



## **POLICE REVIEW COMMISSION REGULAR MEETING MINUTES**

**Wednesday, February 13, 2008  
7:00 P.M.**

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

**1. CALL TO ORDER BY CHAIRPERSON WILLIAM WHITE AT 7:01 P.M.  
ROLL CALL AND ATTENDANCE**

Present: Chairperson William White  
Vice Chair Sharon Kidd  
Commissioner Kamau Edwards  
Commissioner George Perezvelez  
Commissioner Michael Sherman  
Commissioner Sherry Smith

Absent: Commissioner Jonathan Huang

PRC Staff: Victoria Urbi, PRC Officer  
Rebecca Webb, Administrative Support

BPD Staff: Lt. Delaney  
Sgt. White

**2. ORDER OF AGENDA**

Moved Item #3, Public Comment to the end of the Agenda.

**3. APPROVAL OF MINUTES**

A. Regular Meeting: January 23, 2008

**Motion to approve minutes. M/S/C (Smith/Kidd) Motion passed.**

Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.

Abstain: None. Absent: Huang.



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#### 4. OLD BUSINESS

##### A. SUBCOMMITTEE POLICY REPORT ON EVIDENCE THEFT ISSUES WITHIN THE BERKELEY POLICE DEPARTMENT

- a. Update on City Council meeting scheduled on January 29, 2008.  
Commissioner Smith stated that she and Chairperson White spoke in support of the Commission's report. Chief Hambleton spoke to the Council in support of the City Manager and BPD report. The City Council approved both reports and asked the Commission to return in March with any additional recommendations.

Ms. Urbi stated that Councilmembers asked Chief Hambleton several questions and some commented that the report was "disturbing." She added that since the Council approved both reports and there was a disagreement over the finding that states that the Kent investigation was insufficient, the Commission should attempt to reconcile this difference in the two reports.

- b. Subcommittee meeting  
Chair White stated the Subcommittee met on February 12 to debrief on the Council vote and strategize what they would like to have happen at the City Council meeting on March 25. The Subcommittee will have a directive at the next Commission meeting for the full Commission to vote on.

Commissioner Smith added that the Subcommittee made decisions that are being drafted. They would like to stand on the report as it is and leave it to the City Council to direct the Police Department to do what it is that they agree with from the Commission's report.

##### B. COMMUNITY SUPPORT FOR THE CIVILIAN OVERSIGHT PROCESS

- a. Commissioner Sherman's update  
Commissioner Sherman stated that this is an issue that he spoke of at the January 23 Commission meeting. Since the PRC is in litigation with the BPA over open hearings, it might be prudent to parallel the legal strategy with a political strategy. He suggested that the Commission prepare a letter outlining where the Commission is today with regard to the Boards of Inquiry hearings and why. Then, the Commission could hold a press conference to inform the public and organize a community meeting.

Commissioner Sherman further suggested that the Commission could ask the National Association of Civilian Oversight of Law Enforcement to file a friend of the court brief in support of open hearings. Commissioner Sherman suggested the Commission could create a ballot initiative to give complainants the right to appeal. The Commission should also research bills in the State Legislature that the Commission could support.

Ms. Urbi stated that the context of this discussion was that Commissioner Sherman was concerned that the Commission's process has been stifled by the BPA when the PRC has attempted to revise the Regulations and schedule hearings. PRC entered into a stipulation with BPA to toll case deadlines from September 2006 until February 2007. When the PRC attempted to revise the Regulations to comply with the law, the BPA did not agree on the revised regulations, thus stalling the hearings further. Now, the BPA believes that cases should not go to a hearing because they argue that the deadline has

past. This impacted the caseload, because complainant's felt dissatisfied with the long process. Ms. Urbi also stated that the Commission should hold a community workshop to educate the public on the history of the PRC, the PRC's mission and the new closed hearing procedures.

b. Discussion

Chairperson White stated that he thought it would be a good idea to get a pulse on what the Deputy City Attorney's thoughts are on what the Commission is proposing to do. He also stated that it would be hard for NACOLE to side with the PRC since they represent so many models of police oversight across the country.

Commissioner Smith agreed that it would be good to bring in the Deputy City Attorney, Sarah Reynoso, for her input, particularly on an update of the appeal and the hearing process.

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

A. Hearings update

Ms. Urbi reported that the PRC has completed three hearings in the past two weeks. Two of the findings reports are completed and have been forward to the City Manager and Chief of Police. Officers in all of the hearings have waived the right to be questioned by only two Commissioners, thus allowing all three Commissioners to question the officers. Ms. Urbi reminded the Commission that although the hearings are in closed session, they are still recorded and may be transcribed in the event of an appeal. Commissioners should keep this in mind during their questioning of witnesses and Commissioners should also remember to maintain objectivity and neutrality of all parties.

Ms. Urbi commented that it was asked if a Commissioner could change a vote after the conclusion of a hearing. She stated that although she did not have a chance to confirm with the City Attorney's office, she believed that a vote should not be able to be changed after the hearing. Commissioners' final votes after boards of inquiry should also be added to the Regulations.

Commissioner Sherman stated that he believed in the past, the Board of Inquiry vote was not final until the report was turned in.

Commissioner Edwards asked if there was a regulation or rule about this to which Ms. Urbi responded that there was not.

Ms. Urbi informed the Commission that officers sometimes call directly after the hearing to learn of the results and that there are deadlines that have to be met for filing the report, which changing a vote would make it difficult to comply with.

Commissioner Smith stated that she was concerned that if a Commissioner changed their vote without further discussion with the entire panel, this could lead to mischief. She also stated that officers are allowed to wait until the end of a hearing for the results.

Commissioner Perezvelez was concerned that the PRC must exert a level of professionalism at all times. He believed that changing a vote would not be fair to the officer or the complainant.

B. Berkeley Police Department trainings on PRC

Ms. Urbi stated that she completed eight trainings at the Police Department during their line-up meetings. She trained officers on the complaint process, closed hearing procedures and addressed the history of distrust between the PRC and the Police Department. She will continue training new officers at BPD during their academy training.

C. Status of complaints

There are four new complaints since the last meeting. Several people have requested complaint forms after the February 12 protest.

D. Commission vacancies

There are two Commission vacancies from Council Members Olds and Maio.

**6. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT**

Lt. Delaney reported that the Police Department is up to strength. The Department is currently completing new General Orders in response to the Evidence Theft Report with regard to reporting misconduct and personal conduct.

Chairperson White asked if the City Manager is still involved when requesting outside agencies' assistance, such as the February 12 protest at the Old City Hall. Lt. Delaney responded that there are operating agreements in place for these situations and that the City Manager is part of that process.

Chairperson White asked why the City Council did not move their meeting to a bigger venue. Lt. Delaney stated that she assumed it was because the smaller location is easier to control.

Commissioner Sherman asked how much the City paid in calling in other agencies for assistance at the protest. Lt. Delaney stated that she believed it was part of the Mutual Aid Agreements, so the cost should not have been affected. However, the City was already working on finding the total cost due to the protest.

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

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

a. Subcommittee Chairperson Sherman's update

Commissioner Sherman reported that the Subcommittee has not been able to meet due to the unavailability of Subcommittee members. He believed that the report would be finished with just one more meeting.

**8. PUBLIC COMMENT:**

There were no public comments.

**9. COMMUNICATIONS**

Attached.

**Closed Session**

**The Police Review Commission recessed into closed session to discuss and take action on the following items:**

**10. PETITION FOR REHEARING**

**A. Motion to not accept the petition for rehearing on Case #2173.**

**M/S/C (Smith/Perezvelez) Motion passed.**

Ayes: Edwards, Kidd, Perezvelez, Sherman, Smith and White. Noes: None.

Abstain: None. Absent: Huang.

**11. LATE FILE PETITION**

**A. Case No. 2184 – Complainant Yahri Mosley**

**Motion to accept late file petition on Case #2184.**

**M/S/C (Sherman/Kidd) Motion did not pass.**

Ayes: Edwards, Kidd, Sherman, Smith and White. Noes: None.

Abstain: Perezvelez. Absent: Huang.

**12. ADJOURNMENT**

Meeting was adjourned at 8:45 P.M.