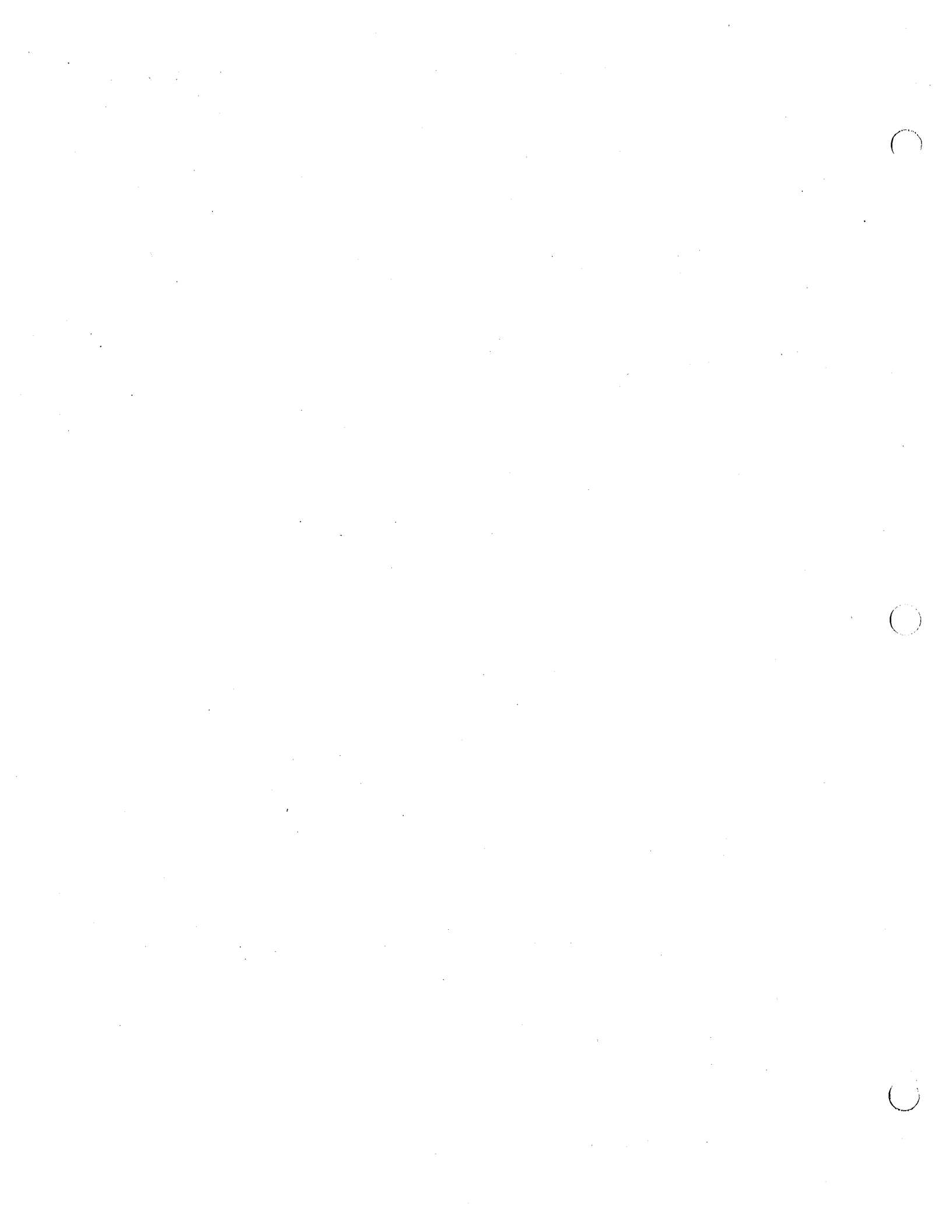


Item #8.6.

Proposed addition to Draft letter to CM on Standard of Proof
PRC Commissioner George Lippman
October 13, 2016

The PRC process of civilian review is a very minimal lever of community oversight, and far behind the curve and the national direction toward police accountability. The commission is constrained by its 40-year-old mandate in some ways, and by state law and judicial precedent in others.

To force the PRC to hold to an unreasonably high standard of proof above the state and national norms unnecessarily deprives the BPD of a carefully considered and well-regulated independent input into the disciplinary process. It also frustrates community sentiment at a time when more, not less, of such independent input is required.



Item 8.f. of PRC October 13, 2016 agenda – Draft of letter for review.

Dear Ms. Williams-Ridley:

Thank you for your response to the concerns expressed at the meeting of August 1, 2016, regarding excusing officers from Police Review Commission Boards of Inquiry.

Although we understand your summation that it falls under your purview and appreciate your statement that you would only employ this process under exigent circumstances and using “reasonableness” as the benchmark for your decision making process, we strongly disagree.

The Commission would like to reiterate one of the most important tenets for effective police oversight: transparency. The understanding is that an oversight agency operates with the purpose of enhancing officer and departmental compliance with policies at the local, state and federal levels, and at the same time endeavors to create a bridge with the community it represents.

Your evaluation of “what makes sense” continues to be extremely problematic to the commission and how the community perceives the work of the Police Review Commission. When the PRC was created, by voter mandate, no such process was envisioned.

When community members engage in the PRC complaint process, they do so with the belief and understanding that there will be a strict adherence to the investigation, Board of Inquiry and deliberation format clearly delineated in our brochures and regulations. There is no mention in our process that the City Manager, under an “independent” and secretive process, may excuse an officer from attending a Board of Inquiry and thereby invalidate one of the major responsibilities with which the Police Review Commission is tasked under the ordinance.

It severely undermines trust and effectively renders the investigatory process null. It disrespects the community member making the allegation and broadcasts that the only manner of redress can be easily dismissed. It is not in the end a question of “right to exercise or not,” but a question of respect, accountability and transparency.

In order for transparency to work, there cannot be an internal procedure devoid of vetting by the agency charged with oversight. The Police Review Commission must accomplish oversight by ensuring that any and all officers that engage in misconduct are investigated and findings

considered in discipline. Investigations and findings also lead to the evaluation and purposeful revision of police procedures, supervision and training.

We strongly suggest that you re-evaluate your position of having the ability to excuse any and all officers from engaging in the investigative and Board of Inquiry process. Alternatively, we ask that you refrain from exercising any such ability that you believe you have. The continued belief that an individual devoid of community vetting can bypass the complaint process and the work of the residents of the City of Berkeley appointed to the commission is not only problematic but at a very basic level can be construed as unethical.

We look forward to continuing the discussion on this matter. It is one of the major aspects of our possible re-evaluation of the ordinance as a charter amendment in 2018.

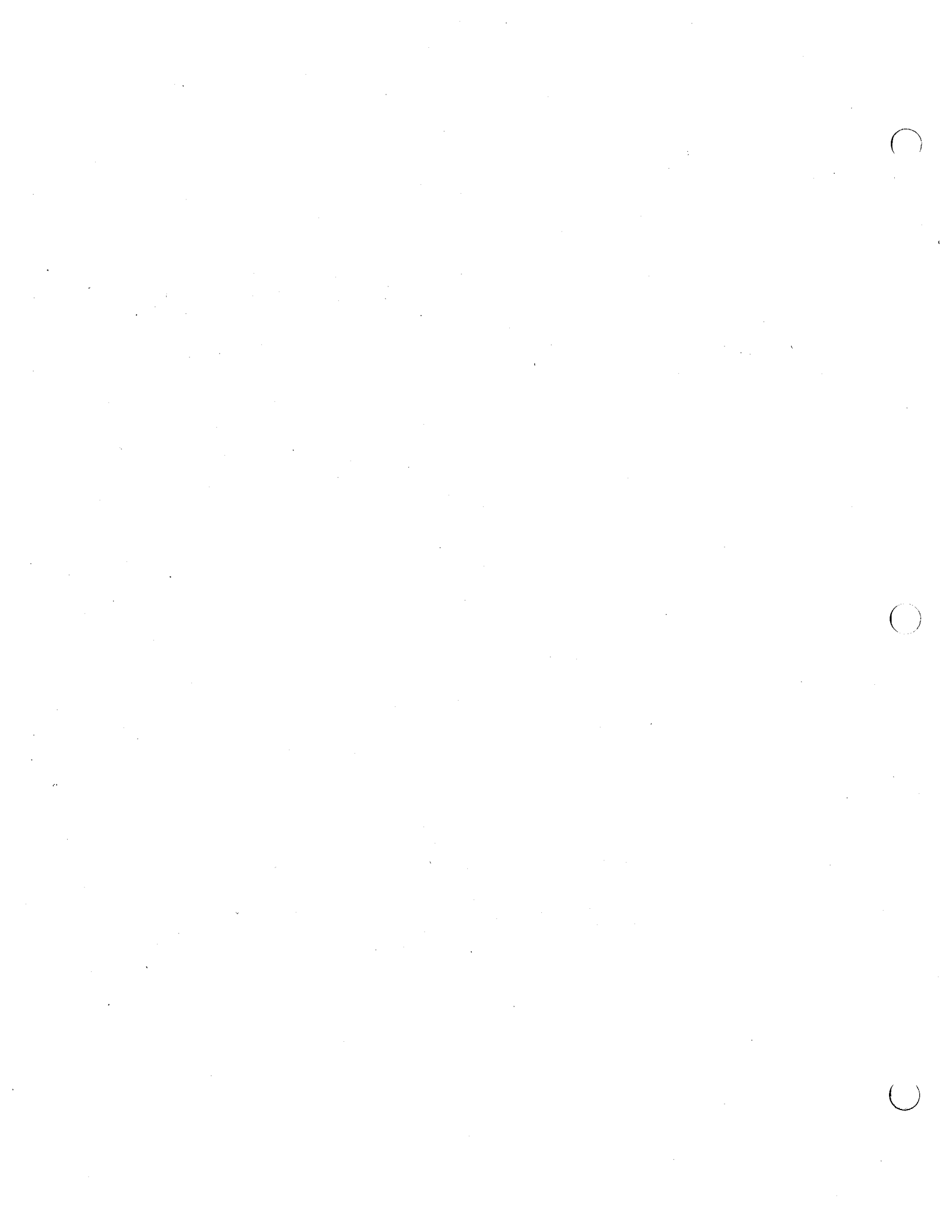
It would be a welcome example of leadership if the City Manager's office would also be in agreement with the concerns of the commission and the community and continue to affect positive change in establishing transparency, inclusiveness, accountability and a shared responsibility

Respectfully,

Item 9.c. of PRC October 13, 2016 agenda -- Replaces proposal beginning on p. 45 of packet.

**Proposed Process for PRC Annual Elections for Chair and Vice-Chair
- Amendment to PRC Standing Rules**

1. Annual elections for PRC Chair and Vice-Chair will be agendaized for the first regular meeting in January and, whenever possible, this item will be agendaized 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 (no commissioner may nominate him/herself).
 - 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 will seek or move a vote by acclamation.
 - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of balloting and possible 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.
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.



PRC Subcommittee on Fair and Impartial Policing
Proposed Outreach Letter

From: Subcommittee on Fair and Impartial Policing, Berkeley Police Review
Commission
To: Berkeley Community

Subject: *Berkeley's standards of fair and impartial law enforcement*

Dear community members,

For several years, concerned citizens nationally and Berkeley residents locally have expressed doubt about the fairness of treatment of people of color by law enforcement officers.

In 2015, the police department began collecting and reporting statistics about police stops in Berkeley, broken down by race, gender, and age. It appears to the Police Review Commission that the statistics show a disturbing racial disparity: many more African Americans and Latinos are stopped and searched by police than white people, while significantly smaller percent of the stops of people of color result in an arrest or even a citation.

The Police Review Commission, an independent oversight body not part of the police department, has begun a policy investigation into these disparities and how we can work with the BPD to live up to its commitment to fair and impartial policing.

We need your help. This fall, the PRC's Subcommittee on Fair and Impartial Policing is holding public hearings as well as confidential interviews around Berkeley to listen to the community's experiences. The more we hear from the community, the more useful our recommendations to the city council and the police department will be. There are two ways you can contact us:

1. You are welcome to come and speak at our subcommittee meetings, at the South Berkeley Senior Center, 6-8pm on Mondays October 24, November 14 and November 21.
2. As an alternative, you may meet with a community member who is gathering stories on this issue, at a time and place that is convenient for you. Contact our commission staff, Katherine Lee or Byron Norris, by calling (510) 981-4950 or emailing prc@cityofberkeley.info to arrange a confidential and anonymous interview.

Thank you for helping make Berkeley a better place to live!

