



Police Review Commission (PRC)

**POLICE REVIEW COMMISSION**  
**REGULAR MEETING**  
**MINUTES**  
*(Approved)*

**January 14, 2015**  
**7:00 P.M.**

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

**1. CALL TO ORDER & ROLL CALL BY CHAIR ALISON BERNSTEIN AT 7:06 P.M.**

Present: Commissioner George Lippman  
Commissioner Karen Kiyo Lowhurst  
Commissioner George Perezvelez  
Commissioner Ann Rogers

Absent: Commissioners Barbara Allen, Oliver Zerrudo

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan, Capt. Cynthia Harris (left 8:15 p.m.), Sgt. Katherine Smith, Sgt. Benjamin Cardoza, Ofc. David Bartalini

**2. APPROVAL OF AGENDA**

The agenda was approved by consensus.

**3. PUBLIC COMMENT**

There were 6 speakers.

**4. APPROVAL OF MINUTES**

**Motion to approve minutes of the Regular Meeting of December 10, 2014.**

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

Ayes: Bernstein, Perezvelez, and Rogers

Noes: None          Abstain: Lippman, Lowhurst          Absent: Allen, Zerrudo

## 5. ELECTION OF 2015 CHAIR AND VICE-CHAIR

### **Motion to elect Commissioner Alison Bernstein as Chairperson.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers.

Noes: None Abstain: None Absent: Allen, Zerrudo

### **Motion to elect Commissioner George Perezvelez as Vice-Chairperson.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers.

Noes: None Abstain: None Absent: Allen, Zerrudo

## 6. CHAIR'S REPORT

Chair Bernstein announced that she, former Commissioner Sherman, Commissioner Rogers, PRC Officer Lee and PRC Investigator Norris attended a Fair & Impartial Training along with officers from BPD and other jurisdictions. Former Chair Sherman gave end-of-term remarks and many thanks; he in turn was thanked by Commissioners and others for his many years of dedicated service.

## 7. CHIEF OF POLICE'S REPORT

Chief Meehan said the next crime report will be issued on March 10; the department is in the midst of budget discussions; currently 170 sworn officers; fair and impartial policing policy has been in place and data collection piece should be in place in about two weeks; he met with BUSD officials; annual MLK Day breakfast to be held Monday, January 19.

## 8. OLD BUSINESS (DISCUSSION AND ACTION)

- a. Creation of a subcommittee to produce a General Order regarding the treatment of transgendered persons.

**By consensus, the Commission agreed that they would use BART's draft General Order on this topic as a starting point, and discuss it at their next meeting; input will be sought from the BPD and BPA as well.**

- b. Amend PRC Regulations to exempt certain types of cases from mediation.  
From: Commissioner Perezvelez

### **Motion to refer the matter to the Regulations Subcommittee.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

- c. Commendations of Berkeley Police Department employees from January through May 2014: recognition of particular exemplary action.

#### **1) Motion to commend the following officers for special recognition:**

**Ofc. Valle**

**Ofc. Rafferty & partner**

**Ofc. Marble & Ofc. Bonaventure**

**Ofc. Perkins**

**And the entire Department for assistance during the Dalai Lama's visit**  
Moved/Seconded (Bernstein/Perezvelez) **Motion Carried**

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

**2) By consensus, Commissioners asked the PRC Officer to locate a commendation that seemed to be missing from this meeting's packet.**

- d. Request opinion from the City Attorney as to under what circumstances, if any, BPD's Internal Affairs findings on a particular matter can be disclosed to Commissioners.

**Motion to make the above request of the City Attorney.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

- e. Explore what steps are available to make the BOI process more accessible to the complainant, including asking the City Attorney whether BOI findings and reasoning can be shared with complainants.

**Motion to ask the above question of the City Attorney.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

## **9. NEW BUSINESS (DISCUSSION AND ACTION)**

- a. Policy Complaint #2362 and #2363 regarding use of McKinley Avenue for a staging area beginning December 6, 2014.

**Motion to suspend rules to allow public comment on this agenda item.**

Moved/Seconded (Perezvelez/Lowhurst) **Motion Carried**

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

Public comment: there were several speakers.

**Motion to accept Policy Complaint #2362**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

**Motion to accept Policy Complaint #2363 and consider it together with #2362**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None Abstain: None Absent: Allen, Zerrudo

**By consensus, the Commission requested that the PRC Officer locate any applicable General Orders and Training & Information Bulletins that apply to staging, and BPD's ability to limit access to and egress from residences and**

**businesses; requirement of notice of such limits and whether duration of impact affects such; and any accommodations required.**

- b. Consideration of the two urgency items at the December 10, 2014 meeting, in light of BPD input.

**No action taken.**

***Discussion and action on the following three items was combined.***

- c. Whether to open a policy review on the use of tear gas.
- d. Whether to open a policy review on the limitation on movement of emergency vehicles on December 6, 7, and 8, 2014.
- e. Whether to open a policy review on any orders regarding BPD engagement during the December 7, 2014 demonstration.

**Motion to undertake a policy complaint/review as to the events of December 6, 7, and 8, 2014, specifically focusing on the use-of-force General Order, the crowd control General Order, the use of tear gas, the limitation on movement of emergency vehicles, and the allegations of non-engagement by BPD during the disturbances on December 7.**

**Friendly amendment #1 (Lippman; accepted by Perezvelez): include in the review the use of batons in crowd control.**

**Friendly amendment #2 (Lippman; accepted by Perezvelez): include in the review the firing of projectiles into a crowd.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None

Abstentions: None

Absent: Allen, Zerrudo

***The following new business items were carried over to the next meeting:***

- f. Consider establishing a subcommittee to review BPD general orders and training bulletins regarding crowd control policies in conjunction with recognized established best practices, with particular focus on San Francisco and Oakland crowd control policies.
- g. Whether to conduct information gathering and investigation into mutual aid practices and policies, specifically as they relate to control of law enforcement conduct, accountability for the conduct of assisting agencies within Berkeley, and the scope of BPD responsibility as the lead agency for the conduct of responding agencies.
- h. Approve revised Confidentiality Agreement.

## **10. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (DISCUSSION AND ACTION)**

***All subcommittee matters were carried over to the next meeting***

- a. Wearable Video Cameras Subcommittee  
Consider dissolution of subcommittee.
- b. Regulations Subcommittee  
Update.

- c. Fair and Impartial Policing Subcommittee  
Consider dissolution or renewal of subcommittee.
- d. Budget Review Subcommittee  
Schedule meeting date.
- e. N-17 Subcommittee  
Schedule meeting date; consider name change.

#### **11. PRC OFFICER'S REPORT**

PRC Officer reported on the status of complaints, outstanding requests, and meet & confer over regulations changes; ethics training due for some Commissioners; Council special meetings on January 17 & 20 on police-community relations.

#### **12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS**

#### **13. PUBLIC COMMENT**

There were 2 speakers.

***Closed Session***

#### **14. VOTE ON STAFF RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

Complaint #2356.

**Motion to approve staff recommendation to administratively close this complaint.**

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

Ayes: Bernstein, Lippman, Lowhurst, Perezvelez, and Rogers

Noes: None                      Abstentions: None                      Absent: Allen, Zerrudo

***The remaining closed session items were carried over until the next meeting:***

#### **15. VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT**

Complaint #2359.

#### **16. REVIEW OF CALOCA DECISION**

Complaint #2327.

***End of Closed Session***

#### **17. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION**

The vote to administratively close Complaint #2356 was announced.

#### **18. ADJOURNMENT**

The meeting was adjourned at 10:25 p.m.