



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
SPECIAL MEETING
MINUTES
(Approved)

February 4, 2015
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:05 P.M.

Present: Vice Chair George Perezvelez
Commissioner George Lippman
Commissioner Ann Rogers
Commissioner Bulmaro Vicente
Commissioner Lowell Finley (*temporary assignment*)
Commissioner Harvey Kletz (*temporary assignment*)

Absent: Commissioners Barbara Allen, Karen Kiyo Lowhurst, Benjamin Bartlett, Michael Sherman

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Cynthia Harris, Sgt. Joseph Okies, Sgt. Katherine Smith

2. APPROVAL OF AGENDA

With a slight reordering, the agenda was approved by consensus.

3. PUBLIC COMMENT

There were no speakers.

4. APPROVAL OF MINUTES

Regular Meeting of January 14, 2015.

Motion to approve minutes of the Regular Meeting of January 14, 2015, as corrected.

Moved/Seconded (Finley/Vicente) **Motion Carried**

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

Noes: None Abstain: Finley, Kletz Absent: Allen, Bartlett, Lowhurst, Sherman

5. CHAIR'S REPORT

The Chair reported on City Council agenda items relating to issues the PRC is or will be working on.

6. CHIEF OF POLICE'S REPORT

Currently 169 sworn officers and 6 recruits in the academy; 2 dispatcher openings. Data collection under the Fair & Impartial Policing General Order has begun.

7. OLD BUSINESS (discussion and action)

a. Begin developing a General Order regarding the treatment of transgendered persons, using as a starting point BART's draft general order on this subject.

By consensus, the Commission agreed place this matter on the agenda for the February 25th meeting for further discussion and action; and to make the first draft BART order available to new Commissioners.

b. Decide how the BPD officers selected at the January 14, 2015 meeting for special recognition should be commended.

Motion to have PRC Officer write a letter to the Police Chief naming all the BPD officers chose for special recognition.

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

c. Review, further revise if needed, and approve revised Confidentiality Agreement.

Motion to accept revised Confidentiality Agreement as drafted, and require all sitting and new Commissioners to sign it.

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

By consensus, the Commission asked the PRC Officer to clarify with the City Attorney its advice that including formerly confidential documents that had been made public in a Board of Inquiry packet had the effect of making such documents confidential again.

(The following item was taken out of order.)

e. Policy Complaint #2362 & #2363 regarding McKinley Avenue staging in December 2014: Discuss PRC Officer's report on research into questions Commission raised at its last meeting; take further action or provide further direction.

By consensus, the Commission agreed to have the PRC Officer look into other jurisdictions' best practices for staging operations and report back at the next meeting.

- d. Determine how to proceed on policy review initiated at the January 14, 2015 meeting: Review 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, the allegations of non-engagement by BPD during the disturbances on December 7; the use of batons in crowd control; and the firing of projectiles into a crowd.

Motion to establish a subcommittee to address the above issues.

Moved/Seconded (Vicente/Finley) **Motion Failed**

Ayes: Lippman. Noes: Bernstein, Finley, Kletz, Perezvelez, and Rogers.

Abstain: Vicente Absent: Allen, Bartlett, Lowhurst, Sherman.

By consensus, the Commission directed the PRC Officer to request from the BPD the following information: recordings of BPD communications on all channels; operational briefing documents; mutual aid requests; mutual aid plans; videotapes of the event; crowd control plan; requests to the CSIU, and to ask if the materials could be available by the February 25 meeting.

- f. Whether to establish 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.

By consensus, the Commissioners agreed to delay this item until the information in the immediately preceding item has been obtained and the Commission makes further decisions about how to proceed on the policy review.

- 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.

Motion to have the PRC Officer gather all BPD orders and other writings relating to the use of, and requests for, mutual aid, and how assisting agencies conduct themselves in the City of Berkeley; and obtain rules of the Alameda County Sheriff's Office governing agencies that respond to mutual aid requests; this to be done in advance of having BPD available for questions about the use of mutual aid.

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

8. NEW BUSINESS (discussion and action)

- a. Consider establishing rules for review and disposition of policy complaints and reviews.

By consensus, this item was tabled until the next meeting.

b. Consider holding a future meeting on the U.C. campus.

Motion to have regular meetings in other locations in the City, beginning with the U.C. campus on a date to be determined.

Friendly amendment (Bernstein; accepted by Rogers): to hold the February 25 regular meeting on the U.C. campus preceded by a 6:00 p.m. special meeting devoted mostly to hearing from the public.

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

By consensus, the Commission directed the PRC Officer to locate a room for the February 25 meeting, and to investigate other possible meeting venues.

c. Discuss ways to undertake community outreach

This item was discussed in conjunction with the item above; no separate action taken.

9. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)

a. Wearable Video Cameras Subcommittee

Consider dissolution of subcommittee.

Motion to dissolve the Wearable Video Cameras Subcommittee

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

b. Regulations Subcommittee

Chair Bernstein appointed Commissioner Finley to the Regulations Subcommittee.

c. Fair and Impartial Policing Subcommittee

Motion to dissolve the Fair and Impartial Policing Subcommittee

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

Ayes: Bernstein, Finley, Kletz, Perezvelez, Rogers, and Vicente

Noes: Lippman Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

d. Budget Review Subcommittee

By consensus the Commission dissolved the Budget Review Subcommittee

e. N-17 Subcommittee

Schedule meeting date; consider name change.

Motion to change the subcommittee name to the Suspicious Activity Reporting Subcommittee.

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

Ayes: Bernstein, Finley, Kletz, Lippman, Perezvelez, Rogers, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Lowhurst, Sherman

Chair Bernstein appointed Commissioners Lippman and Vicente to the SAR Subcommittee.

10. PRC OFFICER'S REPORT

Three new individual complaints have been filed since the last meeting, for a total of 6 active complaints. A memo regarding the status of outstanding requests was distributed. The BPD extended an invitation to have a Commissioner sit in on SRT member interviews but no one was available.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

12. PUBLIC COMMENT

There were no speakers.

Closed Session

13. VOTE ON WHETHER TO ACCEPT LATE-FILED COMPLAINT

Complaint #2359.

Motion to approve Late File as timely.

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

Ayes: Lippman, Vicente Noes: Bernstein, Perezvelez, Rogers

Abstain: Finley, Kletz Absent: Allen, Bartlett, Lowhurst.

14. REVIEW OF CALOCA DECISION

Complaint #2327.

This item was tabled until the next meeting.

End of Closed Session

15. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

The vote to reject the request for late-filed complaint #2359 was announced.

16. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.