



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(approved)

Wednesday, April 13, 2016
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR PEREZVELEZ AT 7:04 P.M.

Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner Alison Bernstein
Commissioner Jerry Javier (arrived 7:30 p.m.)
Commissioner George Lippman
Commissioner Michael Sherman
Commissioner Ari Yampolsky (arrived 7:10 p.m.)
Commissioner Ann Rogers (*Temporary appointment for Commissioner Waldman*)

Absent: Commissioners Kad Smith, Ayelet Waldman

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Andy Greenwood, Lt. Dan Montgomery, Sgt. Katherine Smith,
Sgt. Sean Ross (arrived 7:20 p.m.)

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There were two speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of March 23, 2016

Moved/Seconded (Bernstein/Roberts) **Motion Carried**

Ayes: Bernstein, Lippman, Perezvelez, Roberts, Sherman, and Yampolsky.

Noes: None Abstain: Rogers Absent: Javier, Smith, Waldman

5. CHAIR'S REPORT

- Vice-Chair Roberts and others reported on the Oakland CPRB forum on profiling that they attended on April 7.
- Chair Perezvelez and others reported on the BPD Fair & Impartial policing training that they attended on April 9.

6. PRC OFFICER'S REPORT

- No new complaints filed since last meeting.
- PRC offices have moved and are now on the 1st floor of 1947 Center.
- No reply yet from City Manager to PRC's letter [of March 23] asking her to direct the Chief to wait for PRC's BOI findings, if timely.

7. CHIEF OF POLICE'S REPORT

Capt. Greenwood reported on Chief Meehan's behalf:

- Currently 169 sworn officers, which includes 4 in academy. Dispatch is down 5 positions but 2 are starting next month. Lieutenant's testing will occur this Friday, and testing for Sergeant's and Captain's positions will occur later this year.

Questions:

- Re the rape kit testing, is there anything the PRC should be examining? Most difficult thing is that the ball was dropped on 2008 case, and don't know why. Paradigm change of having all SART kits sent for testing, was discussed last week. Don't understand why reporter in a recent news article cited the 2% clearance rate when the actual closure rate was 13/24, or 55%. Do have decades-long relationship with BAWAR.

- Thank you sending information on re CIT training [pp. 119-137 of packet]; lots of information about identifying and understanding mental illness, but how about dealing with it? Training does include mental health consumers talking about their experiences with police, good or bad, as well as scenario exercises in which officers must respond to a situation and are then critiqued.

8. OLD BUSINESS (discussion & action)

- a. Policy complaint: McKinley Avenue staging: BPD presentation of new general order on staging practices; consider closure of complaint.

BPD presented another proposed revision to General Order U-4; comments made by complainant and commissioners.

Motion to close the policy complaints [Complaint #2362 and #2363].

Moved/Seconded (Bernstein/Rogers) **Motion Carried**

Ayes: Bernstein, Javier, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: Lippman

Abstain: None

Absent: Smith, Waldman

- b. Changes to Regulations for Handling Complaints Against Members of the Police Department
 - i. Accept agreed-upon changes to Regulations signed by the Deputy City Manager and the BPA President, and non-substantive clean-up changes.

Motion to have the PRC Officer communicate to the City Manager that: the PRC acknowledges the approved changes in the Regulations, except for the lack of change in the standard of proof, and wish them to be implemented immediately. Furthermore, the PRC expressly decided not to vote to accept the changes because the Preamble to the Regulations specifically directs that the PRC adopt its own rules and regulations.

Moved/Seconded (Bernstein/Rogers) **Motion Carried**

Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: Smith, Waldman

By consensus, the Commission modified the motion above so that instead of referring to the Preamble, reference is made to Ordinance [No. 4644-N.S.] Section 10.f.

- ii. Next steps regarding the standard of proof.

Motion to write a letter to the City Manager saying, in essence: The PRC has carefully considered the issue of standard of proof and has twice unanimously adopted it. As you are aware, the PRC's enabling ordinance empowers the PRC "To adopt rules and regulations and develop such procedures for its own activities and investigations as may be necessary . . ." and it is in accord with that directive that the PRC undertook its analysis and deliberations. Ask the City Manager to articulate her reasons for not implementing the change the standard of proof in a written response; we are also amenable to meeting in person to discuss.

Moved/Seconded (Bernstein/Sherman) **Motion Carried**

Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: Rogers, Smith, Waldman

- c. Senate Bill 1286, Increasing Law Enforcement Transparency bill.

Motion to that the PRC draft following letter (to be signed by the Chair) to the City Council: The PRC wishes to thank the City Council for its unanimous support on March 29, 2016, of Mark Leno's Senate Bill 1286. As you are well aware, restoring open, transparent and public access to Boards of Inquiry have been a prime concern of this commission ever since the state Supreme Court ruling of 2006, known as the *Copley Press* decision. We also thank you for your support of this process for over a decade now. We would also ask the City Council to allow members of the Police Review Commission to: 1) represent the City's stated position in support of SB 1286, in any manner deemed useful in aiding its passage through the California legislature, and 2) at any public gatherings, community forums, and the like.

Moved/Seconded (Sherman/Bernstein) **Motion Carried**

Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: Smith, Waldman

- d. Inventory of less-than-lethal munitions held by BPD.
(Continued to the next meeting.)

9. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. Body-Worn and Dash Cameras Subcommittee
Meeting and making progress; next meeting is April 20 at 6:00 p.m.
- b. General Orders C-64, etc. Subcommittee
Meeting and making progress; next meeting is April 19 at 4:00 p.m.
- c. December 7 & 8 Investigation Subcommittee
Will be scheduling a meeting with BPD representatives.
- d. Transgender G.O. Subcommittee
Draft recommendation to be presented at a May meeting; PRC Officer to distribute for review in advance of agenda packet.

10. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

11. PUBLIC COMMENT

There was 1 speaker.

Closed Session

12. VOTE ON RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

Motion to approve Complaint #2386 for administrative closure.

Moved/Seconded (Sherman/Bernstein) **Motion Carried**

Ayes: Bernstein, Javier, Lippman, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: None

Absent: Smith, Waldman

13. VOTE ON PETITION FOR REHEARING

Motion to deny the Petition for Rehearing in Complaint #2390.

Moved/Seconded (Sherman/Rogers) **Motion Carried**

Ayes: Bernstein, Javier, Perezvelez, Roberts, Rogers, Sherman, and Yampolsky.

Noes: None

Abstain: Lippman

Absent: Smith, Waldman

End of Closed Session

14. ANNOUNCEMENT OF CLOSED SESSION RESULTS

The votes to administratively close Complaint #2386 and to deny the Petition for Rehearing in #2390 were announced.

15. ADJOURNMENT

By general consent, the meeting was adjourned at 10:15 p.m.