



Police Review Commission (PRC)

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

**Wednesday, April 12, 2017
7:00 P.M.**

North Berkeley Senior Center
1901 Hearst Avenue, Berkeley

1. CALL TO ORDER & ROLL CALL BY CHAIR BERNSTEIN AT 7:15 P.M.

Present: Commissioner Alison Bernstein (Chair)
Commissioner Kimberly DaSilva (Vice Chair)
Commissioner George Lippman
Commissioner George Perezvelez (left 9:20 p.m.)
Commissioner Andrea Prichett
Commissioner Terry Roberts
Commissioner Bulmaro Vicente
Commissioner Ari Yampolsky

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Capt. Dave Reese, Sgt. Ben Cardoza

2. APPROVAL OF AGENDA

By general consent, the agenda was approved as written, except that Item #11.b. will be heard after all Subcommittee items (#9).

3. PUBLIC COMMENT

There were no speakers.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of March 22, 2017

Postponed to confirm accuracy of vote on Item #10.a.

5. CHAIR'S REPORT

The Chair noted that Councilmembers Harrison and Davila are sponsoring forum on militarization of the police in Berkeley on April 17; coordination with PRC in the

future may be a good idea.

6. PRC OFFICER'S REPORT

- George Lippman was re-designated as Councilmember Harrison's appointee.
- 2 commissioners must complete Ethics training.
- Reminder that at the May 24 meeting, Dr. Goff of CPE is scheduled to do a presentation on their analysis of BPD stop data. Chief has committed to releasing the report in early May.
- One new complaint filed last week; may also be policy complaint.

Questions:

- Status of budget questions? First meeting in May.
- Further response from our letter to City Manager re process of hiring Chief? No.

7. CHIEF OF POLICE'S REPORT

No report.

Questions:

- Several questions about gangs in Berkeley. Capt. Reece suggested a presentation from Sgt. Delaluna might be helpful.
- Plans for April 15 demonstrations? All officers being called in, and mutual aid is on call. Do try to de-escalate but also try not to insert selves in melee. Can't do anything about masks until a crime is committed. Will any new surveillance technology will be used? No; BPD will use handheld video cameras in plain view. Most of video from the last protest came from civilian attendees.
- Data on shoulder-tap program (underage people buying alcohol)? Don't have data; program targets adults who buy for underage drinkers; not conducted on frat row. Part of program with ABC that includes inspections of liquor sellers. True that many sexual assaults occur due to alcohol consumption? They go hand-in-hand; they have done education to student groups on that.
- Familiar with incident involving UCPD dispatchers and BPD called for response? No.

8. ELECTION OF COMMISSION VICE-CHAIRPERSON (discussion & action)

Motion to nominate Kim DaSilva for PRC Vice-Chairperson
(Perezvelez/Bernstein)

Motion to nominate George Lippman for PRC Vice-Chairperson
(Prichett/Vicente) Commissioner Lippman **declined** the nomination.

Motion to elect Kim DaSilva Vice-Chairperson carried by acclamation

9. SUBCOMMITTEE REPORTS (discussion & action)

Report of activities and meeting scheduling for all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

a. Fair & Impartial Policing Subcommittee

b. Media Credentialing Subcommittee

(Heard following Item #9.f.)

Motion to dissolve the Media Credentialing Subcommittee, and place re-establishing this subcommittee on the agenda for the first meeting in June.

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

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

Noes: Prichett

Abstain: None

Absent: None

c. Surveillance and Community Safety Ordinance Subcommittee

Met before this meeting. Continuing review of draft Ordinance which just came back from Disaster & Fire Safety Commission, who didn't take a position, but sent to Council w/ recommendation that CM assess costs and burden of implementation. Next meeting April 27 at 5:30 p.m.

d. General Orders C-64, etc. Subcommittee

Meeting to be scheduled.

e. Outreach Subcommittee

Motion to approve the PRC's participation in the Summer of Love, Juneteenth, Solano Stroll and National Night Out events.

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

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

Noes: None

Abstain: None

Absent: None

f. Homeless Encampment Subcommittee

Met March 22. Will be agendaing three items for Commission consideration at its next meeting relating to taking, storing, and return of personal property. Next meeting tentatively set for April 27 at 7:00 p.m.

10. OLD BUSINESS (discussion & action)

a. Consider language that the PRC Officer and Chief of Police negotiate regarding these aspects of Body-Worn Camera policy: Use of personal recording devices; Release of recordings to the PRC.

(Heard following Item #11.b.)

Motion to accept 450.8 (f) review of recordings as reflected on p. 27 of packet (p. 5 of BPD's draft policy), as modified by changing the reference

to “Board of Review” to “Board of Inquiry,” and the two references to PRC Investigator to “PRC Officer and/or Investigator.”

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

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

Noes: None

Abstain: None

Absent: None

Motion to approve the entirety of the paragraph in red type on p. 26 of the packet (p. 4 of BPD’s draft policy), section 450.6, regarding the use of personal recording devices.

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

Ayes: Bernstein, DaSilva, Lippman, Perezvelez, Prichett, Roberts, and Yampolsky.

Noes: None

Abstain: Vicente

Absent: None

By general consent, asked PRC Officer to get clarification and report back on other changed language (shown in red) on BPD draft policy, and agreed to agendize the PRC’s proposed policy for the next meeting, to send to Council.

- b. Determine scope of policy review of General Order W-1, Public Recording of Law Enforcement Activity (Right to Watch), addressing whether current BPD policies and practices violate First Amendment protections afforded those viewing police conduct, as recognized in the case law.

Motion to have Commissioner Prichett prepare a draft Right to Watch policy that will be returned to the Commission for consideration.

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

Ayes: Bernstein, DaSilva, Lippman, Prichett, Roberts, Vicente, and Yampolsky.

Noes: None

Abstain: None

Absent: Perezvelez

- c. Next steps in policy review initiated on February 22, 2017, assessing whether BPD’s establishment of a perimeter around homeless encampments during enforcement actions violates General Order W-1; and if a violation is found, how the policy should be revised.
(Item postponed to the next meeting.)
- d. Review City Attorney’s opinion classifying communications complaining about specific officer conduct as “informal complaints” and prohibiting their disclosure to the full Police Review Commission, and consider procedures for handling “informal complaints,” as suggested by City Attorney, including possible amendment to PRC Regulations.
(Item postponed to the next meeting.)
- e. Whether to open a review of the Police Department’s policy or procedures for determining when a school should be advised to shelter in place.
(Item postponed to the next meeting.)

- f. Prepare annual Commission Work Plan, as directed by City Council.
(Item postponed to the next meeting.)

11. NEW BUSINESS (discussion & action)

- a. Amendment of Standing Rules to provide a mechanism whereby Commissioners can view motions in writing before voting.
(Item postponed to the next meeting.)
- b. Establish subcommittee or other process for amending PRC Regulations for Handling Complaints Against Members of the Police Department on the subjects of: 1) Challenge of BOI Commissioner (Section VI.C.) and 2) Summary Disposition (Section VII.C.3.)
(Heard following Item #9.b.)

By general consent, Commission agreed that Commissioner Perezvelez will draft proposed language on commissioner challenges, and Commissioner Bernstein will draft proposed language on summary disposition, to be placed on the next meeting agenda for the Commission's consideration.

12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATION

13. PUBLIC COMMENT

There was 1 speaker.

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 matters:

14. REPORT OF PRC OFFICER

Complaint #2412 – Status of Report of Investigation.

Report given.

End of Closed Session

15. REPORT OF ACTION TAKEN IN CLOSED SESSION

No reportable action was taken.

16. ADJOURNMENT

By general consent, the meeting was adjourned at 10:03 p.m.