



Police Review Commission

INFORMATION CALENDAR

October 27, 2020

To: Honorable Mayor and Members of the City Council
 From: Police Review Commission
 Submitted by: Kitty Calavita, Chairperson, Police Review Commission
 Subject: Police Review Commission Work Plan for 2020-2021

INTRODUCTION

The Police Review Commission submits its work plan for the year beginning July 2020, in compliance with the 2016 City Council directive for commissions to submit work plans at the beginning of each fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The Commission adopted the attached work plan at its September 9, 2020 meeting. (M/S/C: Mikiten/Chang; Ayes: Calavita, Chang, Leftwich, Mikiten, Mizell, Perezvelez, Ramsey; Noes: None; Abstain: None; Absent: Allamby.)

The work plan includes a list of policy subjects that the Commission is or anticipates addressing in this fiscal year. Foremost among those subjects is the Citywide effort to transform community safety; the Commission expects to participate in the upcoming process of envisioning and shaping a reimagined police department. As time and resources permit, the Commission would like more training about police procedures and tactics, and to learn more about training that our police officers receive. Additionally, the Commission would like to conduct more outreach to ensure that the public is aware of the Commission's existence and role. Finally, the Commission's role in hearing complaints of alleged police misconduct will continue.

If the ballot measure to establish a new Police Accountability Board and Director of Police Accountability position is passed by the voters this November, the current Commission should be phased out by June 30, 2021, which coincides with the period covered by this work plan.

BACKGROUND

The Police Review Commission was established by ordinance in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

Policy work is carried out by the Commission with support from staff, while complaint investigations are handled by staff with commissioner involvement if a case proceeds to hearing. Historically, review of police policies, practices and procedures was largely determined by the Commission itself, with some review generated by members of the public or the City Council but, in light of the heightened scrutiny of law enforcement and push for racial equity, more referrals have been coming from the City Council since June of this year. The number of complaint investigations and hearings remain externally driven.

ENVIRONMENTAL SUSTAINABILITY

No identifiable environmental effects or opportunities are associated with the subject of this report.

POSSIBLE FUTURE ACTION

While the attached work plan reflects the Commission's priorities as of the date of its adoption, it is subject to change throughout the year should more urgent or important matters arise. These matters may take precedence as a result of Council referrals, incidents involving the police, or requests from the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts of possible future action are anticipated for the current fiscal year.

CONTACT PERSON

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Attachments:

- 1: Police Review Commission Work Plan for 2020-2021



Police Review Commission

Police Review Commission 2020-2021 Work Plan

Commission mission statement

The general purpose of the Police Review Commission is to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. sec. 3.32.010.)

Goal #1: Participate in the process to transform community safety in the City of Berkeley.

a. Resources

PRC staff, BPD and other City staff, and consultants.

b. Program activities

The City Council, in a reflection of the community's desires, has directed the City Manager to embark on a process of re-imagining community safety in the City, which includes limiting the role of law enforcement and identifying elements of police work that can be achieved through alternative programs, policies, systems, and community investments. As the body tasked with reviewing police policies, practices and procedures, the PRC has a valuable perspective on the current work of our police force, and expects to participate, with other community stakeholders, in envisioning and shaping a reimagined police department that sheds some responsibilities – such as mental health responses and traffic enforcement – and employs alternative approaches to remaining duties where appropriate.

c. Outputs

Recommendations for programs, structures, and initiatives to transform community safety in the City, especially as they relate to changes in the current scope of responsibilities of the Police Department.

Goal #2: Review and set BPD policies, practices, and procedures.

a. Resources

PRC staff, BPD staff, meeting space or videoconferencing capability.

b. Program activities

A policy review may be initiated by the Commission, by a City Council referral, the Police Department, or a member of the public. The initial review steps may be undertaken by the Commission, a commission subcommittee, or staff, depending on the nature and breadth of the policy, practice, or procedure in question. The review could include: holding meetings and hearings to receive input from community members; meeting with and asking questions of the BPD; studying current policies, practices, and procedures; gathering policies from other jurisdictions; and surveying the literature regarding best practices.

If a subcommittee or staff perform the initial work, it will be presented to the full Commission for review and approval.

c. Outputs

Based on the information gathered, the Commission will make a recommendation to the BPD, City Manager or City Council about a change in a policy, practice, or procedure.

d. Outcomes

The desired change is a new or improved policy, practice, or procedure. If new, it will provide guidance where it did not previously exist or was not well-documented. A revised policy, practice, or procedure will reflect a change to conform with new laws, to embrace best practices that have changed since the original policy was established, or to better align with community values.

This fiscal year, policy review must be considered in the context of the overarching effort to transform community safety.

e. Specific policies, practices, or procedures to be addressed in the current fiscal year will include ongoing, recurring, and new reviews.

Topics for which review was begun last fiscal year and will continue:

- New or revised policies and practices to address disparities in BPD pedestrian and traffic stop, citation, search, and arrest rates; and other

efforts to ensure unbiased policing. (Note that three PRC members are on the Mayor's Working Group on Fair & Impartial Policing.)

- Complete conversion of all BPD General Orders into Lexipol policies.
- Surveillance Acquisition Policies and Surveillance Technology Use Policies. Under the Surveillance Technology Use and Community Safety Ordinance, the PRC reviews these policies when new technologies or new uses of existing technologies are proposed, and makes a recommendation to the Council.

Matters for which review has begun or is anticipated to start this year:

- Uses of tear gas in narrowly defined circumstances.
- Evaluation of a proposed ordinance regulating Police Acquisition and Use of Controlled Equipment, as referred from the Council Agenda & Rules Committee.
- Assessment of use of body-worn cameras and re-visiting of policy recommendations made in March 2018.

Recurring topics:

- Memoranda of understanding and mutual aid pacts with other law enforcement agencies (an annual process).

Not all reviews of police policies, practices, or procedures can be anticipated in advance, as some issues are undertaken based on a request from the City Council or a civilian. Also, the PRC may undertake a review in response to particular police activity or incident.

Goal #3: Process complaints regarding individual police officer misconduct.

a. Resources

PRC staff are responsible for carrying out this goal, with critical participation by Commissioners. BPD staff are also involved.

b. Program activities

Staff will receive complaints of alleged misconduct by police officers, conduct an investigation, and, if warranted, prepare the case for a hearing before a Board of Inquiry. Rotating panels of three Commissioners serve as the BOI, except in death cases, where the Commission sits as a whole.

Cases may be closed without a hearing; the reasons for such closures include: mediation between the complainant and subject officer is completed; the complainant withdraws the complaint; or the complainant does not cooperate in the investigation.

c. Outputs

Following a BOI hearing, a Findings Report will be sent to the Chief of Police and City Manager, who may rely on the PRC's findings in determining whether to impose discipline.

Based on prior years, it is anticipated that about seven BOI hearings will be held this fiscal year.

d. Outcomes

By providing a venue for investigation of complaints that is separate from the Police Department, civilians may be more willing to file complaints, and view the process as more objective than investigations conducted by the Police Department internally. Addressing problematic behavior identified by the PRC may result in corrective action or discipline. Police officers' awareness of the PRC's complaint process may influence their behavior in a positive way.

Goal #4: Participate in training.

a. Resources

PRC staff and BPD staff

b. Program activities

Presently, Commissioners are not subject to any mandatory or prescribed course of training, other than the training that all commission chairs and vice-chairs must complete. Each Commissioner receives a 2-hour orientation from PRC staff covering topics relevant to service on the commission, the role of Commissioners and PRC staff in reviewing policy and processing complaints, and service on Boards of Inquiry. Commissioners are to meet with the Chief of Police and schedule a ride-along.

Currently, additional training on the organization of the BPD, police policies, relevant law, and officer training occurs sporadically. In light of an October 2018 Council referral asking the PRC to explore mandatory

training requirements, the Commission has asked the PRC Chair and PRC Officer to arrange for ongoing training.

c. Outputs

The results will be Commissioners who are better and more uniformly knowledgeable about police procedures, staffing and organization, training, tactics, and relevant law.

d. Outcomes

The outcome will be policy reviews and Board of Inquiry decisions that are based on a deeper understanding of police work and police-community relations such that both the police and the community will have more confidence in the work of the PRC.

Goal #5: Conduct outreach activities.

a. Resources

PRC staff

b. Program activities

The Commission, through its Outreach Subcommittee, will develop and implement activities and strategies to better inform the community about the PRC's mission and services, including its policy review function and intake of civilian complaints about officer misconduct as an agency independent of the Police Department.

c. Outputs

The results will include increased presence at community fairs and other events; speaking to community groups, churches, and the like; holding Commission meetings at various locations; updated literature describing the Commission's work; a revamped website.

d. Outcomes

The outcome will be larger numbers of community members who are aware of the PRC and informed about its services and activities.

