



Police Review Commission (PRC)

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

**Wednesday, September 23, 2020
7:00 P.M.**

No physical location; meeting held exclusively through videoconference and teleconference.

1. CALL TO ORDER & ROLL CALL BY CHAIR CALAVITA AT 7:02 P.M.

Present: Commissioner Kitty Calavita (Chair)
Commissioner Nathan Mizell (Vice-Chair)
Commissioner Gwen Allamby
Commissioner Michael Chang
Commissioner Juliet Leftwich
Commissioner Elisa Mikiten
Commissioner George Perezvelez
Commissioner Ismail Ramsey

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Andy Greenwood, Capt. Rico Rolleri, Lt. Joe Okies, Lt. Dan Montgomery, Lt. Spencer Fomby, Sgt. Joe LeDoux

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There were 5 speakers.

4. APPROVAL OF MINUTES

The Regular Meeting Minutes of September 9, 2020, were approved by general consent.

5. CHAIR'S REPORT

- The Mayor's Working Group on Fair & Impartial Policing meets next on October 7. A subcommittee prepared a document with 20 recommendations on how to address racial disparities in stops and searches.
- NACOLE Conference has wrapped up; Chair attended a couple sessions, which were very interesting.
- Will participate in the BPD's interview process for a captain position in early October.

6. PRC OFFICER'S REPORT

- Currently 4 open cases: one BOI last week; one being presented for administrative closure tonight; one on hold pending City Attorney advice; one awaiting response from officer re mediation.
- Council updates:
 - 9-15 Council meeting: Councilmember Robinson's "No Revolving Door" measure passed on consent; Councilmember Davila's vote of no confidence in Chief not considered for lack of time; back to Agenda & Rules Committee.
 - 9-21 Public Safety Policy Committee: Councilmember Robinson withdrew measure re officers wearing and providing ID as duplicative of several existing requirements; tear gas exception as revised by PRC's UOF Subcommittee approved for sending to Council (and also on tonight's agenda);
 - 9-22 Council meeting: BPD's crime report and use of force report postponed to Oct. 13 meeting.
 - PRC special meeting re proposed ordinance on Police Use & Acquisition of Controlled Equipment to be held Sept. 30; Commissioners agreed on a 7:00 p.m. start time. Agenda will issue ahead of Subcommittee's recommendation, as Subcommittee meets Sept. 29. Will post recommendation as soon thereafter as practicable.

7. CHIEF OF POLICE'S REPORT

- No change in staffing although anticipate 2 – 4 retirements in next 8 - 12 weeks. Currently at 165 sworn.
- Next week staff will start training on iPhone app for RIPA data collection.
- Yesterday began first week of bike patrol, consisting of a sergeant and 6 officers working 11 am – 9 pm Tues – Friday, primarily in downtown and Telegraph Ave. Also training additional 10 -15 officers for a bike cadre to work on special events, demonstrations, etc.
- Crime report and UOF report delayed to Oct. 13 meeting. (Copy in packet.) Will compare 2019 stats to 2020 year-to-date, developments during COVID period, and use of overtime.

8. SUBCOMMITTEE REPORTS (discussion and 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. Police Acquisition & Use of Controlled Equipment – Chair Mizell reported that their last meeting will be Tuesday, Sept. 29, at 12 p.m.

9. OLD BUSINESS (discussion and action)

- a. Berkeley Police Department policies on questioning the supervised release status of detainees and conducting subsequent searches, including consideration of BPD’s response to PRC’s recommendation on searches passed on February 5, 2020.

Motion to accept the proposed language, as revised to read as follows:

Warrantless Searches of Individuals on Supervised Release Search Conditions.

In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion.

However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person’s probation or parole status. The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime.

Moved/Second (Mikiten/Perezvelez) **Motion Carried**

Ayes: Allamby, Calavita, Chang, Leftwich, Mikiten, Mizell, Perezvelez, and Ramsey.

Noes: None

Abstain: None

Absent: None

10. NEW BUSINESS (discussion and action)

- a. Review and make recommendation to the City Council regarding a revised tear gas policy, to allow use by the Special Response Team in certain circumstances.

Motion to forward to the City Council for their consideration the following exception for use of tear gas during SRT operations:

303.6 TEAR GAS GUIDELINES

Tear gas may only be used by trained members of the Special Response Team during SRT tactical operations (e.g., during barricaded subject operations or responding to armed attacks during an SRT operation), in accordance with Policy 300, to protect people from the risk of serious bodily injury or death.

The above paragraph notwithstanding, as per City Council policy (June 9, 2020), the use of tear gas by any employees of the Berkeley Police Department, including the Special Response Team, is prohibited in crowd control and crowd management situations.

When practicable, fire personnel should be alerted or summoned to the scene prior to deployment of tear gas by SRT, in order to control any fires and to assist in providing medical aid or gas evacuation if needed.

Moved/Second (Perezvelez/Leftwich) **Motion Carried**

Ayes: Calavita, Chang, Leftwich, Mikiten, Perezvelez, and Ramsey.

Noes: Mizell

Abstain: Allamby

Absent: None

11. 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 matter(s):

12. PRESENTATION OF ADMINISTRATIVE CLOSURE IN COMPLAINT #2474

Motion to approve Complaint #2474 for administrative closure.

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

Ayes: Allamby, Calavita, Chang, Leftwich, Mikiten, Mizell, Perezvelez, and Ramsey.

Noes: None

Abstain: None

Absent: None

End of Closed Session

13. ANNOUNCEMENT OF CLOSED SESSION ACTION

The vote to administratively close Complaint #2474 was announced.

14. ADJOURNMENT

By general consent, the meeting was adjourned at 10:04 p.m.