



Police Review Commission

## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, October 14, 2009  
7:00 P.M.

South Berkeley Senior Center  
2939 Ellis Street, Berkeley

### 1. CALL TO ORDER BY CHAIRPERSON SHERRY SMITH AT 7:00 P.M.

#### ROLL CALL AND ATTENDANCE:

Present: Chairperson Sherry Smith  
Vice Chair George Perezvelez  
Commissioner Russell Bloom  
Commissioner Vonnie Gurgin  
Commissioner Jonathan Huang  
Commissioner Sharon Kidd  
Commissioner Michael Sherman  
Commissioner William White

Absent: Commissioner Kamau Edwards

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Lt. Rolleri, Sgt. J. Wilson

### 2. ORDER OF AGENDA

No changes.

### 3. PUBLIC COMMENT

None.

### 4. APPROVAL OF MINUTES

A. Regular Meeting: September 2, 2009

**Motion to approve minutes. M/S/C (Gurgin/Bloom) Motion carried.**

**Ayes:** Bloom, Gurgin, Huang, Kidd, Perezvelez, Sherman and Smith.

**Noes:** None. **Abstain:** White **Absent:** Edwards.

B. Regular Meeting: September 23, 2009

**Motion to approve minutes. M/S/C (White/Perezvelez) Motion carried.**

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

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



On page 9, the number of candidates for police chief should be changed from 6 internal and 2 external to 2 internal and 6 external.

## 5. OLD BUSINESS

- A. Discuss update of letter to City Manager regarding the rescission of General Order A-1 “Authority – Limits and Discretionary Use” (See Communication).
  - a. Staff report: Ms. Urbi provided a draft memorandum to the Commissioners and she was waiting for Commissioners to provide any comments or changes.

Commissioner Perezvelez said the memorandum looked great and Commissioner White stated he accepted the memorandum.

**Motion to approve the memorandum to the City Manager regarding General Order A-1, “Authority – Limits and Discretionary Use” with a few grammatical changes.**

**M/S/C (Perezvelez/White) Motion carried.**

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

**Noes:** None. **Abstain:** None. **Absent:** Edwards.

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

- A. Hearing update: the next hearing is scheduled on November 9 with Commissioners Huang and Gurgin. Ms. Urbi provided Commissioners with a sign-up sheet for upcoming boards of inquiry.
- B. Status of complaints: 29 cases total. Since September, the PRC received 9 new complaints.
- C. Staffing update: The interviews for the Investigator position have been completed. It was a comprehensive process. Ms. Urbi thanked Chair Smith for participating on the all-day panel interviews. The investigator will likely start late October or early November.
- D. Comments: *The PRC Officer may make announcements or provide information to the Commission in the form of an oral report. The Commission will not take action on such items, but may request the PRC Officer place an item on a future agenda for discussion.*
  - PRC’s Annual Report presentation to City Council is scheduled on October 27. The time has not been set. Commissioners were encouraged to attend that meeting.
  - Reminder that the Commissioner Retreat is on Saturday, October 24, 9:30am-1:30pm at the Berkeley Marina Yacht Club. An agenda will be sent soon.
  - Commissioners asked whether there was a mechanism to make any corrections to findings reports once it has been issued and approved by the Commission or Board of Inquiry.
    1. There is no mechanism in the Regulations that allows for PRC or the officers to re-open the findings report. Once the Commissioners reviews the draft findings report and approves it, there is no mechanism in the process to re-open the record.
    2. If the Berkeley Police Association (BPA) believes there is a mistake in the findings and a correction should be made, they could add a letter to the record and PRC could attach that letter to the report as BPA’s formal objection.

3. If BPA has a technical correctional or wishes to make some other objection from the findings report, BPA could also appeal that correction or objection through the Caloca appeal process.

## **7. BERKELEY POLICE DEPARTMENT INTERIM CHIEF'S REPORT**

Interim Chief Gustafson could not attend the meeting. The department is currently in a transitional phase until the new Chief has been named. No major policy changes or staffing changes will take place until a new Chief is selected.

## **8. COMMITTEE REPORTS (For Discussion or Action)**

- A. Officer-Involved Shooting Subcommittee: met on 10/7 to discuss BPD's comments to the policy recommendations. The subcommittee finalized the policy recommendations. Staff will make the final changes to the policy recommendations and place that on the agenda for the full Commission to approve at the next meeting.
- B. Search of Homes Subcommittee: next meeting on 10/19. Capt. Harris will attend.
- C. Regulations Review Subcommittee: next meeting on 10/21. Commissioner Perezvelez would like to get this subcommittee moving, so that we could be in the meet and confer process by January.
- D. Mutual Aid Subcommittee: met on 10/16. The subcommittee is currently reviewing the federal rescinded agreements and they have completed reviewing all the local agreements.

## **9. COMMUNICATIONS**

- A. Communication regarding BPD Departmental Training Order, Racial Profiling Update Training: Commissioner White asked the BPD representatives to evaluate the training. Lt. Rolleri stated the training was very basic and appealed to the "lowest common denominator," but added that it did promote dialogue about racial profiling among officers after the training. He stated that when he was a patrol officer, one common problem he encountered was stopping drivers at night time, who would allege that they were stopped due to racial profiling. However, since it was nighttime, he would not be able to see the driver until he approached the driver's vehicle.

The training emphasized community involved policing. There was a POST (Peace Officers Standard and Training) mandated racial profiling training around 2002.

A member of the public asked Lt. Rolleri how many people of color officers are in BPD, to which he did not have a number, because that number changes often. He stated that out of 186 police officers, 40 are women.

- B. Communication regarding BPD General Order D-19, Administrative Drug and Alcohol Testing Procedure: Commissioner White commended BPD for finally issuing a drug testing policy, which is a historical moment. However, he pointed out that if an officer is involved in a major incident, such as an officer-involved shooting, BPD left out that the officer should undergo drug testing. He asked whether the Officer-Involved Shooting Subcommittee included this in their policy recommendations.

Chair Smith stated that Captain Harris informed the subcommittee that BPD was working on the drug testing policy. When she read G.O. D-19, page 1, #2, the policy states that BPD would conduct drug testing when there are "...incidents with potentially serious civil liability, but on page 2, #5, it states the procedure when officers may be required to submit to drug testing and the civil liability or officer-involved shooting is not included in that section. This seems to be an oversight and BPD may wish to add another section under (d) to include "potential civil liability" or an officer-involved shooting.

Vice Chair Perezvelez stated that the drug testing policy does not have a set timeline when an officer should be drug tested, e.g. within 24 hours, but states at page 2, #8, "...shall occur as soon as practical."

Commissioner Sherman asked about drug testing when an officer has smoked marijuana for medical purposes.

**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. 2240 - Complainant Paul Mochizuki

**Motion to deny the late file of Case No. 2240.**

Approved by consensus.

B. Case No. 2244 – Complainant Clifford Fred

**Motion to approve the late file of Case No. 2244.**

**M/S/C (Sherman/Kidd) Motion carried.**

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

**Noes:** None. **Abstain:** None. **Absent:** Edwards.

**12. ADJOURNMENT**

Meeting was adjourned at 8:30 p.m.