



Police Review Commission (PRC)

James J. Z

POLICE REVIEW COMMISSION
REGULAR MEETING
MINUTES
(Approved)

June 11, 2014
7:00 P.M.

South Berkeley Senior Center
2939 Ellis Street, Berkeley

1. CALL TO ORDER AND ROLL CALL BY VICE-CHAIR BERNSTEIN AT 7:00 P.M.

Present: Vice-Chair Alison Bernstein
Commissioner Barbara Allen
Commissioner John Cardoza
Commissioner Karen Lowhurst
Commissioner George Perezvelez
Commissioner Ann Rogers
Commissioner Kiran Shenoy
Commissioner Ryan Hyunh (Temporary appointment)
Commissioner Elliott Halpern (Temporary appointment)

Absent: Commissioner Michael Sherman, Commissioner Oliver Zerrudo

PRC Staff: Katherine J. Lee, PRC Officer
Byron Norris, PRC Investigator

BPD Staff: Capt. Cynthia Harris, Sgt. Katherine Smith, Sgt. Benjamin Cardoza

2. APPROVAL OF AGENDA

By consensus, the Commission approved the agenda with the following revisions: New Business will be moved to follow Item 6, Chief of Police's report; Item 9.a. (now 8.a.) was placed on the agenda by Commissioner Bernstein; and under Item 10, subcommittee reports, it is the Wearable Video Cameras Subcommittee that will meet on June 25, not Mutual Aid Pacts, which met earlier today.

3. RECOGNITION OF THE PASSING OF FORMER PRC COMMISSIONER WESLEY HESTER, SR.

Mr. Hester's many years of service to the city, as one of the first PRC Commissioners, and later as a Councilmember, was acknowledged.

4. PUBLIC COMMENT

Five members of the public spoke. Additionally, Commissioner Shenoy announced his resignation as of midnight tonight and others thanked him for his dedicated service.

The Commission took a recess of about 5 minutes.

5. APPROVAL OF MINUTES

Motion to approve the minutes of May 28, 2014

Moved/Seconded (Shenoy/Allen) **Motion Carried**

Ayes: Allen, Bernstein, Cardoza, Perezvelez, Rogers, and Shenoy

Noes: 0 Abstain: Halpern, Huynh, Lowhurst Absent: Sherman, Zerrudo

6. CHIEF OF POLICE'S REPORT

Capt. Harris thanked the Commission for proposing that the City Council issue a proclamation to the BPD's Urban Shield Team; the proclamation was presented at Council's June 3 meeting. Three other officers were recognized for the response to the May fire on University. Next week there will be 167 officers. The timing of next presentations to the PRC was discussed.

7. PRESENTATION BY POLICE DEPARTMENT: INTERNAL AFFAIRS

(This item was postponed to a future meeting.)

8. NEW BUSINESS (discussion and action)

- a. Consideration of proposed resolution urging PRC Commissioners to sign a declaration under penalty of perjury that she/he did not leak confidential information.

Motion to adopt the resolution and declaration proposed by Commissioner Bernstein, as amended. (Amended resolution and declaration attached.)

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

Ayes: Allen, Bernstein, Cardoza, Lowhurst, Perezvelez, Rogers, Shenoy, and Halpern.

Noes: None Abstain: Huynh Absent: Sherman, Zerrudo

- b. Discussion of City Council referral on Security Camera Database to Help Solve Crimes.

By consensus, the Commission agreed not to set up a new subcommittee to address this issue but to handle it at the Commission level; asked to agendize this for an initial discussion at its July 9, 2014 meeting, and asked the PRC Officer to obtain information about how a similar database is working in Fremont.

9. OLD BUSINESS (discussion and action)

- a. Discussion of possible PRC responses to alleged jaywalking incident near UC campus involving a group of African-American youth and BPD.
By consensus, the Commission agreed to table discussion on this matter until the expiration of 90 days from the date of the incident.
- b. Update on discussions with BPA regarding improvement of PRC procedures to prevent future breaches of confidentiality.
Commissioner Bernstein reported that she and Commissioner Perezvelez met with the City Manager, Deputy City Manager, and PRC Officer; and they will all meet with BPA representatives on June 17.

10. SUBCOMMITTEE REPORTS & RECOMMENDATIONS (discussion and action)

- a. Accreditation Subcommittee
No report.
- b. Regulations Subcommittee
Comm. Bernstein reported that the Subcommittee will return with a set of changes to the regulations, including provisions on confidentiality.
- c. Fair and Impartial Policing Subcommittee
Comm. Halpern said the policy is on the Council's June 17 agenda. Comm. Shenoy reported that the Peace & Justice Commission has endorsed the policy.
- d. Wearable Video Cameras Subcommittee
Comm. Cardoza said that the Subcommittee has been reviewing other jurisdictions' use of wearable video cameras and that they will be addressing privacy concerns raised by their use.
- e. Mutual Aid Pacts Subcommittee
Comm. Lowhurst said the next meeting scheduled for June 25, 2014, but as there is a conflict with the Wearable Video Cameras meeting that day a new date will be scheduled – PRC Officer will coordinate.

11. PRC OFFICER'S REPORT

The PRC Officer reported that the status of complaints remains unchanged from the last meeting, except for the two administrative closures that the PRC approved. The complaint in the factual innocence case has been rejected as untimely. The Commission adopted the NACOLE Code of Ethics in 2010 and they are included in the packet. Staff has just finished compiling information on how many BOIs resulted in sustained findings; PRC Officer needs to review before forwarding to City Manager to inquire how many of them have resulted in officer discipline.

12. ANNOUNCEMENTS, ATTACHMENTS & COMMUNICATIONS

13. PUBLIC COMMENT

There was one speaker.

14. ADJOURNMENT

By consensus, the meeting was **adjourned** at 9:10 p.m.in honor of Wesley Hester, Sr.

RESOLUTION OF THE POLICE REVIEW COMMISSION

Whereas it is vitally important to the integrity of the Berkeley Police Review Commission process that all parties involved understand and adhere to the confidentiality of the process, and do all in their power to protect the privacy rights of Berkeley Police Department employees and members of the public as required by law; and

Whereas the disclosure of a confidential Board of Inquiry (BOI) report from a PRC BOI to the Daily Californian violated the principles of trust and confidentiality necessary to our system; and

Whereas this violation of trust and confidentiality has raised concerns in the Berkeley Police Association (BPA) and the public about the integrity of the PRC process; and

Whereas the BPA has expressed concern that all steps taken thus far by the PRC and the City to address the improper disclosure have been insufficient; and

Whereas Berkeley Police Officers at this time are not participating in PRC investigations of complaints against police officers; and

Whereas our primary mission as Commissioners of the PRC is to maintain the process, and ensure that the citizens of Berkeley are afforded a meaningful and operative civilian oversight system, in keeping with the initiative enacted 41 years ago; and

Whereas the existing law fails to clearly articulate a penalty for violation of the confidentiality of peace officer personnel records; and

Whereas a person who signs a document under penalty of perjury can be prosecuted for the crime of perjury, if the document is published or disseminated with the intent that the statements in the document be accepted as truthful.

Be it therefore resolved that the PRC urges every Commissioner, upon passage of this resolution, to sign a declaration under penalty of perjury stating that s/he did not knowingly disclose confidential BOI reports to the Daily Californian, or to any of its representatives or agents;

Be it further resolved that the PRC publish these signed documents by letter to the Berkeley City Manager, and include the signed declarations as attachments to the agenda packet for the next regular PRC meeting after they are signed.

The foregoing resolution was adopted by the Police Review Commission on June 11, 2014, by the following vote:

Ayes: Allen, Bernstein, Cardoza, Lowhurst, Perezvelez, Rogers, Shenoy, and Halpern.

Noes: None.

Abstain: Huynh.

Absent: Sherman, Zerrudo.

Attest: _____

Katherine J. Lee, PRC Officer

DECLARATION

I, _____, declare the following:

I am a sitting commissioner on the Berkeley Police Review Commission.

I did not provide the Daily Californian, or any agent or representative of the Daily Californian, with any confidential information relating to a Police Review Commission Board of Inquiry.

I have no knowledge of the circumstances by which the Daily Californian obtained the confidential information.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed this _____ day of June, 2014, at Alameda County, California.

signature

