



REGULAR MEETING MINUTES
for
Wednesday, June 25, 2003
Council Chamber Boardroom – 4:00 P.M.
and
Art Pick Council Chambers – 5:30 P.M.
3900 Main Street, Riverside, CA

Present: Commissioners Brewer, Garcia, Gardner, Howe, Percy, O'Meara and Ward

Absent: Commissioners Davidson and Huerta

CASE REVIEW – 4:00 P.M.

Roll Call

Public Comment

There was no public comment at this time.

Closed Session – Case Reviews

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:13 p.m. to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

<u>CPRC CASE NO.</u>	<u>IA CASE NO.</u>
03-016	PC-03-061-124
03-028	PC-03-104-098

The Commission recessed at 5:00 p.m. to reconvene in the Council Chambers at 5:30 p.m.

OPEN SESSION – 5:30 P.M.

The following proceedings have been digitally recorded. For copies please call the CPRC office at (909) 826-5509.

Chairman Gardner led in the Pledge of Allegiance. Chairman Gardner asked Ms. Sherron to confirm commissioner attendance.

Approval of Minutes

Commissioner Ward moved to approve the minutes for the April regular meeting, the May 14 case review meeting, the June 2 special meeting, and the June 11 case review meeting. Commissioner Garcia seconded the motion. Minutes for the April and May meetings passed unanimously. The minutes for the June meetings passed 6 for approval and 1 abstention.

Executive Director's Report & Comments

Mr. Williams reminded the commissioners about the Riverside Neighborhood Conference on June 28 at UCR.

Commissioner's Comments

There were no commissioner comments.

Public Comments

Mary Shelton

Ms. Shelton spoke about the RPD's Personnel complaint form. She voiced concern about the fact all the complainant's personal information and all witness information is on the copy that goes to the officer. She said there is no reason the subject officer should have access to that information, but noted that the officer might be able get the information another way. She said the letter sent by Internal Affairs to complainants even says that should the subject officer attempt to investigate the complaint on his own, the complainant is not required to cooperate. She said that most of the time there is probably no problem with a subject officer having complainant information, but that every once in a while there may be an officer who is upset enough by the complaint that he may harass the complainant.

She said she had recently filed a complaint and "there was an article written about it in the paper." She said that when she got home that evening there was a recording on her answering machine. No one spoke, but she could hear "what sounded like a dispatch radio in the background." She said that after receiving several calls like that, she called the sergeant who was investigating her complaint if he'd made the calls. He had initially said it definitely wasn't him and that he'd left messages when he had called. Then he later told her that he thought it actually was him and that he hadn't left any messages because he thought he'd left too many messages already. Ms. Shelton said she thought that was odd because one of the calls came in on a day when he'd said he was not working and he'd only left one message on her answering machine. He left two messages on the day he spoke to her to schedule the I.A. interview.

She concluded by asking why the officers have the right to the complainant's personal information. She again said that most of the time it's probably not a problem, but she has had people call her and tell her about being harassed after filing a complaint. She said that while rare, it does happen and it raises the issue of giving subject officers information they "have no right to."

Ralph Avila

Mr. Avila expressed concern over police cars that have been traveling in his neighborhood in an unsafe manner. He said a few weeks ago, his nephew, who was staying at his home, saw two police cars, side by side, “zooming” down his street in front of his house. He said the following day, around dusk, he saw a patrol car “zooming on the wrong side of the street” near his residence. He feels that he may be under investigation and asked “if anybody here had heard anything about this particular incident.” He mentioned a sign he had with a photo of Janine Stover and said she was “viciously murdered” by a San Bernardino police officer.

Mr. Avila said the City of Riverside employs officers who are “blatantly, callously, committing perjury on the stand and committing torture in the field.” He said that he can’t bring his complaints to the Commission because the complaints are investigated by Internal Affairs and that as far as he knows “are collaborating in this dastardly deed of hindering justice,” which he said he’s willing to prove in court. He said “its impossible for us to bring any kind of charges against the Police Department with this particular board as it sits presently.” He said nothing has happened regarding the community getting services or correct justice and that the corruption in the Police Department “is going hand over fist to this organization.” He said that justice won’t be served.

Addressing Commissioner Garcia, Mr. Avila said that this was the first time he’d seen him at a meeting and said that he’d asked for Commissioner Garcia’s resignation. He also told Commissioner Garcia not to destroy the good name of Garcia by associating with this “corrupt committee.” He said that he won’t submit complaints to the Commission. He said that his goal is to put “these police officers in jail as fast as possible.”

Report on the Muñoz Incident

Chairman Gardner advised that the intent of the report was to be an independent, third-party report on what took place in the field the night of the incident. He said it does not say whether or not the officers’ actions were right or wrong, but that the Commission would address that issue when the administrative investigation has been received. He said the Commission has the criminal investigation, which is public record, but that it doesn’t address whether or not policy was violated.

The CPRC investigator, Norman Wight with the Baker Street Group in San Diego, advised the Commission as to the facts of the case. Chairman Gardner then asked for public comment on this agenda item.

Mary Shelton

Ms. Shelton said she was surprised at the summary, saying it was a bit shorter than that given by RPD. She asked about the shell casing that was found on the sidewalk outside the cordoned-off area by a relative of Mr. Muñoz. She said that at the CPRC’s special meeting where this young man spoke, some of the commissioners had expressed concern about this. She asked about the witnesses who were interviewed – if they were civilian witnesses. She also said there was “a bit of confusion” over Officer Turner because there are several Turners with RPD and that she didn’t remember Officer Turner as being Mike Turner.

Ms. Shelton said that her main questions were what was the protocol and who they interviewed; how they dealt with parts of the officers’ statements where it was said that a shiny object had been seen or Mr. Muñoz said he had a gun. She also had questions about the mother-in-law coming outside and being sent back in without getting any information from her about Mr. Muñoz.

Ralph Avila

Mr. Avila said this is “very typical” of what takes place after a shooting in Riverside. He said police reports are changed and will never be seen by the D.A.’s office accurately stating what occurred. He also said the officer purposely positioned himself behind the truck in order to get a “clean shot” and say his life was

in danger. He said that Mr. Muñoz was possibly signaling to officers, by his actions, that he “does need help.” Mr. Avila said officers should be hired who are capable of providing that help. He said that Mr. Munoz’ death was tragic and unnecessary. He said that people are being hired that are “too quick on the gun” and that they are not qualified to be police officers.

Mr. Avila ended by saying that Chief Leach is doing a good job and that he looks forward to working with him.

Chairman Gardner asked Mr. Wight to answer any questions the commissioners might have.

Chairman Gardner asked Mr. Wight if, between himself and RPD, everyone who was a witness had been interviewed. Mr. Wight said he believed so and that he had spent quite a bit of time interviewing witnesses in the neighborhood. He said the incident was slow in developing so there were a lot of witnesses.

Commissioner Brewer asked if it was determined that a civilian had found a shell casing as alleged. Mr. Wight said that information came from Mr. Muñoz’ brother, Frank, who was watching the scene investigation the next day. Mr. Wight verified that Mr. Frank Muñoz did find a slug outside the cordoned area.

Commissioner Ward said he was unsure who should answer his question. He said that since the Commission is an administrative arm of the City, he wondered why they are given the criminal investigation when the administrative investigation, which is in its domain, hasn’t been concluded. He said it seems that this report should be given by the D.A.’s office or RPD.

Chairman Gardner said that one role of the Commission is to get information out to the public. He noted that information that is contained in the administrative investigation is protected by the Police Officers’ Bill of Rights prevents to Commission from discussing that information in public as well as deliberations to determine whether or not an officer’s actions were within policy. He said the reason for this report is to get independent third-party verification of the incident to the public.

Commissioner Ward said that shortly after being assigned this case, Mr. Wight issued a large worksheet outlining the issues to be addressed and people to be interviewed. He said the worksheet included the interviewing of officers involved in the incident. Commissioner Ward asked if Mr. Wight had interviewed any of the officers. Mr. Wight said he had not. Mr. Wight said the worksheet to which Commissioner Ward referred was more of a wish list than anything else. Commissioner Ward asked why Mr. Wight hadn’t interviewed the officers. Mr. Wight replied that the officers aren’t made available to him. Commissioner Ward said that it seemed to him that Mr. Wight’s report came from information given the Commission by RPD. Mr. Wight said he thought he spoke to witnesses that RPD didn’t speak to and those interviews were available in the CPRC office. He said that the information in his report came from several sources.

Mr. Williams interjected by saying that there were no inconsistencies in the statements given by the witnesses that were interviewed by RPD and Mr. Wight.

Commissioner Ward said that in reviewing the report given to the Commission by RPD he noticed several inconsistencies in the statements given by some of the officers involved. He noted that those inconsistencies have not been addressed. He asked that if the officers aren’t being made available to the Commission, “what are we supposed to do, live with those inconsistencies?” He said that it seems like the Commission is not able to live up to the duties it has been given since it can’t interview all parties involved.

Commissioner Ward asked Mr. Wight if his investigative focus was on the criminal or administrative aspect of the case. Mr. Wight said that it is neither. He said that he interviews a person and reports objectively on that interview. The use made of the information, be it criminal or administrative, is not up to him.

Commissioner Ward asked if his report had been prepared for the Commission to use to issue a public report of the case and in their closed deliberations. He also asked if Mr. Wight planned to submit another report. Mr. Williams answered saying that the reason the Commission was able to speak publicly about the case was because of Mr. Wight's investigation and the D.A.'s report given to the Commission, which is public record. Mr. Williams said that there will be some duplication of information in the administrative investigation (I.A. report), but that information cannot be discussed in public. Mr. Williams also noted that the Commission makes a public report prior to receiving the I.A. report so that there won't be a chance of it being "tainted" by the internal investigation, which is not a public record.

Mr. Williams said if there are any questions after the I.A. report is received and reviewed by the Commission, a memo will be sent to RPD as with any other case in which the Commission has questions.

Commissioner Ward again asked if Mr. Wight would be submitting another report to the Commission. Mr. Williams answered the question, saying that he would if there was additional information to submit. Chairman Gardner said that if the Commission had specific questions to which they wanted answers, they could ask Mr. Wight to attempt to answer those questions.

Chairman Gardner asked Mr. Wight if he listened to RPD's recorded interviews or read the transcripts of those interviews. Mr. Wight said that he read the transcripts. Chairman Gardner asked if, in his review of those documents, Mr. Wight thought there were questions that should have been asked, but weren't. Mr. Wight said it's easy for any investigator to read another investigator's interview and find things that should have been asked and weren't. He said that with respect to Officer Wagner he saw nothing "glaring." He said that had he been interviewing Officer Turner, he would have "explored a little bit more about why he was out in the street – what was his tactical intent." Chairman Gardner said that is possibly something the Commission could explore in more detail before they make their decision. He said he had just wanted to get Mr. Wight's view as an independent investigator to whether or not the report was reasonably complete or if there were areas of question.

Commissioner Garcia asked if any of the witnesses said they had seen a metallic object as stated by Officer Wagner. Mr. Wight said no one saw any metallic object. He said that one of the witnesses with the best view said that at one time during the incident, Mr. Muñoz had both hands out of the vehicle window and he was not holding a metallic object.

Commissioner Garcia next asked if any of the witnesses stated there was time to use less-lethal force. Mr. Wight said he didn't address that with witnesses.

Chairman Gardner said Ms. Shelton had said the mother-in-law had come outside and was told to go back inside. He said from his recollection it was the wife, not the mother-in-law, and that she didn't go back inside but stayed on the porch. Mr. Wight said it was Lee Muñoz, Anastacio Muñoz's wife. Mr. Wight said she was yelling at Mr. Muñoz not to "do it" and her brother grabbed her and pulled her back in the doorway. He said he didn't recall if she was all the way in the house or not, but she was able to observe the shooting.

Commissioner Brewer moved that the report be accepted as submitted. Commissioner Howe seconded the motion. Chairman Gardner asked for discussion on the motion. There was none. The report was accepted 4 – 2 with 1 abstention.

Chairman Gardner thought it might be beneficial for the Commission to learn the concerns of the two commissioners who voted no – what they would like to have seen. He said since there are more of these reports coming, if there is something that needs to be done differently it needs to be discussed so that a change of course could be discussed and implemented.

Chairman Gardner then asked Commissioner Garcia to say why he voted no. Commissioner Garcia said he had additional questions that weren't asked of the witnesses, such as the two questions he asked earlier, questions regarding vehicle movement before and after the shooting, questions regarding reports

on Mr. Muñoz prior to this incident, and a previous relationship of Mr. Muñoz.

Chairman Gardner suggested that Commissioner Garcia write down his questions, submit them, and then Mr. Wight, RPD or a combination of the two would obtain the answers.

Chairman Gardner next asked Commissioner Ward to comment on his concerns. Commissioner Ward said that a thorough investigation includes interviews of everyone. Since the Commission has no “access to the key players, you really, basically, have no access to the truth.” He said an investigation is supposed to a “search of the truth” and if the people who are involved can’t be interviewed and “the discrepancies in their reports” dealt with, as far as he is concerned “this is a non-investigation.”

Chairman Gardner asked Mr. Williams to make note of Mr. Wight’s questions regarding Officer Turner and try to get some answers. Mr. Williams said that those questions might have been asked in the administrative investigation. Chairman Gardner said RPD should be asked to get answers to those questions if they aren’t answered in the I.A. report.

The Commission adjourned at 6:24 p.m.

Respectfully submitted,

PHOEBE SHERRON
Sr. Office Specialist