



Police Review Commission (PRC)

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(approved)

Wednesday, December 12, 2018
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

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

Present: Commissioner Sahana Matthews (Chair) (left 8:45 p.m.)
Commissioner George Perezvelez (Vice Chair)
Commissioner Gwen Allamby
Commissioner Kitty Calavita
Commissioner Andrea Prichett
Commissioner Terry Roberts

Absent: Commissioners Ismail Ramsey, Michael Sherman, Ari Yampolsky

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Andy Greenwood (left 8:20 p.m.), Sgt. Rashawn Cummings

2. APPROVAL OF AGENDA

With the following reordering: to hear Item #10.a. before #9.a.; #10.b. after #9.b.; followed by #9.i., the agenda was approved by general consent.

3. PUBLIC COMMENT

There were no speakers.

4. APPROVAL OF MINUTES

The draft minutes of the November 14, 2018 meeting were approved by general consent.

5. CHAIR'S REPORT

Reminder to keep in mind time limits when asking questions of the Chief and raise hand to be recognized before speaking.

Vice-Chair Perezvelez reported on the Regional NACOLE Conference he attended in Cleveland.

6. PRC OFFICER'S REPORT

a. Status of complaints; other items.

The PRC Officer reported:

-- PRC staff and staff of the BART Independent Police Auditor's office are in preliminary planning stages for a Northern Calif. regional NACOLE conference, tentatively in May 2018. More details to follow.

-- Two new complaints were filed last week.

-- PRC Officer observed interviews for the Special Response Teams last week. Next week she is on an interview panel for the Executive Director position for the Sonoma County IOLERO office (Independent Office of Law Enforcement Review and Outreach).

-- Chair and PRC Officer have discussed having a demonstration of the body-worn camera and iPhone at the first meeting in January.

b. Prioritizing tasks – survey results (**discussion & action**)

PRC Officer presented results of the Commissioners' prioritization of tasks via Survey Monkey. Results very helpful in deciding order of agenda items.

Commissioners should think about how to handle future new agenda items; perhaps go through the prioritization exercise for each new item.

7. CHIEF OF POLICE'S REPORT

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

-- Currently at 164 sworn. 4 people will be entering in academy in 4 weeks. 1 resignation just received and 2 retirements coming. 3 laterals in hiring process. Recruitment team working hard.

-- Information Day held Dec. 1. Chance for potential applicants to do agility tests; ask questions. Open to all this year.

-- Last week, "Coffee With a Cop" held at Sweet Adelines. That afternoon met with NAACP at their monthly meeting. Went well and committed to continuing meetings.

-- Last week Sgt. Fomby did presentation to Sonoma Co. IOLERO on de-escalation.

-- Addressing PRC concerns re use of iPhones with BWCs: Glad to do demo. Re policy on handling evidence captured with cell phone, if using personal phone, G.O. P-64 starting with sec. 8 will apply (will be converted to Lexipol 807). Also draft Lexipol 701 will cover use of personal communication devices and will require deletion of evidence once transferred off the device. Axon Capture app on City iPhone will upload and automatically delete from phone; that app could be installed on personal phone.

-- BWC policy re when camera can be deactivated: have draft ready to go; need BPA sign-off. As discussed before, the word "and" will be deleted from the first sentence of the section on deactivation.

Chief Greenwood answered questions from Commissioners.

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. Homeless Encampment Subcommittee
Subcomm. Chair Prichett - Will probably meet to draft letter of protest.
- b. Prioritizing Safety for Sex Workers Subcommittee
Next meeting Thurs., Dec. 13, 2018 at 6:30 p.m.
- c. Lexipol Policies Subcommittee
Subcomm. Chair Perezvelez – next meeting to be scheduled.

9. OLD BUSINESS (discussion & action)

- a. Amendment to Standing Rules to require that a commissioner must be present to be eligible to run for Chairperson or Vice-chairperson.
(Heard following Item #10.a.)

Motion to amend the standing rules to require that a commissioner must be present to be eligible to run for Chairperson or Vice-chairperson.

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

Ayes: Allamby, Calavita, Matthews, Perezvelez, and Roberts.

Noes: None Abstain: Prichett Absent: Ramsey, Sherman, Yampolsky

- b. Amendment to Standing Rules prohibiting a commissioner from nominating him or herself to run for Chair or Vice-Chair, due to conflict with Commissioners' Manual.

Motion to amend that Standing Rules to delete the provision prohibiting a Commissioner from nominating him or herself to run for Chairperson or Vice-chairperson.

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

Ayes: Allamby, Calavita, Matthews, Perezvelez, Prichett, and Roberts.

Noes: None Abstain: None Absent: Ramsey, Sherman, Yampolsky

- c. Continue review of Lexipol Policy 425 on use of body-worn cameras, including sufficiency of provisions on use of associated iPhone and outstanding concerns from April 2017.

(By general consent, 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

(By general consent, 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.

(Heard following Item #9.i.)

Following discussion, Comm. Prichett asked to revise the agenda item as de-escalation, broadly, with subtopics 1) de-escalation of crowds and 2) de-escalation of incidents involving persons with mental health disabilities.

- f. Whether any BPD policies or laws govern the BPD’s audio recording of their interactions with civilians without their knowledge.

Motion to request that the Chief provide any and all documents related to surreptitious recordings, whether they be training materials, bulletins, instructions, or procedures, that instruct, authorize, or provide guidance about how recordings made surreptitiously are to be handled, archived, or curated, and retained or destroyed.

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

Ayes: Allamby, Calavita, Perezvelez, Prichett, and Roberts.

Noes: None Abstain: None Absent: Matthews, Ramsey, Sherman, Yampolsky

- 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.)

- h. 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.)

- i. October 2, 2018 referral from City Council regarding extending the time limit for investigations and notification of discipline from the current limit to one calendar year.

(Heard following Item #10.b.)

Motion to respond to the Council's referral as follows: The PRC unanimously endorses the extension of the time limit for notification of discipline from 120 days to 365 days, consistent with the time limit for investigations currently provided under state law. We further recommend that the City Manager initiate as soon as possible meet-and-confer proceedings on this issue with the Berkeley Police Association.

Moved/Seconded (Calavita/Prichett) **Motion Carried**

Ayes: Allamby, Calavita, Perezvelez, Prichett, and Roberts

Noes: None Abstain: None Absent: Matthews, Ramsey, Sherman, Yampolsky

- j. Responsiveness of BPD management to PRC requests.
(Item postponed to the next meeting.)
- k. The need for PRC to do outreach and what outreach efforts the PRC might undertake.
(Item postponed to the next meeting.)
- l. October 2, 2018 referral from City Council regarding the creation of training requirements for Police Review Commissioners.
(Item postponed to the next meeting.)

10. NEW BUSINESS (discussion & action)

- a. Establish regular PRC meeting schedule for calendar year 2019.
(Heard following Item #8.c.)

Motion to adopt the proposed PRC regular meeting schedule for calendar year 2019.

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

Ayes: Allamby, Calavita, Matthews, Perezvelez, Prichett, and Roberts.

Noes: None Abstain: None Absent: Ramsey, Sherman, Yampolsky

- b. Letter to City Manager/City Council or other action regarding follow-up on CPE recommendations.
(Heard following Item #9.b.)

Motion to accept the proposed letter drafted by Comm. Calavita with the following changes: In the 3rd paragraph, insert "as soon as possible" after "by taking up." The letter is to be sent to the BPD with a copy to the City Council and City Manager.

Moved/Seconded (Perezvelez/Matthews)

Friendly amendments: 1) In the 3rd paragraph, delete "following"; and at the end of the sentence change the colon a period; and add "These include:" 2) At the end of paragraph following the numbered list, insert "the creation of an action plan, and a timeline for its implementation".

Moved by Prichett; accepted by Perezvelez and Matthews

Motion as amended, Carried

Ayes: Allamby, Calavita, Matthews, Perezvelez, Prichett, and Roberts.

Noes: None Abstain: None Absent: Ramsey, Sherman, Yampolsky

By general consent, the Commission empowered Comm. Calavita to work with the PRC Officer to finalize the letter.

11. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

Attached

12. PUBLIC COMMENT

There were 2 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):

13. PRESENTATION FOR ADMINISTRATIVE CLOSURE IN COMPLAINT #2441

Motion to approve Complaint #2441 for administrative closure.

Moved/Seconded (Roberts/Perezvelez)

Motion withdrawn.

By general consent, the Commission asked staff to send the complainant a certified letter asking if he is interested in pursuing his complaint.

End of Closed Session

14. ANNOUNCEMENT OF CLOSED SESSION ACTION

The action by general consent above was announced.

15. ADJOURNMENT

By general consent, the meeting was adjourned at 10:17 p.m.