



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(approved)

Thursday, October 13, 2016
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR PEREZVELEZ AT 7:07 P.M.

- Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner George Lippman
Commissioner Michael Sherman
Commissioner Kad Smith
Commissioner Ari Yampolsky
- Absent: Commissioners Alison Bernstein, Kimberly DaSilva, Jerry Javier
- PRC Staff: Katherine J. Lee, PRC Officer
- BPD Staff: Lt. Mike Durbin, Sgt. Ben Cardoza, Sgt. Sean Ross

2. APPROVAL OF AGENDA

Motion to approve the agenda.

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

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

Noes: None Abstain: None Absent: Bernstein, DaSilva, Javier

3. PUBLIC COMMENT

There were no speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of September 21, 2016, as corrected to show the heading for Item #9 is "Old" and not "New" Business.

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

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

Noes: None Abstain: None Absent: Bernstein, DaSilva, Javier

5. CHAIR'S REPORT

The Chair and PRC Officer reported on the NACOLE conference they and Investigator Byron Norris attended in Albuquerque, NM.

6. OFFICER'S REPORT

The PRC Officer and the Chair reported on a meeting they and Investigator Norris attended with a group from Sacramento (a councilmember, representatives of other elected officials, and community groups), which is conducting fact-finding about other oversight agencies to possibly strengthen their oversight body.

One new complaint filed since the last meeting; the complainant chose mediation. A record number of cases have gone to mediation this year; difficult to explain why.

7. CHIEF OF POLICE'S REPORT

Lt. Durbin reported on the Interim Chief's behalf:

-- Chief Greenwood and others are at or on their way to the IACP (Int'l Assoc. of Chiefs of Police) Conference in San Diego.

-- No change in staffing since last report. Ofc. Tim Kaplan resigning after 20+ years.

-- First round of training on revised GO C-64 occurred; about 40 officers. 3 parts: 1) recap of Dec. 6 & 7, 2014; 2) Legal issues and policy; 3) Practice training in field at Alameda Co. Sheriff's Office facility. Another 30 officers to be trained Nov. 3.

-- Will get procedural justice training started by the end of the year. Continue to send officers to 40-hour Crisis Intervention Training.

-- Command staff assignments: Capt. Louis - Operations Division; Capt. Frankel – Professional Standards; Acting Capt. Spiller - Investigations.

Questions:

-- Key changes in training in C-64? What questions & concerns? A couple e.g.s: 1) On the skirmish line, former policy of not engaging in conversation was a concern. Now can use discretion to answer. 2) Using baton strikes prior to dispersal order. There may be times officers need to move before dispersal order given, e.g. when need to move through a crowd to arrest isolated offenders.

-- Having problems with recruitment? Yes, it is difficult and continues to be, but still hiring without lowering standards.

-- Standard of proof in internal discipline and at arbitration? Unsure.

Motion to adjourn the meeting in memory of three people (noted below).

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

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

Noes: None

Abstain: None

Absent: Bernstein, DaSilva, Javier

8. OLD BUSINESS (discussion & action)

- a. Status of General Order W-1, Right to Watch.
(Item postponed to the next meeting.)

- b. Review draft of response to City Manager's September 12, 2016 letter regarding the standard of proof used in BOI hearings.
(Item postponed to the next meeting.)

- c. Policy regarding publication of communications from the public to the PRC.
Heard following Item #10.e.

Motion to direct PRC officer to propose a process for informing the Police Review Commission in closed session about citizen complaints that do not go to the BOI process (informal complaints) on an informational basis only, with officer's names if they are included, after 90 days.

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

Ayes: Lippman, Roberts, Sherman, and Yampolsky.

Noes: None Abstain: Perezvelez, Smith Absent: Bernstein, DaSilva, Javier

Motion to have PRC Officer prepare for the Commission's review, in closed session, a quarterly digest of formal complaints filed that include: officer's names, complaint names, allegations, and findings, for review in closed session.

Moved/Seconded (Yampolsky/Lippman)

Motion to postpone the discussion and vote until the next meeting.

Moved/Seconded (Lippman/Yampolsky) **Motion Carried**

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

Noes: None Abstain: None Absent: Bernstein, DaSilva, Javier

- d. Review of BPD marijuana enforcement report.
(Item postponed to the next meeting.)
- e. Decide whether to accept policy complaint #2406; if accepted, decide how to proceed.

Motion to accept policy complaint #2406 as to the policy of searching vehicles and persons when the driver is an authorized marijuana user, and refer to staff to investigate.

(Sherman/Smith)

Motion to also investigate the complainant's second point, that sobriety checkpoints lend themselves to discriminatory activity.

(Lippman/died for lack of second)

Initial Motion Carried

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

Noes: None Abstain: None Absent: Bernstein, DaSilva, Javier

- f. Review draft letter regarding City Manager's excusal of officer from appearing at a Board of Inquiry

The Commission, by general consent, agreed to revisions of the draft letter, and that copies should be sent to the Mayor and City Councilmembers, and the City Clerk.

- g. Commission's list of tasks and prioritization.
Item postponed to the next meeting.

9. NEW BUSINESS (discussion & action)

- a. Certificate of appreciation for former Chief Meehan
Item postponed to the next meeting.
- b. Proposed changes to Standing Rules regarding procedures for election of PRC Chair and Vice-Chair
Item postponed to the next meeting.

10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. General Orders C-64, etc. Subcommittee
- b. Fair & Impartial Policing Subcommittee
- c. Mutual Aid Pacts Subcommittee
- d. Media Credentialing Subcommittee
- f. Outreach Subcommittee
All Subcommittee items, except for the Surveillance and Community Safety Ordinance Subcommittee, were postponed to the next meeting.
- e. Surveillance and Community Safety Ordinance Subcommittee
Heard following Item #8.b.

After hearing Julia Leftwich speak about her experience and her interest in serving on this subcommittee, she was appointed by the Chair as a public member.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

12. PUBLIC COMMENT

There was 1 speaker.

Closed Session

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002 057569, the PRC will recess into closed session to discuss and take action on the following matters:

13. REVIEW DRAFT LETTER REGARDING CITY MANAGER'S EXCUSAL OF OFFICER FROM APPEARING AT A BOARD OF INQUIRY

No action taken.

14. VOTE ON ADMINISTRATIVE CLOSURE OF COMPLAINT

Motion to approve Complaint #2395 for administrative closure.

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

Ayes: Perezvelez, Roberts, Sherman, Smith, and Yampolsky.

Noes: Lippman Abstain: None

Absent: Bernstein, DaSilva, Javier

15. REVIEW OF CALOCA DECISION

Complaint #2380

Item postponed to the next meeting.

End of Closed Session

16. ANNOUNCEMENT OF CLOSED SESSION VOTE

The unanimous vote to close Complaint #2395 was announced.

17. ADJOURNMENT

By general consent, the meeting was adjourned at 10:25 p.m. in memory of Alfred Olango, killed by police in El Cajon on September 27, and Palm Spring police officers Lesley Zerebny and Jose "Gil" Vega, killed on October 8.