



Police Review Commission

POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

**Wednesday, September 23, 2009
7:00 P.M.**

**South Berkeley Senior Center
2939 Ellis Street, Berkeley**

**1. CALL TO ORDER BY ACTING CHAIRPERSON GEORGE PEREZVELEZ AT
7:00 P.M.**

ROLL CALL AND ATTENDANCE:

Present: Acting Chair George Perezvelez
Commissioner Russell Bloom
Commissioner Kamau Edwards
Commissioner Vonnie Gurgin
Commissioner Jonathan Huang
Commissioner Sharon Kidd
Commissioner Michael Sherman
Commissioner William White

Absent: Chairperson Sherry Smith

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Chief Hambleton, Lt. Files, Sgt. Friedman, Officer Wellington

2. ORDER OF AGENDA

Move Item #11 to #8.

3. PUBLIC COMMENT

None.

4. APPROVAL OF MINUTES

A. Regular Meeting: September 2, 2009.

Approval of minutes was moved to the next meeting, since the wrong minutes were included in the agenda packet.

5. OLD BUSINESS

A. Update and general overview of the candidate interviews for BPD Chief.



- a. Acting Chair Perezvelez's report: There were 8 candidates, 6 internal and 2 external. There were a total of 3 panels: the internal panel consisted of city staff, the external panel included outside police chiefs, and a community panel consisted of a representative from the National Association for the Advancement of Colored People, a Pastor, a member of the Neighborhood Safety Program, and a PRC Commissioner.
 - b. Discussion: None.
- B. Discuss rescission of Berkeley Police Department General Order A-1, "Authority – Limits and Discretionary Use" (See Communication).
- a. Acting Chair Perezvelez and Commissioner White's report: Comm. Perezvelez read the General Order (G.O.) A-1 and asked Chief Hambleton if there was any general order that is similar to the purpose and intent of G.O. A-1 to which he replied, "No." Comm. Perezvelez stated that it is similar to a mission statement, because police service depends on discretion and the least intrusive action should be taken when possible. The rescission of G.O. A-1 is problematic, because it has been around since 1999.
 - b. Discussion: Chief Hambleton stated that the G.O. does not make sense to anyone in BPD and confuses officers, because an officer has a lot of discretion during the course of their work. The policy states that if an officer has a choice to detain someone, he should not. Most of the time, officers should not be giving warnings, but they should give the citation instead. For example, on a misdemeanor arrest, officers have discretion, but the policy states that officers should not make the arrest. It tells officers not to do the police work or not to enforce the law.

Chief Hambleton stated that BPD tried to rewrite the policy in a way that makes sense to them, but they could not; and, he never understood this order. There is authority in the Penal Code and other General Orders that give officers instructions on how to do their work. If an officer acts inappropriately regarding behavior guidelines, there are abundant guidelines in the General Orders that could address the officer's conduct. Another example is a domestic disturbance incident, where there is not discretion under state law, because it mandates an arrest.

Comm. Perezvelez stated that G.O. A-1 gives officers other options, for example the option to arrest or follow the least intrusive action depending on the circumstance. To the citizens, it makes a lot of sense for officers to have other options than merely to arrest.

Motion to send a letter to the City Manager recommending that the rescission of General Order A-1: "Authority – Limits and Discretionary Use" should be reversed and reinstated into the BPD general orders, that the letter should provide a historical review and state that the rescission is a disservice to the City of Berkeley. M/S/C (White/Sherman) Motion carried.

Ayes: Bloom, Edwards, Gurgin, Huang, Perezvelez, Sherman, and White.

Noes: None. **Abstain:** Kidd. **Absent:** Smith.

Substitute motion to send the Chair and Vice Chair to meet with BPD to come up with a compromise policy. M/S/C (Sherman/None) Comm. Sherman withdrew the motion.

Comm. Perezvelez believed it would be a misstep to meet with BPD, because the Chief would not be here. It is easier to put it on the record as a letter to the City Manager, which would show the Commission's protest of the rescission. He wants to protest the rescission, because the PRC was not part of the decision-making process, and the Commission was not informed of the decision until after BPD made the decision. Thus, the Commission should express their discontent and take a more direct approach.

Comm. Edwards stated that if the Chair and Vice Chair met with BPD to draft a compromise, he believes BPD would stick with their original decision to rescind G.O. A-1.

- C. Discuss Commission coordination with PRC Secretary, work assignments, and communication channels (requested by Commissioner Kidd).
 - a. Staff report: Staff gave an overview of the Commission Secretary's role to the Commission as authorized in the Commissioner's Manual. The Commission Secretary is a representative of the City Manager's office and is charged with assisting the Commission in its work. All communications to PRC Staff from the Commission and all communications from the PRC Staff to the Commission go through the Commission Secretary. Similarly, all communications from the public to the Commission go through the Secretary, so that she could put it on the agenda for the entire Commission and public to review. Also, if the Commission wants Staff to complete an assignment, the Commission needs to go through the Secretary.
 - b. Discussion: Comm. Kidd asked the other Commissioners if they had any comments about this to which they had none. She stated that she wanted business cards printed and went through the OS II, but she did not know it had to go through the PRC Officer.
- D. Update on National Night Out (NNO).
 - a. Commissioner Kidd's report: She attended NNO, which was successful and the community was very receptive. She encouraged everyone to attend next year.
 - b. Discussion: Comm. Gurgin also attended NNO.
- E. BART'S civilian oversight board.
 - a. Commissioner White's update: The subcommittee came up with recommendations on a model, which went through the State Assembly for approval; but, it will not be approved this year. There is a meeting on Monday regarding a strategic planning session and Comm. Perezvelez stated he will attend.
 - b. Discussion: None.

6. PRC OFFICER'S REPORT (For Discussion or Action)

- A. Hearing update: 9/29/09.
- B. Status of complaints: Received 5 new complaints since the last meeting on 9/2; total 25 complaints.
- C. Comments:
 - Annual Report: Staff sent out the annual report last week, and will send copies to City Council, BPD, and community members.
 - Investigator Search: 135 applications were received. 8 candidates will be interviewed on 9/30. Panel will consist of Chair Smith, a manager from the Human Resources

Department, and the PRC Officer. A candidate will likely be selected by October/November.

- Staffing: The investigator has been out for 7 months, so the PRC Officer is investigating the cases. One of the administrative support staff is out on leave for a month. The top priority is the cases, so subcommittee work will be minimal.
- There is a mandatory Racial Profiling training that BPD officers will complete.
- The Interim Police Chief will be Eric Gustafson, who is currently a Captain and worked with the Criminal Intelligence Subcommittee.

7. BERKELEY POLICE DEPARTMENT CHIEF'S REPORT

- A. Chief Hambleton's last meeting with the Police Review Commission: Chief Hambleton's last day of work was on September 24. He stated that he voted for the initiative when PRC was put on the ballot. He stated that we were not going to agree on everything, but he respects the process of getting citizen input through the PRC.

He discussed playing a significant role in hiring staff and getting good people in BPD. He hired 30-35% of the officers, 20% of the non-sworn staff, and promoted all the Lieutenants and Captains. Since he has been the Chief, there has not been a single lawsuit or settlement judgment. The total property crime has been down 25%, and he will be leaving the department in good hands.

8. COMMITTEE REPORTS (For Discussion or Action)

- A. Search of Homes Subcommittee.

- a. Upcoming meetings: September 28 and October 19, 6:00pm at the South Berkeley Senior Center.

They are in the process of reviewing staff's recommendations. Staff will not be able to provide the referenced policies, but will provide at a later date.

- b. The subcommittee would like to invite a representative from BPD to attend the October 19 meeting to discuss the policy recommendations.

- B. Mutual Aid Subcommittee: Comm. Bloom asked the Chief why some agreements were removed, particularly the federal agreements. Chief Hambleton stated that many of the agreements existed on paper, but BPD never had a conversation with the federal agencies about how they worked together. Those agencies did not really know about these agreements, so the agreements did not exist beyond what was in the agreement. The police did not use them, and it was not practical. There are no strict guidelines on how you make these agreements with federal agencies. For example, the FBI is not interested in having those agreements with BPD. BPD has a different working relationship with U.C. Police; they have daily interaction, so the agreements are more practical with U.C. Police.

9. COMMUNICATIONS

- A. Attached.

10. PUBLIC COMMENT: None.

Closed Session

The Police Review Commission will recess into closed session to discuss and take action on the following items:

11. LATE FILE PETITION

A. Case No. 2234 – Complainant Joel Baker

Motion to accept the late file petition of Case No. 2234 and proceed with an investigation.

M/S/C (Huang/Kidd) Motion carried.

Ayes: Edwards, Gurgin, Huang, Kidd, Perezvelez, and Sherman.

Noes: None. **Abstain:** Bloom, White. **Absent:** Smith.

12. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE

A. Case No. 2202 – Complainant Kaidi Clutchette

Motion to close Case No. 2202. M/S/C (Sherman/White) Motion carried.

Ayes: Bloom, Edwards, Gurgin, Huang, Kidd, Perezvelez, Sherman, and White.

Noes: None. **Abstain:** None. **Absent:** Smith.

B. Case No. 2203 – Complainant Charles Davis

Motion to close case no. 2203. M/S/C (Sherman/Edwards) Motion carried.

Ayes: Bloom, Edwards, Gurgin, Huang, Kidd, Perezvelez, Sherman, and White.

Noes: None. **Abstain:** None. **Absent:** Smith.

C. Case No. 2210 – Complainant John Snyder

Motion to close Case No. 2210. M/S/C (Perezvelez/Bloom) Motion carried.

Ayes: Bloom, Edwards, Gurgin, Huang, Kidd, Perezvelez, Sherman, and White.

Noes: None. **Abstain:** None. **Absent:** Smith.

13. ADJOURNMENT

Meeting was adjourned at 9:30 p.m.

Anyone attending a Police Review Commission meeting is welcome to speak during the Public Comment section and may be invited to speak on agenda items during the course of the meeting. No action or discussion shall be taken on any items not appearing on the posted agenda, except that members of the Commission may briefly respond to statements made or questions posed by members of the public. Any member of the Commission may direct staff to place a matter of business on a future agenda.

Please refrain from wearing scented products to public meetings. Chapter IV, Section E (2) of the Commissioners Manual, Resolution 60,683-NS. **To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting,** call 981-6900 (voice) or 981-6903 (TDD); at least five working days notice will ensure availability.