



Police Review Commission (PRC)

DRAFT

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

**Wednesday, November 18, 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 (left 10:02 p.m.)
Commissioner Juliet Leftwich
Commissioner Elisa Mikiten
Commissioner George Perezvelez
Commissioner Ismail Ramsey
Commissioner Kitt (Karen) Saginor
Commissioner Leah Wilson (*temporary*) (arrived 7:55 p.m.)

Absent: Commissioner Michael Chang

PRC Staff: Katherine J. Lee, PRC Officer

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

2. APPROVAL OF AGENDA

The agenda was approved by general consent.

3. PUBLIC COMMENT

There were 3 speakers.

4. APPROVAL OF MINUTES

The Special Meeting minutes and Regular Meeting minutes of October 28, 2020, were approved by general consent.

5. CHAIR'S REPORT

Chair Calavita reported:

- Mayor's Working Group on Fair & Impartial Policing just finished meeting; discussed draft recommendations to Council focusing on reducing disparities in BPD stops and searches.
- She and PRC Officer were on the panel to evaluate proposals for consultants on the "reimagining public safety" project. Conducted 5 hours of interviews last Thursday and sent forward a recommendation to the City Manager.
- Controlled Equipment Ordinance draft from the PRC considered by Council Public Safety Policy Committee, where she and Comm. Mizell presented. Councilmember Harrison proposed a couple changes from PRC version; see p. 51 of your packet. Discussion will continue on Dec. 7. Due back to Council by Feb. 13.
- Ballot measure II, Charter amendment establishing a new Police Accountability Board, passed by a landslide. New functions to begin by July 1, 2021.

6. PRC OFFICER'S REPORT

The PRC Officer reported:

- No new complaints filed since the last meeting.
- Several other Bay Area jurisdictions considered ballot measures to strengthen their civilian oversight agencies (none as far-reaching as Berkeley's), and all passed.
- Council passed an item last night on hate crimes reporting and response; it includes a component referred to PRC. Will agendaize for next meeting.
- PRC Officer off all next week; city offices closed Thanksgiving and the day after.
- Last regular PRC meeting of the year will be Dec. 9.

7. CHIEF OF POLICE'S REPORT

Chief Greenwood reported:

- Continuing to investigate homicide of Sereinat'e Henderson.
- Officers testified this past week in Seth Smith homicide.
- Dept. Budget presented to Budget and Policy Committee last week.
- Staffing situation still dire. 164 sworn now; will drop to low 160s next couple months and further after that. Takes 18 months to get officer hired and on their own, so will face challenges providing baseline services. Current recruitment efforts going on. Also a dispatcher shortage. If you know anyone interested in becoming police officer, encourage them to consider applying.

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. Warrant Service Policy Subcommittee – Commissioner Saginor was appointed to this Subcommittee.

- b. Lexipol Policies Subcommittee – waiting to schedule.
- c. Outreach Subcommittee –waiting to schedule.

9. OLD BUSINESS (discussion and action)

- a. Policy Complaint #2478: Determine how to proceed with reviewing the issue.

By general consent, the Commission formed a subcommittee to review the issue of tow fees that present a hardship.

The Chair, with the Commission’s consent, appointed herself and Commissioners Leftwich and Mizell to the subcommittee.

10. NEW BUSINESS (discussion and action)

- a. Review proposed amendments to Policy 300, Use of Force

Motion to remove the words “strive to” from the first sentence of Section 300.1.2, Use of Force Standard, and reject the recommendation to add “strive to” in the first and fourth paragraphs of 300.1.2; with the understanding that the “objectively reasonable” and other discussions about the policy show that there is not one right answer and that a range of force options is available.

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

Ayes: Allamby, Calavita, Leftwich, Mizell, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: Mikiten Abstain: None Absent: Chang

Motion to accept the proposed insertion of the definition of “Feasible” in Section 300.1.4, Definitions, without the reference to Government Code section 7286(a).

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

Ayes: Allamby, Calavita, Leftwich, Mikiten, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: None Abstain: Mizell Absent: Chang

Motion to delete “strive to” in Section 300.1.3, Core Principles, Subsection A, De-escalation and Force Minimization.

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

Ayes: Allamby, Calavita, Leftwich, Mizell, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: None Abstain: Mikiten Absent: Chang

Motion to accept the definitions of “Objectively Reasonable” and “Totality of the Circumstances” in Section 300.1.4, Definitions.

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

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

Noes: None Abstain: None Absent: Chang

Motion to accept the addition of “bystanders” in Section 300.3.3, Factors Use to Determine the Reasonableness, Necessity, and Proportionality of Force, item (m).

Moved/Second (Perezvelez/Calavita) **Motion carried by general consent.**

Motion to reject “may” and instead use “should” in place of “shall” in the fourth paragraph of Section 300.3.5, De-escalation Tactics.

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

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

Noes: None

Abstain: None

Absent: Chang

Motion to accept the rewording in the third paragraph of Section 300.4, Use of Deadly Force.

Moved/Second (Saginor/Allamby) **Motion Carried by general consent**

Motion to accept the addition of Section 300.4.1, Drawing and Pointing Firearms, with the replacement of “might” with “may” in the first sentence.

Moved/Second (Saginor/Perezvelez)

Friendly amendment: and to delete reference to the Government Code

Moved by Calavita, accepted by Saginor and Perezvelez

Motion, as amended, Carried

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

Noes: None

Abstain: None

Absent: Chang

Motion to approve, in Section 300.6.2, Use of Force Reporting Levels, the deletion of subsection (a) under Level 1, and the modification of Level 3 to read:

- (a) Suspect has sustained an injury or complains of injury or continuing pain due to interaction with the officer.**
- (b) Would have otherwise been classified as a Level 2, except officer body worn camera was not activated in a timely manner, prior to the enforcement contact, per policy.**
- (c) The officer used any of the following force options:**
 - 1. Chemical Agents/Munitions**
 - 2. Impact Weapon Strikes**
 - 3. Personal Body Weapons**

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

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

Noes: None

Abstain: None

Absent: Chang

Motion to accept the deletion of references to attaching a completed a Use of Force Investigation checklist and specifying “template” in reference to

the Blue Team, under Levels 1, 2, 3 of Section 300.6.2, Use of Force Reporting Levels.

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

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

Noes: None

Abstain: None

Absent: Chang

(Recess 10:02 – 10:15 p.m.)

Motion to amend the language in 300.6.2, Use of Force Reporting Levels, Level 2, subsection (b) to read:

1. Firearm drawn from the holster or otherwise deployed during an interaction with an individual and/or pointed at an individual.

For the purposes of this section, “interaction” shall be defined as a situation in which an individual could reasonably believe the deployment and/or pointing of a firearm could be an attempt to gain compliance.

An individual complaining of an attempt to compel an action with a firearm, shall be reportable for this purpose.

Moved/Second (Mizell/Saginor)

Friendly amendment: to drop the last sentence.

Moved by Calavita, accepted by Mizell and Saginor.

Motion, as amended, Carried

Ayes: Calavita, Leftwich, Mikiten, Mizell, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: None

Abstain: None

Absent: Chang, Allamby

Motion to accept added subsections (a) and (b) in Section 300.6.3, Employee Use of Force.

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

Ayes: Calavita, Leftwich, Mikiten, Mizell, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: None

Abstain: None

Absent: Chang, Allamby

Motion to accept deletion in Section 300.6.4, Reporting to California Department of Justice, and the addition of “(f)” to Government Code section 6254 in Section 300.6.5, Public Records.

Moved/Second (Calavita/Mizell) **Motion Carried by general consent.**

Motion to accept revised Section 300.10, Training, but omitting the two references to Government Code section 7286(b).

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

Ayes: Calavita, Leftwich, Mikiten, Mizell, Perezvelez, Ramsey, Saginor, and Wilson.

Noes: None

Abstain: None

Absent: Chang, Allamby

Motion to accept the revision to Section 300.12, Civilian Complaints.

Moved/Second (Calavita/Leftwich) **Motion Carried by general consent.**

- b. Amend PRC Regulations, Section II.A.2.a., to revise the number of votes needed to accept a late-file complaint.
(Item postponed to the next meeting.)
- c. Discuss ways to manage length of Commission meetings.
(Item postponed to the next meeting.)
- d. Transition to new Police Accountability Board and Office of Director of Police Accountability.
(Item postponed to the next meeting.)

11. PUBLIC COMMENT

There were 2 speakers.

<i>Closed Session</i>

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:

12. CONSIDER RECOMMENDATION FOR ADMINISTRATIVE CLOSURE OF COMPLAINT #2469

(Item postponed to the next meeting.)

<i>End of Closed Session</i>

13. ANNOUNCEMENT OF CLOSED SESSION ACTION

(No action taken.)

14. ADJOURNMENT

By general consent, the meeting was adjourned at 10:41 p.m.