



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(approved)

Wednesday, July 13, 2016
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR PEREZVELEZ AT 7:06 P.M.

Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner Alison Bernstein (arrived 7:32 p.m.)
Commissioner Kimberly DaSilva
Commissioner George Lippman
Commissioner Michael Sherman
Commissioner Kad Smith (left 9:00 p.m.)
Commissioner Ari Yampolsky (arrived 7:17 p.m.)
Commissioner Bulmaro Vicente (*temporary appointee*)

Absent: Commissioner Jerry Javier

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Dave Frankel, Lt. Dan Montgomery, Sgt. Katie Smith, Sgt. Sean Ross (left 8:00 p.m.), Ofc. Marcus Dinkins (arrived 8:00 p.m.)

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

• **A moment of silence** was observed for:

Philando Castile in Falcon Heights, Minnesota, and Alton Sterling in Baton Rouge, Louisiana;

Dallas police officers Brent Thompson, Patrick Zamarripa, Michael Krol, Michael Smith, and Lorne Ahrens; and

Anthony Nunez [San Jose, CA] and Pedro Villanueva [Fullerton, CA].

3. PUBLIC COMMENT

There were 3 speakers.

4. APPROVAL OF MINUTES

a. Special Meeting of June 8, 2016

Motion to approve Special Meeting minutes of June 8, 2016

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

Ayes: Lippman, Perezvelez, Roberts, Sherman, Smith, Vicente, and Yampolsky.

Noes: None Abstain: DaSilva Absent: Javier, Bernstein

b. Regular Meeting of June 8, 2016

Motion to approve the Regular Meeting minutes of June 8, 2016, with the following corrections to page 3, second motion to retain Section 450.7.2: 1) the motion carried; and 2) Commissioner Smith did not vote Aye (his No vote is properly shown).

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

Ayes: Lippman, Perezvelez, Roberts, Sherman, Smith, Vicente, and Yampolsky.

Noes: None Abstain: DaSilva Absent: Javier, Bernstein

- **Motion to next consider Item #10.a. Subcommittee reports: Fair & Impartial Policing**

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

Ayes: DaSilva, Lippman, Perezvelez, Roberts, Sherman, Smith, Vicente, and Yampolsky.

Noes: None Abstain: Absent: Javier, Bernstein

5. CHIEF OF POLICE'S REPORT

Heard following Item #10.a.

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

(No report on these items.)

b. Update on police-community relations referrals to Council.

Capt. Frankel provided an abbreviated version of the BPD's report to Council on these topics:

--Body-Worn Cameras

--Racial Sensitivity

--Center for Policing Equity

--Law & Justice Academy at BHS – kickoff September

--A second School Resource Officer

--Encouraging officers to engage with youth

--Current SRO has MSW from UC

--Restorative justice programs

--Drug task force

Questions/comments:

- Maybe PRC could participate in L&J Academy. Thanks for YAP, which I (Comm. Smith) benefitted from.
- How's morale? Recruiting is hard. After Dallas shootings, sent out patrols in teams of two, not so much for safety, but more comforting.
- Re proposed body-worn camera proposed pilot program – does \$45K include equipment and staffing? For 20 cameras \$150K allotted; \$45 for vendor and \$105 for staff. IT leaning towards cloud-based solutions.
- Re BPD's proposed BWC policy – why allow officer to view footage when extreme use of force (UOF) but not death or officer involved shooting? Distinction is that key factor in latter investigations is whether UOF justified or not. Trying to isolate state of mind of officer during shooting; trying to assess that sense of threat. Other UOF, requirement to not see video is one step removed from mission, to convey the truth.
- Clarify the ½ hour fair & impartial trainings. Those are roll call sessions, usually when explaining data collection.

6. CHAIR'S REPORT

- Thank officers for their service.
- Participated in discussion of police oversight at Wellstone Democratic Club; looked at SF, Oakland, and Berkeley models.
- Went to Washington DC with Capt. Greenwood at DOJ presentation by Center for Policing Equity. Attorney General Lynch addressed the group. Looking forward to report on BPD data.
- City Council Worksession July 19 on Body-Worn Cameras. He and vice chair will be present. Encourage all Commissioners to attend.
- Meeting being set up with City Manager, Chief, Chair, Vice-Chair, PRC Officer to discuss items 9.f. (excusing subject officer from BOI) and 8.a. (standard of proof).

7. PRC OFFICER'S REPORT

- Two new complaints filed since last meeting; one complainant has opted for mediation.
- Reminder that August 2 is National Night Out; consider participating as part of your outreach efforts.
- Capt. Harris is retiring; her last day July 29. Reminder about reception Thursday, July 21, 1 – 4 p.m.; all Commissioners invited but RSVP.
- Thank officers for their service.

8. OLD BUSINESS (discussion & action)

Heard following Item #9.e.

- a. Follow-up on PRC's letter to City Manager regarding the standard of proof used in BOI hearings
Item postponed to the next meeting.

- b. Review of draft PRC Annual Report
Changes to Commissioner Bernstein's letter, and description of the December 6, 2014 protest response were discussed.

By general consent, the Commission continued the discussion until the next meeting.

- c. Decide on scope and any next steps in December 7 & 8, 2014 investigation
Subcommittee members Bernstein and Sherman explained what they have determined so far.

By general consent, the Commission continued the discussion until the next meeting.

9. NEW BUSINESS (discussion & action)

- a. BPD use of automated license plate readers (ALPRs) and Administrative Order #001-2016 providing guidelines for ALPR use.

Motion to recommend that City Council suspend ALPR portion of the program in order to allow for a broader discussion about the implications of the ALPR; commission is concerned about the privacy concerns implicated with ALPRs and it doesn't appear full discussion with the community about the implications of implementing an ALPR program as part of goBerkeley. Encourage the Council to suspend the ALPR portion of goBerkeley in order to allow for there to be a full community discussion about the implications of ALPR.

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

Ayes: Bernstein, DaSilva, Lippman, Sherman, Vicente, and Yampolsky.

Noes: Roberts Abstain: Perezvelez Absent: Javier, Smith

- b. Response to City Attorney opinion regarding release of Use of Force Reports

Motion to request of the Berkeley Police Department that when they release data to the state Department of Justice, that they simultaneously release it to the PRC.

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

Ayes: Bernstein, DaSilva, Lippman, Perezvelez, Roberts, Sherman, Vicente, and Yampolsky.

Noes: None Abstain: None Absent: Javier, Smith

- c. Consider initiating policy review regarding operation of DUI checkpoints
Item postponed to the next meeting.

- d. Status of request to BPD to revise General Order on the Right to Watch
Item postponed to the next meeting.

- e. Inquiry into why BPD has not been providing monthly management reports to the City Manager as required by General Order M-3.
Heard following Item #7.

Motion to write a letter from the PRC to the Police Chief, City Manager, and City Council stating that it has come to our attention that the means outlined in General Order M-3 for quantitative reports from the Police Department to the City Manager are no longer in use. It is our understanding that there has been no quantitative reporting under G.O. M-3 since before Chief Meehan's tenure. We are unaware of any other quantitative reporting that has been done, and are very concerned about the apparent absence of a regular means for the City Manager to receive quantitative data as to the department's operations. We urge that this be corrected quickly as possible.

Moved/Seconded (Bernstein/Lippman)

Friendly amendment #1: To add that we encourage that this issue be addressed in the upcoming meeting with the City Manager.

Moved by Perezvelez; Accepted by Bernstein and Lippman.

Friendly amendment #2: To direct the letter first to the City Manager and BPD for an explanation, and elevate to the Council if needed.

Moved by Smith; Accepted by Bernstein and Lippman.

Motion, as amended, Carried

Ayes: Bernstein, DaSilva, Lippman, Perezvelez, Roberts, Sherman, Smith, Vicente, and Yampolsky.

Noes: None

Abstain: None

Absent: Javier

- f. Status of inquiry to City Manager regarding excusing a subject officer from appearing at a BOI.
Item postponed to the next meeting.
- g. Scheduling a training by BPD on use of force and de-escalation techniques.
By general consent, the Commission agreed to hold a special meeting for this training.
- h. Prioritization of any new issues the PRC has decided to address.
Item postponed to the next meeting.
- i. Review of 2015 Internal Affairs complaint statistics.
Item postponed to the next meeting.

10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. Fair & Impartial Policing Subcommittee
Heard following Item #4

Christina Murphy and Paul Kealoha-Blake presented themselves to the Commission as candidates for public members of subcommittee. The Chair appointed both.

Next meeting scheduled for July 18, 2016 at 5:30 p.m.

- b. General Orders C-64, etc. Subcommittee
Next meeting scheduled for Thursday, July 21, at 5:30 p.m.
- c. December 7 & 8 Investigation Subcommittee
No meeting scheduled.
- d. Mutual Aid Pacts Subcommittee
The Chair appointed Commissioners DaSilva, Bernstein, and Sherman to this Subcommittee, whose role is to review the BPD's agreements with other law enforcement agencies.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

There were 2 speakers.

Closed Session

13. VOTE ON COMPLAINANT'S PETITION FOR REHEARING

Motion to deny petitioner's request for a rehearing, because there were no procedural irregularities and no newly-discovered material evidence. The letter informing the petitioner of the denial should include an explanation for it, e.g., failure to explain the reasoning for the findings is not a procedural irregularity; information is withheld because of state law.

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

Ayes: Bernstein, Lippman, Perezvelez, Roberts, Sherman, Vicente, and Yampolsky.

Noes: None

Abstain: DaSilva

Absent: Javier, Smith

End of Closed Session

14. ANNOUNCEMENT OF CLOSED SESSION VOTE

The above vote was announced.

15. ADJOURNMENT

The meeting was adjourned by general consent at 10:32 p.m. in memory of: Philando Castile, Alton Sterling, Brent Thompson, Patrick Zamarripa, Michael Krol, Michael Smith, Lorne Ahrens, Anthony Nunez, and Pedro Villanueva.