

MEMORANDUM OF LAW

DATE: October 9, 1995

TO: Staajabu Heshimu, Management Assistant, City Manager's Office

FROM: City Attorney

SUBJECT: Committee Powers

QUESTION PRESENTED

May a subcommittee of an advisory board convene public hearings on issues which affect the entire board?

SHORT ANSWER

No. A subcommittee of a board is not empowered to conduct business for the board absent an express grant of authority.

BACKGROUND

The Citizen's Review Board on Police Practices ("CRB") was established by charter amendment pursuant to a vote of the people. It was established in 1989. The CRB is empowered to review and evaluate investigations conducted by the San Diego Police Department Internal Affairs ("IA") Division which arise from citizen complaints against named officers. The CRB has no independent investigatory powers, nor does it have the power to subpoena witnesses.

The CRB has a number of standing committees. The Policy Committee is one such committee. Currently, the issue of whether the CRB should seek support for a charter amendment which would give the CRB subpoena and investigatory powers is being researched by the Policy Committee. A proposal has been made that the committee conduct public forums and seek public input on these issues. The full CRB has not been advised of this proposal, nor has approval of the full board been sought. You have asked if the committee may conduct public hearings on issues which impact the full CRB without obtaining prior CRB approval.

ANALYSIS

Advisory boards and commissions are established generally under the auspices of San Diego City Charter ("Charter") section 43. Most boards and commissions are then specifically established by the City Council through an ordinance. The CRB, however, because it was established by a vote of the people, is established under Charter section 43(d). This Charter section outlines the CRB's rights and responsibilities. No

provision in this Charter section allows committees to function independently from the full CRB.

The bylaws of the CRB, as amended and approved by the City Manager in 1992, provide that subcommittees may be established by the board as appropriate in Section 3.8(K). However, this bylaw provision allows for subcommittees generally and no specific committees are named. Robert's Rules of Order, Newly Revised, section 49, at 481 (9th ed. 1990), provides that standing committees lack independent powers. An exception to the general rule is made when:

A subcommittee is constituted by name (a) by a specific provision of the bylaws or (b) by a resolution which is in effect a special rule of order and therefore requires notice and a two-thirds vote for adoption, if any of the following conditions are to apply-that is:

- * if the committee is to have standing authority to act for the society on matters of a certain class without specific instructions from the assembly

Robert's Rules of Order at 481.

Although the Policy Committee is a standing committee, it has not been specifically named in the bylaws, nor granted any authority to act on behalf of the full CRB. It does not, therefore, meet the requirements set forth in Robert's Rules of Order. Absent this specific grant of authority, the committee cannot act without first seeking approval from the full CRB.

CONCLUSION

The CRB has not sought managerial approval for an amendment to the bylaws to name the Policy Committee in the bylaws as a committee specifically empowered to act on behalf of the CRB. Absent such action, the committee must seek approval from the full CRB before undertaking the conduct of public hearings on behalf of the CRB.

JOHN W. WITT, City Attorney

By

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