

Police Review Commission (PRC)

**POLICE REVIEW COMMISSION  
REGULAR MEETING  
AGENDA**

**Wednesday, January 23, 2019  
7:00 P.M.**

**South Berkeley Senior Center  
2939 Ellis Street, Berkeley**

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers. They may comment on items on the agenda or any matter within the PRC's jurisdiction at this time.)*

- 4. APPROVAL OF MINUTES**

Regular Meeting of January 9, 2019

- 5. CHAIR'S REPORT**

- 6. PRC OFFICER'S REPORT**

Status of complaints, including closure of case #2443 (mediation concluded); other items.

- 7. CHIEF OF POLICE'S REPORT**

Crime, budget, staffing, training updates, and other items.

- 8. SUBCOMMITTEE REPORTS (discussion & action)**

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

- a. Prioritizing Safety for Sex Workers Subcommittee
- b. Lexipol Policies Subcommittee

**9. OLD BUSINESS (discussion & action)**

[Numbers in brackets following each item show rank resulting from Commission's Dec. 2018 prioritization of items.]

a. Continue review of Lexipol Policy 425 on use of body-worn cameras, including sufficiency of provisions on use of associated iPhone, especially facial recognition capabilities; new issues arising after April 2017. [#2]  
From: Commissioner Prichett  
(See materials on pp. 21 – 45 of the Jan. 9, 2019 agenda packet.)

b. Responsiveness of BPD management to PRC requests. [#5]  
From: Commissioner Prichett  
(See materials on p. 47 of the Jan. 9, 2019 agenda packet.)

c. October 2, 2018 referral from City Council regarding the creation of training requirements for Police Review Commissioners. [#6]  
(See materials on pp. 49 – 55 of the Jan. 9, 2019 agenda packet.)

d. Lexipol Policies for review and approval. [#7]  
From: Lexipol Subcommittee

Lexipol #	G.O.	Title
312	I-15 (part), J-18 (part)	Temporary Custody of Juveniles
313	none	Adult Abuse
314	H-07	Discriminatory Harassment
315	C-08	Child Abuse

(See materials in "Lexipol" packet of Oct. 10, 2018)

e. Decide whether to proceed with former Commissioner Sherman's item stemming from BPD Response to Protests on August 5, 2018: Help BPD better understand the changing role of Black Bloc to Antifa in making protests safer, for purposes of BPD's handling of future protests to ensure safety of all participants. [#10]

f. Review requirements surrounding the preparation of After-Action Reports and whether release (or withholding) of such reports or parts thereof are compliant with the Public Records Act. [#11]  
From: Commissioner Prichett

g. Issues surrounding Commissioners' communications using personal devices and accounts being subject to Public Records Act requests, including whether Commissioners may be assigned City email addresses for Commission business. [#17]  
From: Commissioner Ramsey

## **10. NEW BUSINESS (discussion & action)**

- a. Decide whether to review the degree to which BPD has followed its crowd control and crowd management policies, and whether they are adequate to assist BPD officers in preventing unnecessary conflict in crowd-related situations.

From: Commissioner Prichett

- b. Decide whether to review the delivery of mental health services, including the role of the BPD in responding to crises involving people with mental health disabilities, and whether BPD's participation impacts the situation in the most sensible way and so the best outcome is reached.

From: Commissioner Prichett

- c. Amend the Standing Rules to limit the number of items placed on agenda by a single commissioner.

From: Commissioner Allamby

- d. Election of Commission Chairperson and Vice-chairperson for 2019.

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

Attached

## **12. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on the agenda at this time.)*

## **13. ADJOURNMENT**

**Communications Disclaimer**

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the PRC Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary for further information.

**Communication Access Information (A.R.1.12)**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

**SB 343 Disclaimer**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Police Review Commission, located at 1947 Center Street, 1st floor, during regular business hours.

Contact the Police Review Commission at (510) 981-4950 or [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info).

**PRC REGULAR MEETING ATTACHMENTS**  
**January 23, 2019**

**MINUTES**

January 9, 2019 Regular Meeting *Draft* Minutes

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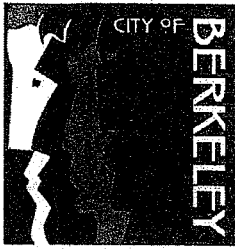
**AGENDA-RELATED**

None.

**COMMUNICATION(S)**

PRC Standing Rules (1.11.2019)

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DRAFT

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

**Wednesday, January 9, 2019  
7:00 P.M.**

**South Berkeley Senior Center  
2939 Ellis Street, Berkeley**

**1. CALL TO ORDER & ROLL CALL BY VICE CHAIR PEREZVELEZ AT 7:08 P.M.**

**Present:** Commissioner George Perezvelez (Vice Chair)  
Commissioner Gwen Allamby  
Commissioner Kitty Calavita  
Commissioner Elisa Mikiten (arrived 8:10 p.m.)  
Commissioner Andrea Prichett  
Commissioner Ismail Ramsey  
Commissioner Terry Roberts  
Commissioner Ari Yampolsky (arrived 7:15 p.m.)

**Absent:** Commissioner Sahana Matthews

**PRC Staff:** Katherine J. Lee, PRC Officer; Byron Norris, PRC Investigator

**BPD Staff:** Chief Andy Greenwood, Capt. Rico Rolleri, Lt. Joe Okies (all left ≈ 9:25 p.m.); Sgt. Cesar Melero (left 9:45 p.m.)

**2. APPROVAL OF AGENDA**

The agenda was approved by general consent.

**3. PUBLIC COMMENT**

There were 2 speakers.

**4. APPROVAL OF MINUTES**

**Motion to approve Regular Meeting Minutes draft of December 12, 2018.**

**Moved/Seconded (Ramsey/Allamby) Motion Carried**

**Ayes:** Allamby, Calavita, Perezvelez, Prichett, Ramsey, Roberts, and Yampolsky.

**Noes:** None

**Abstain:** None

**Absent:** Matthews, Mikiten

## 5. CHAIR'S REPORT

Vice-Chair Perezvelez noted that today is Law Enforcement Appreciation Day, and specifically thanked the police officers and fire department personnel who responded when former PRC Commissioner Alison Bernstein and her wife Judy Appel were struck by a car and seriously injured last Friday night. Please keep them in your thoughts and prayers.

Michael Sherman has been replaced as Commissioner.

New Commissioner Elisa Mikiten introduced herself. [Following Item #6.b.]

## 6. PRC OFFICER'S REPORT

a. Status of complaints; other items.

-- Two new complaints filed since the December 12 PRC meeting, for a total of four complaints filed in December.

-- PRC's Council Item on extending the 120-day time limit for discipline has gone to the City Manager's Office; as an Action item it requires a City Manager response or companion report.

-- All commission secretaries were asked to circulate draft of City's Local Hazard Mitigation Plan for comment; was distributed to Commissioners. Let PRC Officer know if want to agendaize.

-- Commission secretaries also asked to publicize upcoming workshops for transforming the City's Transfer Station into a Zero Waste Facility.

-- For the first time, PRC staff has received body camera footage related to complaint investigations.

b. Prioritizing tasks (discussion & action)

(i) How to prioritize new items

**Motion that the Chairperson of the PRC has discretion to prioritize new items for placement on the agenda.**

Moved/Seconded (Ramsey/Perezvelez)

**Friendly amendment: that this current authority of the Chairperson is affirmed.**

Moved by Calavita; Accepted by Ramsey and Perezvelez

**Motion, as amended, carried**

Ayes: Allamby, Calavita, Mikiten, Perezvelez, Ramsey, Roberts, and Yampolsky.

Noes: None

Abstain: Prichett

Absent: Matthews

(ii) Prioritizing two sub-items under issues surrounding BPD response to August 5, 2018 protests, in light of Comm. Prichett's revision of her item (see 11.e.(i) below) to "Review whether BPD is following post-December 2014 recommendations to de-escalate crowds"; and "Review BPD policies and practices for de-escalating situations involving people with mental health disabilities."

*(No action taken in light of preceding actions.)*

## 7. CHIEF OF POLICE'S REPORT

Crime, budget, staffing, training updates, and other items.

Chief Greenwood reported:

- Planning for the March timesheet [assignment of duties and shifts].
- Use of Force policy revisions are in meet-and-confer.
- Sgt. Stines unexpectedly resigned for a private sector position. 3 – 4 officers returned from other agencies.

Capt. Roller reported:

- Currently authorized for 181 officers and have 163, with 3 laterals starting in the next couple weeks. 8 in academy in different phases. In 4<sup>th</sup> recruitment of the year, low turnout but good candidates.
- Dispatchers 23 of 28 positions filled. Have completed recruitment exam and 8 are in background.
- CSOs [Community Service Officers] fully staffed and PEOs [Parking Enforcement Officers] are down 1, but 1 candidate is in background.
- All police departments nationwide and in the Bay Area are short-staffed and competing for same applicants.

Chief Greenwood and Capt. Roller answered questions from Commissioners.

## 8. DEMONSTRATION OF BODY-WORN CAMERA AND ASSOCIATED IPHONE BY BERKELEY POLICE DEPARTMENT

Lt. Okies, project manager for the body-worn camera (BWC) program, demonstrated how the BWC, the iPhone, and the Axon applications work. He and Capt. Greenwood answered questions from Commissioners.

## 9. SUBCOMMITTEE REPORTS (discussion & action)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

### a. Homeless Encampment Subcommittee

**Motion to dissolve the Homeless Encampment Subcommittee**

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

Ayes: Allamby, Calavita, Mikiten, Perezvelez, Prichett, Ramsey, Roberts, and Yampolsky.

Noes: None

Abstain: None

Absent: Matthews

b. Prioritizing Safety for Sex Workers Subcommittee – Chairperson Ramsey reported on the Subcommittee's first meeting, held last month.

c. Lexipol Policies Subcommittee – Next meeting set for Monday, Jan. 14, at 6:00 p.m.



**10. NEW BUSINESS (discussion & action)**

- a. Amend Standing Rules to provide for election of officers during the second meeting of the calendar year.

**Motion to amend the Standing Rules to provide for election of officers during the second meeting of the calendar year.**

Moved/Seconded (Mikiten/Roberts)

Ayes: Allamby, Calavita, Mikiten, Perezvelez, Prichett, Ramsey, Roberts, and Yampolsky.

Noes: None

Abstain: None

Absent: Matthews

- b. Election of Chairperson and Vice-chairperson for 2019.

*(Postponed to the next meeting in light of change to Standing Rules.)*

**11. OLD BUSINESS (discussion & action)**

- a. Continue review of Lexipol Policy 425 on use of body-worn cameras, including sufficiency of provisions on use of associated iPhone, especially facial recognition capabilities; outstanding concerns from April 2017.

**By consensus, this item was postponed to the next meeting.**

- b. Responsiveness of BPD management to PRC requests.

**Motion to close discussion on this item at this time and remove from agenda.**

Moved/Seconded (Mikiten/Allamby)

**Substitute motion: To postpone the remainder of the agenda and go into closed session.**

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

Ayes: Allamby, Calavita, Mikiten, Perezvelez, Prichett, Ramsey, Roberts, and Yampolsky.

Noes: None

Abstain: None

Absent: Matthews

- c. October 2, 2018 referral from City Council regarding the creation of training requirements for Police Review Commissioners.

*(Item postponed to the next meeting.)*

- d. Lexipol Policies for review and approval.

Lexipol #	G.O.	Title
312	I-15 (part), J-18 (part)	Temporary Custody of Juveniles
313	none	Adult Abuse
314	H-07	Discriminatory Harassment
315	C-08	Child Abuse

*(Item postponed to the next meeting.)*

- e. Examination of issues surrounding the BPD Response to Protests on August 5, 2018, including:
  - i) Pre-emptive confiscation of sound truck near Ohlone Park, and other “de-escalation” strategies used.  
*(Item to be revised.)*
  - ii) Helping BPD better understand the changing role of Black Bloc to Antifa in making protests safer, for purposes of BPD’s handling of future protests to ensure all participants are safe.  
*(Item postponed to the next meeting.)*
- f. Review requirements surrounding the preparation of After-Action Reports and whether release (or withholding) of such reports or parts thereof are compliant with the Public Records Act.  
*(Item postponed to the next meeting.)*
- g. Issues surrounding Commissioners’ communications using personal devices and accounts being subject to Public Records Act requests, including whether Commissioners may be assigned City email addresses for Commission business.  
*(Item postponed to the next meeting.)*

**12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS**

Attached

**13. PUBLIC COMMENT**

There were no speakers.

***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 matter(s):

**14. PRESENTATION FOR ADMINISTRATIVE CLOSURE IN COMPLAINT #2441**

**Motion to approve Complaint #2441 for administrative closure.**

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

**Ayes: Allamby, Calavita, Mikiten, Perezvelez, Ramsey, Roberts, and Yampolsky.**

**Noes: None**

**Abstain: Prichett**

**Absent: Matthews**

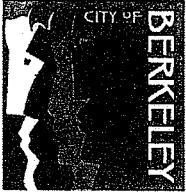
***End of Closed Session***

**15. ANNOUNCEMENT OF CLOSED SESSION ACTION**

The vote to administratively close Complaint #2441 was announced.

**16. ADJOURNMENT**

**By general consent, the meeting was adjourned at 10:02 p.m.**



**Police Review Commission**  
**Standing Rules**  
**(As of 1.11.2019)**

***A. PURPOSE***

These Standing Rules are established by the Police Review Commission to ensure transparency and efficiency of our operations.

***B. AMENDMENTS AND REVISIONS***

Amendments and revisions to these Standing Rules shall be adopted by a majority vote of the Police Review Commission, except that the Commission may not adopt rules that conflict with the enabling Ordinance, Commissioners' Manual, or Regulations for Handling Complaints Against Members of the Police Department.

***C. AGENDA ITEMS – REGULAR MEETINGS***

Individual commissioners shall submit agenda items to the commission secretary by 12:00 noon one week before the meeting date. (This will almost always be a Wednesday.)

***D. COMMUNICATIONS***

Individual commissioners shall submit communications to be included in the agenda packet to the commission secretary by 12:00 noon one week before the meeting date to ensure inclusion in the packet. Communications received after this deadline and before 3:00 p.m. on the meeting day will be distributed in hard copy at the meeting, and may also be distributed to commissioners via email. If communications are received after 3:00 p.m. on the meeting day, the commission secretary will make every effort, but cannot guarantee, to have hard copies available at the meeting.

***E. MEETING PROCEDURES***

1. Agenda items shall be introduced by the commission member or staff member who proposed the item. The Chair shall allow an initial period for discussion. When a motion is introduced and seconded, the Chair may set a time limit of no less than two minutes for each commissioner for additional comments before putting the matter to a vote.
2. A pending motion may be modified by a "friendly amendment"; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
3. During discussion of a motion, the Chair shall make every attempt to allow alternating positions to be heard.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall ask the commission secretary to repeat the motion before the action.

5. Guest speakers who are not on the agenda may address the commission only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert's Rules of Order.

#### *F. PUBLIC COMMENT*

1. The Chair, subject to the consent of the commission, may determine the time limit for each speaker and the total number of speakers.
2. Before an agenda item is heard, the Chair or Vice-Chair may poll members of the public present to determine if a significant number of them wish to speak on a particular agenda item. If so, the Chair or Vice-Chair may move that public comment on that item can be heard just before the item.

#### *G. POLICY COMPLAINTS AND REVIEWS*

1. An inquiry into a policy, when initiated by a civilian filing a policy complaint form, is a "policy complaint."
  - a) The procedures for handling a policy complaint are set forth in Section II.A.4.b. of the Regulations for Handling Complaints Against Members of the Police Department.
  - b) Additionally, a public comment period shall be agendized immediately preceding consideration of the policy complaint, limited to comments on that complaint. Policy complainants will be allowed to speak for five minutes. Other members of the public will be allowed up to three minutes; the time allotted is subject to the discretion of the Chair, who will consider the number of persons wishing to speak. Commissioners may ask policy complainants brief questions. The BPD will be given an opportunity to respond to the commission.
2. A commission-initiated policy review may commence upon a majority vote of the commissioners.
  - a) Commissioners shall then determine how to proceed. Possible actions include, but are not limited to: considering the issue as whole commission, assigning a commissioner to research the issue, asking staff to investigate or research, or establishing a subcommittee. If a subcommittee is created it will seek BPD involvement in its policy review and, upon completing its review, will present its conclusions and recommendations to the full commission.
  - b) The full commission may recommend to the BPD, City Manager, or City Council that the BPD adopt a new policy, revise an existing policy, or take no action.

#### *H. REGULAR MEETINGS*

Regular meetings shall be held on the second and fourth Wednesday of the month, except in the months of August, November, and December. The commission shall not

meet in August, and shall meet only on one Wednesday of the month in November and December. Exceptions shall be made when a meeting day falls on a religious holiday.

Regular meetings shall commence at 7:00 p.m., and shall be held at the South Berkeley Senior Center and other locations as may be determined by the commission.

## *I. ELECTIONS*

1. Annual elections for PRC Chair and Vice-Chair will be agendized for the second regular meeting in January and, whenever possible, this item will be agendized as the final item under New Business.
2. The election of the Chair will precede the election of the Vice-Chair, and the following nomination and election process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A commissioner nominates another commissioner or him/herself. A commissioner must be present in order to be nominated.
  - c) The nomination is seconded (the nomination fails if there is no second)
  - d) The presiding Chair declares the nomination process closed, when there are no further nominations.
  - e) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - f) Commissioners pose questions to each candidate.
  - g) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.
    - iii. If a clear winner is still not identified after a second round of voting, the presiding Chair will conduct a coin toss to break the tie and determine a winner. The PRC Secretary will assign "heads" and "tails."
3. The PRC Secretary will record the maker and the second of the nomination motion as well as the total votes and results per office.
4. The outgoing Chair and Vice-Chair will be given the opportunity to make 2-minute departing statements after the election process takes place. The newly-elected Chair and Vice-Chair will assume their positions at the end of the meeting.

## *J. APPOINTMENT OF MEMBERS OF THE PUBLIC TO SUBCOMMITTEES*

1. In accordance with the PRC Ordinance, the Chair may appoint members of the public to subcommittees in which they have expressed an interest, subject to approval of the commission. Members of the public seeking to serve on a

subcommittee must: a) be residents of the City of Berkeley; and b) present themselves at a commission meeting before or at the time of the appointment and speak on the public record on intent to serve and what they will bring to the subcommittee work and deliberations.

2. Members of the public appointed to subcommittees shall enjoy the same voting rights and privileges on the subcommittee, as that of PRC commissioners appointed to the subcommittee, except that public members may not be selected to be the subcommittee Chair.
3. Commission members must constitute a majority of the membership of any subcommittee, but a subcommittee may convene and conduct business even if commissioners are not a majority of subcommittee members present
4. The term of appointment for members of the public appointed to subcommittees shall not exceed the life of the subcommittee. If a subcommittee must be reauthorized, any members of the public serving on the subcommittee must be reappointed by the Chair, subject to the approval of the commission.
5. A public member of a subcommittee who is absent from two consecutive subcommittee meetings is automatically removed from the subcommittee, but may be reinstated by the Chair if good cause for the absences is shown.
6. The Chair, subject to the approval of the commission, may remove a member of the public from a subcommittee for good cause. Examples of good cause are: failure to work cooperatively with subcommittee members; unruly or disruptive behavior at meetings; or failure to participate in the work of the subcommittee.
7. All actions by the Chair to appoint, reappoint, or remove a member of a public to or from a subcommittee shall occur at a commission meeting.

#### *K. MUTUAL AID AGREEMENTS*

The commission shall constitute a mutual aid subcommittee no later than the first meeting in February of each year to review the pacts between the BPD and other law enforcement entities.

#### *L. SUBCOMMITTEE NOTES*

Each PRC subcommittee must produce written notes of what occurred at each subcommittee meeting. These notes must be forwarded to the PRC Officer, who will post the notes to the PRC's website

#### *M. ANNUAL REPORT*

The commission secretary shall endeavor to present the annual report for the commission's approval no later than June 1 of each year. The Foreword shall be written by the commissioner who served as Chair in the year of the report.

*N. FAMILIARITY WITH BERKELEY POLICE DEPARTMENT*

Within the first 6 months of their appointment, newly-appointed commissioners shall endeavor to:

- 1) complete a ride-along with a sworn police officer, and
- 2) meet with Chief of Police and his/her command staff.

*O. KNOWLEDGE OF APPLICABLE LAWS AND RULES*

Commissioners should be generally knowledgeable of the Police Review Commission's enabling Ordinance (Ordinance No. 4644-N.S.; B.M.C. Chapter 3.32), the Regulations for Handling Complaints Against Members of the Police Department, and these Standing Rules. They should also bring copies of these documents to all commission meetings.