Chairperson Smith was concerned that Copwatch is seen as an advocacy group and the PRC may not give other groups equal workshop time.

Commissioner Sherman stated that his experience with workshop is that other groups would equally participate and there is a dialogue.

Interim Chairperson Kidd stated that the subcommittee would develop a workable strategy and ground rules for the workshop. She would contact Ms. Pritchett personally.

Ms. Pritchett stated that the PRC has in the past worked with organizations such as the ACLU. She hopes the Commission is not biased against the work of Copwatch, which has the expertise of groups like the ACLU and can provide a valuable resource to PRC.

Commissioner Smith comes from a background as President of the League of Women Voters, where they try to be balanced as they could in all issues. Their recommendations and endorsements have more power because it has not been based on a single organizations' input or point of view. If they have a workshop, other organizations, such as BPD, should be invited to provide a resource to the PRC.

#### G. OLD BUSINESS (For Discussion or Action)

None.

#### H. NEW BUSINESS

A. Case Proposed for Administrative Closure Pursuant to PRC Regulations Section II.6-3,

Complainant requested to withdraw complaint.

1. Case No. 2084, Joy Newhart
  - a. Staff Report: Ms. Newhart requested to withdraw her complaint. She did not wish to proceed to a public hearing.
  - b. Public Comment: None.
  - c. Discussion: None.
  - d. **Action: Commissioner Ritchie moved to administratively close Case No. 2084 and Commissioner Sherman seconded. The motion carried. The Board voted 7-0-0.**
  
2. Case No. 2101, Leatha Jones
  - a. Staff Report: Ms. Jones went to PRC and IA on the same day and requested her complaint be closed.
  - b. Public Comment: None.
  - c. Discussion: None.
  - d. **Action: Commissioner Ritchie moved to administratively close Case No. 2101 and Commissioner Smith seconded. The motion carried. The Board voted 7-0-0.**
  
- B. Case Proposed for Administrative Closure Pursuant to PRC Regulations Section II.6-3, Employment of subject officer has been terminated.
  1. Case No. 2104, Michelle Smith
    - a. Staff Report: Officer Castillo is no longer employed with BPD.
    - b. Public Comment: None.
    - c. Discussion: Interim Vice Chairperson Smith stated that pages 32 through 36 of the packet had reproduction problems and could not be read in case there are policy issues in the future.  
Commissioner Ritchie asked what happened to Officer Castillo. Lt. McBride stated that he resigned.
    - d. **Action: Commissioner Sherman moved to administratively close Case No. 2084 and Commissioner Radisch seconded. The motion carried. The Board voted 6-0-1 with Commissioner Herrera abstaining.**

Commissioner White asked the BPD Representative if BPD is accredited by POST and if not, are there any plans to become accredited.

Lt. McBride stated that BPD is not accredited and there are no plans to become accredited.

#### I. COMMUNICATIONS

Attached.

#### J. ADJOURNMENT

The Board adjourned at 8:00 P.M.