



Police Review Commission (PRC)

DRAFT

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

**Wednesday, October 28, 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 7:32 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 (arrived 7:38 p.m.)  
Commissioner Ismail Ramsey

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Andy Greenwood, Capt. Rico Rolleri

**2. APPROVAL OF AGENDA**

**The agenda was approved by general consent**

**3. PUBLIC COMMENT**

There were 7 speakers.

**4. APPROVAL OF MINUTES**

**The Special Meeting minutes of September 30, 2020, with a correction to the first motion at the top of page, to state Section 2.100.040 (not Section 2.100.400), were approved by general consent.**

**The Regular Meeting minutes of October 14, 2020, with a correction to Item #12, to show that the closed session action was announced, were approved by general consent.**

## **5. CHAIR'S REPORT**

Chair Calavita reported:

- The Mayor's Working Group on Fair & Impartial Policing continues; next meeting Thursday Nov. 5, 6 – 8 p.m.; then Nov. 18. The public may attend; contact Tano Trachtenberg in the Mayor's office for Zoom link info.
- The Chair is on the panel evaluating proposals submitted in response to the RFP for the police reimagining project.

## **6. PRC OFFICER'S REPORT**

The PRC Officer reported:

- The RFP for the reimagining project is primarily for a consultant to manage the community engagement process.
- Correction to last week's case report: one new case was filed between Sept. 30 and Oct. 14. Since Oct. 14, no new cases filed, and one case has been closed, as mediation was concluded.
- The next PRC meeting is in 3 weeks, Nov. 18 (as Nov. 11 is a holiday), and the meeting after that, the last regular meeting of the year, is December 9.
- The annual reports required under the Surveillance Technology Ordinance are being submitted for the Nov. 10 Council meeting.
- FYI, other commissions that have not been meeting are being allowed to meet once or twice before the year ends, to develop work plans for next year.

## **7. CHIEF OF POLICE'S REPORT**

Chief Greenwood reported:

- Active homicide investigation ongoing; \$50,000 reward for information.
- Still anticipate posting RIPA stop data starting in November.
- Next week, Lt. Randy Files (Traffic Bureau) and Lt. Katie Smith (Watch Commander) retiring. Each have served the City 2-1/2 to 3 decades.
- Promotions: Capt. Kevin Schofield (will oversee Operations Div.); Lts. Spencer Fomby and Mel Turner from provisional to permanent; Lt. Jen Tate; Sgts. Steve Rego, Jamie Perkins, and Kevin Kleppe.
- Staffing situation is dire. 164 sworn now; will go down with retirements eventually down to 150. In past, attracted lateral officers but at least 5 laterals being considered have withdrawn, citing concerns about potential budget cuts. Combined with hiring freeze, don't have people lined up to hire. Solution will be 18 months away. Working with HR on recruitment; applications now open. Situation will be similar to 2018, when all officers took mandatory OT to maintain patrol staffing levels. Might have to consider suspending units and special assignments, like Community Service Bureau and bike patrol. Also concerned re number of dispatchers. Finally, numerous initiatives and Council decisions are focused on BPD.

## 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. Service of Warrants Subcommittee – The Chair, with the Commissioner’s consent, appointed Comms. Ramsey, Chang, and Calavita to this subcommittee. Possible appointment of public members to the subcommittee will be agendized for the Nov. 18 meeting.
- b. Lexipol Policies Subcommittee – Still awaiting other issues to be finalized before scheduling next meeting.

## 9. OLD BUSINESS (discussion and action)

- a. Policy Complaint #2478: Consider whether to accept the policy complaint regarding fees for towing and storage; if accepted, how to proceed with reviewing the issue.

**Motion to accept the policy complaint.**

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

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

Noes: Allamby                      Abstain: None                      Absent: None

*The Commission postponed discussion of how to proceed until the next meeting.*

- b. Berkeley Police Department policy on questioning the supervised release status of detainees: Review BPD’s proposal in response to the policy language PRC approved Dec. 11, 2019.

**Motion to accept language proposed by Chief Greenwood, as revised. [See attachment]**

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

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

Noes: None                      Abstain: None                      Absent: None

- c. Proposed Ordinance on the Use and Acquisition of Controlled Equipment
  - i) Finalize review and recommendations to the Council Public Safety Policy Committee.

**Motion to strike LRADS from the equipment covered by the ordinance, with the stipulation that Policy 707 is revised to clearly state its use in crowd control is limited to deliver a crowd dispersal order.**

Moved/Second (Mizell/Ramsey) **Motion Carried**

Ayes: Chang, Mikiten, Mizell, Perezvelez, and Ramsey.

Noes: Allamby, Calavita, Leftwich                      Abstain: None

Absent: None

**Motion to use the enforcement language of the Surveillance Technology Use and Community Safety Ordinance (B.M.C. Sec. 2.99.090), and place it in the proposed Ordinance Sec. 2.100.060.**  
Moved/Second (Calavita/Mikiten)

**Friendly amendment: To replace Section 2.100.060 with Section 2.99.090 from the Surveillance Ordinance, minus the first sentence.**  
Moved by Mikiten; Accepted by Calavita

**Motion, as amended, carried**

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

Noes: None                      Abstain: None                      Absent: None

**Motion to leave in Section 2.100.070, Transparency, for the City Attorney to review.**

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

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

Noes: None                      Abstain: None                      Absent: None

**Motion to delete the words “or existing” from Section 2.100.040(A)(1)(d).**

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

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

Noes: None                      Abstain: Calavita                      Absent: None

**Motion to adopt revised language of Section 2.100.040(B)(1), to read as follows: “At least 15 days prior to any public meeting to consider the adoption of any Controlled Equipment Use Policy or Controlled Equipment Impact Report, the Use Policy and Impact Report shall be published for public review.”**

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

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

Noes: None                      Abstain: None                      Absent: None

**Motion to strike the first clause of Section 2.100.040(H)(2) [from “For approval of” through “the required ninety (90) days,”] and, in the same section, insert “regular” between “four (4) City Council meetings . . .”**

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

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

Noes: Leftwich, Mikiten                      Abstain: None                      Absent: None

**The Commission moved the definition of “exigent circumstances” from the Definitions section to Section 2.100.040(D), regarding Temporary Use in Exigent Circumstances, by general consent.**

**The Commission deleted the phrase “or any successive agency” from Section 2.100.040(A)(1) by general consent.**

The Commission modified Section 2.100.040 by deleting Subsection (A)(2) and incorporating the concepts of that Subsection into a revised Subsection (A)(1), by general consent.

The Commission revised Section 2.100.040(E)(2) to read, “The Police Review Commission shall present its recommendations to City Council.”, by general consent.

The Commission approved the standardization of various references to the Berkeley Police Department, Police Department, Department, and City Staff, by using “Police Department,” by general consent.

The Commission revised Sections 2.100.050 (A)(2) and (B)(1), regarding the PRC’s review of the annual report, as suggested by the PRC Officer, by general consent.

**Motion to send the proposed ordinance, as amended to the Public Safety Policy Subcommittee.**

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

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

Noes: Mikiten Abstain: None Absent: None

- ii) Designate Commissioner(s) to represent the PRC before the Council Committee and City Council.

**By general consent, the Commission authorized Commissioner Mizell to represent the PRC before the Council Public Safety Policy Committee regarding the PRC’s proposal.**

- iii) Dissolve the Subcommittee on the Police Acquisition & Use of Controlled Equipment Ordinance

(No action taken.)

## **10. PUBLIC COMMENT**

There were 3 speakers.

## **11. ADJOURNMENT**

**By general consent, the meeting was adjourned at 11:43 p.m.**

## **Attachment to PRC Regular Meeting Minutes of October 28, 2020**

### **Item #9.b.**

#### Asking a Person if they are on Probation or Parole.

In an effort to foster community trust, officers should not ask if a person is on probation or parole when a person has satisfactorily identified themselves, either verbally or by presenting identification documents.

Officers may determine probation or parole status through standard records checks conducted in the course of a traffic safety or investigative stop.

Officers should only ask when necessary to: 1) protect the safety of others, the person detained, or officers; 2) further a specific law enforcement investigative purpose (for example, sorting out multiple computer returns on common names); or 3) to confirm probation and parole status subsequent to a records check. If an officer needs to ask the question, "Are you on probation or parole?" the officer should do so while treating the person with dignity and respect, and being mindful that people may take offense at the question.