



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(Approved)

February 25, 2015
7:00 P.M.

Booth Auditorium, Boalt Hall
(Bancroft Way at Piedmont Ave.)
University of California, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:36 P.M.

Present: Vice Chair George Perezvelez
Commissioner George Lippman
Commissioner Karen Kiyu Lowhurst (left 9:45 p.m.)
Commissioner Ann Rogers
Commissioner Michael Sherman
Commissioner Bulmaro Vicente
Commissioner Lowell Finley (*temporary assignment*)
Commissioner Harvey Kletz (*temporary assignment*) (left 8:35 p.m.)

Absent: Commissioners Barbara Allen, Benjamin Bartlett

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Cynthia Harris, Sgt. Joseph Okies, Sgt. Benjamin Cardoza, Ofc. David Bartalini

2. APPROVAL OF AGENDA

(Occurred after public comment.) By consensus, the agenda agreed to the Chair's proposal to incorporate item 9.c. into its discussion of item 8.c.

3. PUBLIC COMMENT

There was one speaker.

4. APPROVAL OF MINUTES

Regular Meeting of February 4, 2015.

By consensus, the minutes were approved as written.

5. CHAIR'S REPORT

The Chair noted that the latest marijuana enforcement report from the BPD is in the agenda packet for this meeting, and that discussion of the report will be agendaized for the next meeting.

6. CHIEF OF POLICE'S REPORT

No report this meeting.

7. PRC OFFICER'S REPORT

A report of active cases and their status was distributed. Commissioners were reminded to return signed confidentiality agreements. Commissioners Rogers, Perezvelez, Finley and Bernstein will attend the NACOLE Regional Forum on March 4. Clarification from the City Attorney's Office regarding public documents was relayed: if BPD releases a report to the public, its inclusion in a BOI packet does NOT have the effect of making the report confidential.

8. OLD BUSINESS (DISCUSSION AND ACTION)

- a. Continue development of General Order regarding the treatment of transgendered persons.

Russell Bloom, Investigator from BART Independent Police Auditor's Office, made a presentation regarding BART's process in creating its general order on transgendered persons.

Motion to create a subcommittee to develop a General Order regarding the treatment of transgendered persons.

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

Ayes: Bernstein, Finley, Lippman, Lowhurst, Perezvelez, Rogers, Sherman, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Kletz

Chair Bernstein appointed herself and Commissioners Perezvelez and Rogers to the Transgender General Order Subcommittee.

- b. Establish rules of procedure for handling policy complaints and policy reviews.

Motion to adopt the proposed rules as written.

Moved/Seconded (Sherman/Vicente) **Motion carried**

Ayes: Bernstein, Finley, Lippman, Lowhurst, Perezvelez, Rogers, Sherman, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Kletz

- c. Policy review regarding 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: review BPD documents obtained to date; further discussion and action, taking into account Council's referral to the PRC as noted in item 8.c. of this agenda.

Motion to direct the PRC Officer to start the process of drafting subpoenas to conduct the police investigations with assistance from Commissioners Finley, Lowhurst, and Lippman.

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

Ayes: Bernstein, Finley, Lippman, Lowhurst, Perezvelez, Rogers, Sherman, and Vicente

Noes: None Abstain: None Absent: Allen, Bartlett, Kletz

- d. Mutual aid practices and policies: update from PRC Officer regarding applicable mutual aid orders, policies and other writings, including those from the Alameda County Sheriff's Office; further discussion and action.

The PRC Officer distributed information about mutual aid procedures from the State. After discussion, the Commission **agreed by consensus to continue the discussion to the next meeting.**

9. NEW BUSINESS (DISCUSSION AND ACTION)

- a. Use of police in-vehicle cameras and body-worn cameras by BPD: determine how to proceed on referrals from City Council on February 10 and possibly February 24.

By consensus, the Commission agreed that the matters should be reviewed by the full Commission for the time being, and directed the PRC Officer to gather and distribute General Orders for in-vehicle and body cameras from Oakland, Los Angeles, BART, and other agencies in her discretion, for further discussion at the next meeting.

- b. Changes to General Orders C-64 (Crowd Control), M-2 (Mutual Aid), and U-2 (Use of Force): determine on how to proceed on City Council's February 10 referral to review Oakland and San Francisco PD orders on crowd control and use of force, and any other policies deemed appropriate, to make appropriate recommendations to revise the BPD's general orders.

Motion to take up these issues after investigation of the events of December 2014 is completed.

Moved/Seconded (Rogers/Vicente) **Motion carried**

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

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

- c. Investigation into police response to protests on December 6, 2014: determine how to proceed on City Council's February 10 referral to investigate: the appropriateness of using tear gas, other non-lethal munitions, and baton strikes to disperse the crowd; and make recommendations based on what was learned from the incident and what could be improved upon for revised policies and procedures on crowd control, the use of force in crowd control incidents (tear gas, non-lethal munitions, use of batons), as well as policies on mutual aid in First Amendment activity and crowd control incidents; have recommendations to the City Manager, Chief of Police and City Council no later than six months.

(Discussed in conjunction with item 8.c. above.)

- d. Fair & Impartial Policing policy (General Order B-4): ask BPD about the status of implementation and plans for public reporting of demographic data.

By consensus, the Commission asked the PRC Officer to send a letter to the Chief asking him to report at the next meeting how reporting of the data will occur.

- e. How to make the BOI process more responsive to complainants, and civilians generally, in light of City Attorney opinion re Possible Disclosure of BOI Findings Report to Complainants.

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

- f. Discuss City Attorney opinion re Disclosure of BPD Internal Affairs' Records to the PRC.

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

- g. Urge Council Members and the Mayor to hold annual commissioners' meetings with their appointees.

From: Commission on Aging

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

10. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (DISCUSSION/ACTION)

- a. Regulations Subcommittee
No report.
- b. Suspicious Activity Reports Subcommittee
The subcommittee will meet soon.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

12. PUBLIC COMMENT

There was one speaker. (This item was moved to occur after item 8.c.)

Closed Session

13. VOTE ON RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

Complaint #2367.

Motion to approve administrative closure of complaint #2367, and to inform the complainant this is because she stated insufficient facts to enable the complaint to proceed.

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

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

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

End of Closed Session

14. ANNOUNCEMENT OF VOTE RESULTS FROM CLOSED SESSION

The vote to approve the recommendation for administrative closure of Complaint #2367 was announced.

15. ADJOURNMENT

By consensus, the meeting was adjourned at 10:20 p.m.