



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(approved)

Wednesday, September 14, 2016
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

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

Present: Commissioner George Perezvelez (Chair)
Commissioner Terry Roberts (Vice Chair)
Commissioner Alison Bernstein
Commissioner Kimberly DaSilva
Commissioner Jerry Javier
Commissioner George Lippman
Commissioner Michael Sherman
Commissioner Kad Smith (absent 8:18 – 9:36 p.m.)

Absent: Commissioner Ari Yampolsky

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Michael Meehan (left 7:48 p.m.) , Lt. Michael Durbin, Sgt. Sean Ross (arrived 7:13 p.m.)

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There were 5 speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of July 27, 2016

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

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

Noes: None

Abstain: None

Absent: Yampolsky

Motion to approve Special Meeting Minutes of August 10, 2016

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

Ayes: Bernstein, DaSilva, Javier, Lippman, Perezvelez, Roberts, and Smith.

Noes: None

Abstain: Sherman

Absent: Yampolsky

5. CHIEF OF POLICE'S REPORT

The Chief reported:

- Distributed materials from promotional ceremony today.
- BPD had presence at Solano stroll this past Sunday; very successful.
- New Deputy City Manager Jovan Grogan has been appointed.
- Next Wednesday will present crime report. Total crime down 6% (comparing 1st 6 months of this year v. 1st 6 months of last year.). Want to compare with regional and statewide figures.
- Next week sending several officers to train the trainers on a principled policing course; will share more later.
- Currently at 171 sworn officers, or 97%. 10 of those are in academy. 7 more spots for academy in January.

Questions:

- Re the BPD announcement about tickets written and arrests made [see p. 105 of agenda packet], what were all these agencies doing here; what was role; why invited; familiar with culture of this city? Will agendize.
- From Fair & Impartial Policing Subcommittee: community interest in G.O. B-4 and data collection. Also, Center for Policing Equity's data analysis: when we can expect to see it? Can the department expedite? Chief: BPD part of a national process. BPD been pressing them but think so many departments have signed on, CPE is overwhelmed. Question: in meantime, outside of what CPE is doing, need to know how department is using the data to internally assess itself, given the dire need.
- Status of Right to Watch G.O.? Chief: Has turned out to be longer process. Staff is done; now on my to-do list.
- Marijuana enforcement reports are required, so PRC can confirm it's a low priority. Difficult to know, absent context, if in fact low priority. In past provided comparison data [see p. 71 of agenda packet] and expect to request again this year.
- Re growing scandal re prostitution and sexual entanglements with minors affecting several local law enforcement agencies; not one whiff that BPD involved; is BPD taking any proactive steps? Chief: Unaware of any except the one case. Reflects well that Berkeley not implicated in this case. If anyone from BPD involved, would've heard by now.
- Heard in SF that misconduct stems partly from practice of new officers being placed with other new officers. Chief: Not all problems being publicized involve new officers.

-- Any info on why the string of sexual assaults this weekend? Chief: more info next week. Last weekend a lot of assaults at Greek Theater, which were investigated by UCPD. Do share info with UCPD but depends on the case.

6. CHAIR'S REPORT

-- National Night Out reports:

-- Comm. Smith went around in South Berkeley and YAP. Lots of young black folks unaware that there was a PRC. Thanked for being on commission. Lots of conversations around police generally, not just in Berkeley.

-- Chair Perezvelez accompanied Councilmember Wengraf to a couple places in north Berkeley hills. Even those people unaware of PRC.

-- Comm. Bernstein had a conversation about underage drinking. Concern that BPD doesn't do much. Department's position on parties where parents make choice to supply alcohol or not be there? Lt Durbin: usually generated by a call for service. Depends on what officer sees and how written up; if parents were aware or allowing it. Comm. Bernstein: will agendize.

7. PRC OFFICER'S REPORT

-- Status of complaints. 5 new complaints filed since last meeting: 1 policy complaint and 2 late files are on this agenda; other 2 going to mediation. Correction to earlier report on case #2391: there is a tolling agreement from officer who requested continuance.

-- Thank-you note from Capt. Harris is being circulated.

-- Annual Report for 2015 was mailed to Commissioners.

-- Last fiscal year PRC was over budget on rental fees for City facilities. In reviewing use, discovered several instances of subcommittees continuing to occupy the building up to 45 minutes after meeting ended. Please don't unreasonably delay leaving the building after a meeting.

-- Next meeting next week, September 21, and next meeting after that is in October.

8. OLD BUSINESS (discussion & action)

a. Status of request to BPD to revise General Order on the Right to Watch.

Item postponed to the October 13 meeting.

b. Follow-up on PRC's letter to City Manager and her response regarding the standard of proof used in BOI hearings.

Item continued to the next meeting.

c. Consider an ordinance on community control of surveillance equipment.

Motion to create a subcommittee to explore the creation of a surveillance and community safety ordinance.

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

Ayes: Bernstein, DaSilva, Javier, Lippman, Perezvelez, Roberts, and Sherman.

Noes: None Abstain: None Absent: Smith, Yampolsky

The Chair appointed Commissioners Bernstein and DaSilva to the Subcommittee. Additional appointments, including public members, to be considered at the next meeting.

- d. Creation of a subcommittee to examine revisions to the PRC enabling ordinance.
No action taken.

- e. Content of findings report sent to complainants following a BOI.

Motion that the PRC Officer contact the police oversight agencies of San Francisco, Oakland, Santa Clara, Richmond, BART, and Los Angeles, to ask them provide a redacted draft of a notice they provide to a complainant after findings are made.

Moved/Seconded (Bernstein/Roberts)

Friendly amendment: to add, “and if the agency will not provide a redacted copy, to request a description of what information is provided.”

Moved by DaSilva; Accepted by Bernstein and Roberts

Motion, as amended, carried

Ayes: Bernstein, DaSilva, Javier, Lippman, Perezvelez, Roberts, and Sherman.

Noes: None Abstain: None Absent: Smith, Yampolsky

9. NEW BUSINESS (discussion & action)

- a. Prioritization of any new issues the PRC decides to address.
Heard following Item #9.d.

By general consent, the Commission prioritized its request to the Chief regarding General Order M-3 as Group I (of its requests to BPD); work on the Surveillance and Community Safety Ordinance as a top priority (on its own list of priorities); and asked the PRC Officer to re-work the list.

- b. Consideration of recommendations from General Orders C-64, etc.
Subcommittee: i) Revised General Order C-64 (Crowd Management and Control); and ii) Commander’s Guide to Crowd Management and Crowd Control
Item postponed to the next meeting.

- c. Report on August 1, 2016 meeting with City Manager.
Heard following Item #8.e.

Motion to refer to the Chief his recommendations for changes to General Order M-3 in order to bring G.O. M-3 in line with current advances in information technology and data tracking and how will that facilitate compliance reporting data for evaluation of the department to the City Manager.

Moved/Seconded (Perezvelez/Roberts)

Friendly amendment: replace the part of the sentence beginning with “and how that will facilitate” until the end, with “in order for the department to comply with its reporting obligations to the City Manager.”

Moved by Bernstein; Accepted by Perezvelez and Roberts.

Motion, as amended, carried

Ayes: Bernstein, DaSilva, Javier, Lippman, Perezvelez, Roberts, and Sherman.

Noes: None Abstain: None

Absent: Smith, Yampolsky

Chair Perezvelez reported on other topics discussed at the meeting.

- d. Report on September 14, 2016 meeting with BPD representatives to resolve differences on body-worn camera policy.

Commissioner Roberts reported on today's meeting; another meeting to follow.

- e. Policy regarding publication of communications from the public to the PRC.

From: PRC Officer

Item postponed to the next meeting.

- f. Review of BPD marijuana enforcement report.

Item postponed to the next meeting.

- g. Outreach: consider ways to effectively reach target audience, including possible formation of subcommittee.

Item postponed to the next meeting.

- h. Decide whether to accept policy complaint #2406; if accepted, decide how to proceed.

Item postponed to the next meeting.

10. SUBCOMMITTEE REPORTS AND RECOMMENDATIONS (discussion & action)

- a. General Orders C-64, etc. Subcommittee

Currently in hiatus.

- b. Fair & Impartial Policing Subcommittee

Report: Done a lot of process work: what are we doing and how.

Next meeting scheduled for September 19, 2016, at 6:00 p.m.

- c. Mutual Aid Pacts Subcommittee

PRC Officer to facilitate scheduling a meeting date.

- d. Media Credentialing Subcommittee

PRC Officer to facilitate scheduling a meeting date.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached.

12. PUBLIC COMMENT

There were no speakers.

Closed Session

13. INQUIRY TO CITY MANAGER REGARDING EXCUSING A SUBJECT OFFICER FROM APPEARING AT A BOI

Discussion continued to the next meeting.

14. REVIEW OF CALOCA DECISION

Complaint #2380

Item postponed to the next meeting.

15. VOTE ON WHETHER TO ACCEPT A LATE-FILED COMPLAINT

Complaint #2402

Motion to find that Complaint #2402 is not a late-filed complaint.

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

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

Noes: None

Abstain: None

Absent: Yampolsky

16. VOTE ON WHETHER TO ACCEPT A LATE-FILED COMPLAINT

Complaint #2404

Discussion continued to the next meeting.

End of Closed Session

17. ANNOUNCEMENT OF CLOSED SESSION VOTES

The vote on Complaint #2402 was announced, as was the postponement of a vote on Complaint #2404.

18. ADJOURNMENT

By general consent, the meeting was adjourned at 10:32 p.m.