



POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, February 28, 2007
7:00 P.M.

North Berkeley Senior Center
1901 Hearst Avenue, Berkeley

1. ROLL CALL BY CHAIRPERSON SHARON KIDD AT 7:07 P.M.

ROLL CALL AND ATTENDANCE

Present: Chairperson Sharon Ann Kidd Vice Chairperson Michael Sherman
Commissioner Kamau Edwards Commissioner Jonathan Huang
Commissioner Jack Radisch Commissioner William White

Absent: Commissioner Sherry Smith

PRC Staff: Victoria Urbi, PRC Officer
Maritza Martinez, Administrative Support

BPD Staff: Chief Hambleton, Sgt. Juster, and Lt. Greenwood

BPA: Henry Wellington

2. ORDER OF AGENDA

3. CLOSED HEARING UPDATE

Manuela Albuquerque, City Attorney, briefed the Commission on revising the PRC Regulations, the next steps and closed hearing procedures.

4. PUBLIC COMMENT:

None.

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

- A. Status of complaints: 44 complaints pending.
- B. Commission vacancies: 2.
- C. Comments



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Urbi stated that she had sent an email dated Feb. 27, 2007 to the Commissioners regarding Legislation Assembly Bill #1628 proposed by Mark Leno and Chief **Bratton** of Los Angeles Police Department that would overturn the Court's decision in the Copley case. She asked the Commission to consider making a recommendation to the City Council supporting the legislation. She will put this on the agenda at the next meeting.

Commissioner White: Asked Ms. Urbi if she would know the year-to-date comparison of the complaints we currently have.

Urbi: Replied that the PRC receives on average 50 complaints annually. Last year, we received approximately 34 complaints. We have about 7 boards of inquiry pending to be scheduled after the closed hearing procedures are voted on.

Commissioner White: Stated that if we were to look at other agencies like San Francisco and Oakland, where they handle closed hearings, there is a recommendation for disciplinary action. He asked if any consideration has been given to this.

Urbi: Said that this issue had been raised with the City Attorney and at this point, we could not disclose information pertaining to disciplinary action against police officers.

Commissioner Huang: Suggested in the meantime, why not tentatively adopt procedures in order to go on with the complaint process.

Commissioner Edwards: Replied that the PRC needs to be in compliance with the current lawsuit; otherwise, the City would be in violation.

Commissioner Huang: Added, "Let's say the judge makes the final decision, what is stopping the BPA from going back and saying, 'These are the new procedures and now we are going to take this part out and file an injunction against us on that point.' It seems like we are always under the threat of litigation." He thinks it is important to take action now.

Commissioner Sherman: Said there are some details that need to be worked out. There is a court hearing on March 7 with a final decision. After this date, the BPA will give input. On March 12, there will be a joint-closed session with the PRC and City Council. Hopefully, by the 14 (next PRC meeting) matters will be resolved.

Urbi: Added that although the hearings are on hold, we are still receiving and fully investigating complaints. Once cases go to hearings and some cases will be proposed for closure, then the number of pending cases will go down.

Commissioner White: Made a recommendation that after the draft is completed, staff should publicize the regulations and procedures for public input before the Commission works on any revisions.

Urbi: Said a draft will be included in the packet for next PRC meeting (March 14) and posted on the PRC web.

Commissioner Sherman: Said the purpose of the boards are to let the community know the police

have done wrong. He said that in the past some cases could have been recommended for mediation.

Urbi: Stated that on the revised regulations she will submit on March 14, no changes were made on the section related to mediation. At the beginning of the investigation process, when complainants are interviewed, if a complaint does not involve force, discrimination, harassment, etc., in other words the less serious cases, the complainant is offered mediation. The great challenge is that mediations have to be agreed by both parties, the complainant and the officer.

Commissioner Huang: Asked if all 44 complainants and officers on the pending cases are aware that the boards of inquiry are now closed to the public.

Urbi: Replied that the PRC has been in contact with most of the complainants about it. Regarding the officers, interviews have been conducted on a regular basis.

Chairperson Kidd: Asked if the officers have been told that the PRC would be holding closed hearings in the future.

Urbi: Replied that the PRC has provided them information related to pending litigation and recent court ruling.

Judith Scherr: Asked, "In the unusual circumstance that the officer would accept an open hearing, is that possible?"

Commissioner Sherman: Stated that the police officers are under the same set of laws and court decisions that the PRC is.

Urbi: Recognized and thanked Chairperson Kidd's valuable input on the revised draft procedures.

6. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

Staff: Currently there are a total of six vacancies. Five officers will graduate from the Police Academy in May. BPD is not able to fill some positions and expect improvement in the next few months. Ten people are scheduled to retire in the next ten months.

Commissioner White: Asked the Chief to give analytical review in terms of experience.

Chief Hambleton: Stated that BPD has a young department.

Commissioner Sherman: Asked about the officer that was sent to Iraq who was involved in one of our cases.

Chief Hambleton: Responded that currently, there is no extended deployment and that all officers are back.

Crime: Property crime was down close to 10% in 2006. Violent crimes were up to 20-25%. Young people commit the majority of these crimes. The BPD

is currently working on three different types of robberies. In order to deal with problems on Telegraph Avenue, BPD is planning to increase foot patrol as a preventive measure in drug cases, narcotics sales, and/or people under the influence of narcotics. Things appear to be better on Telegraph Avenue. The City Council approved funds of \$100,000 to be used on Telegraph and Shattuck Avenues.

Public Records: Berkeley's review from the Contra Costa Times was related to "Form 700," which is a disclosure form and other public records request. Somebody had presented a written request with about ten different items. The front desk is responsible for handling all public records. Staff at the front desk has received proper training that included some research in other departments. The Chief admitted that they made mistakes.

Personnel Issues: Officer Derry was accused of discharging a firearm in San Francisco. The Chief was unable to discuss this matter due to a pending disposition on this case. Officer Derry has resigned.

Sometime in July the Chief received a report from some jailers where they claimed money had been stolen from them and Officer Stephen Fleming was responsible for this. In August, the Chief asked the State of Department Justice to conduct an investigation on this case. There was some speculation from the press regarding the use/sale of drugs/narcotics. The investigation concluded that five individuals reported money had been stolen from them. Officer Fleming is no longer working for the BPD. You may contact Captain Pittman for additional information.

Commissioner White: Asked about a court decision on high speed pursuits in the BPD general order.

Chief Hambleton: Said that the general order has not changed and some rewording needs to be done.

Regarding the evidence theft issue, the Chief is ready for input from the PRC subcommittee and the project has been assigned to Lt. Harris.

7. **COMMITTEE REPORTS (For Discussion or Action)**

A. Subcommittee: Draft Regulation for Investigations of First Amendment Activities.

a. Commissioner Report

Commissioners Sherman and White met earlier on this matter. Mark Schlosberg from the ACLU recommended not making any changes at this point. They hope to finish this task by June.

B. Subcommittee: Review of BPD's Evidence Theft Issues.

a. Commissioner Report

Commissioner White: Stated that the investigation is actually moving at full speed.

8. **COMMUNICATIONS**

None.

9. **ADJOURNMENT**

Meeting was adjourned at 8:45 p.m.