



Police Review Commission

## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, November 18, 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 Sharon Kidd  
Commissioner Michael Sherman  
Commissioner William White

Absent: Commissioner Kamau Edwards  
Commissioner Jonathan Huang

PRC Staff: Victoria Urbi, PRC Officer  
Byron Norris, PRC Investigator

BPD Staff: Lieutenant Files  
Sergeant Friedman

### 2. ORDER OF AGENDA

No changes were made.

### 3. PUBLIC COMMENT

None.

### 4. APPROVAL OF MINUTES

A. Regular Meeting: October 28, 2009

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

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

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



## 5. NEW BUSINESS

A. Policy Complaint by Peter Mendoza to review BPD's response in providing assistance to disabled persons during a City emergency or disaster.

- a. Staff report: PRC Officer Urbi reported that Mr. Mendoza did not file a complaint, but is requesting a policy review due to an incident that occurred when the electricity went out at his residence building from a storm. Berkeley Parking Enforcement Officers were preventing people from going inside the building, including Mr. Mendoza's home health care worker. Mr. Mendoza has health issues that require a home health care worker. Mr. Mendoza called Berkeley Police Department and spoke to a Watch Commander, but did not get a satisfactory response. Mr. Mendoza would like the PRC to review how police respond to situations involving disabled people during emergencies.

Ms. Urbi stated that the City has a disaster/emergency plan, but staff will need to research BPD's procedures, if any, on responding to persons with disabilities.

Mr. Mendoza stated that he believed police in general are professional and respectful. He wanted to emphasize that he was not complaining against them, but he wants a policy review of procedures when disabled people contact the police for assistance and during emergencies. He also stated that police failed him on the night that he called police for assistance.

- b. Commission discussion

Commissioner White requested to see the policy to be reviewed and any other police procedures pertaining to disaster/emergency plans. Lt. Files clarified that BPD does not have a general order or any such policy currently in place. For large-scale emergencies, the City's disaster/emergency plan is applicable.

Commissioner Perezvelez stated that there have been a couple of failures that took place in this situation: a community-oriented policing and courtesy in times of danger.

Lt. Files as the Watch Commander at the time had several significant incidents occurring simultaneously, so the delay in response to Mr. Mendoza was a result of assessing significance.

Commissioner Bloom stated that the Parking Enforcement Officers do not make the decisions and inquired about how they are supervised. Lt. Files confirmed that Parking Enforcement Officers have civilian supervision, but in a prolonged event, they receive instructions from their civilian supervisor or a sergeant from the street with special instructions. Lt. Files stated how differentiating between real need is a difficult task for police officers and parking enforcement officers, as many claim to have an emergency. This is not their daily, primary function, so there could be more training.

Ms. Urbi recommended that the staff, as opposed to forming a subcommittee, would review BPD's emergency plan and discuss procedures that would result in recommendations. The recommendations will be forwarded to the Commission for further action.

Commissioner Bloom stated his hesitation if training BPD personnel would be the most efficient way to resolve this issue of assessing needs. He stated that he would like a

report from BPD on how to institutionalize any changes and how it would be enacted. Chair Smith stated that the Commission cannot instruct BPD to do anything and report back to the Commission. The Commission must function through the PRC Officer.

c. Action

Lt. Files will initiate a request to have Police Officers and Parking Enforcement Officers have training on assessment of needs with regards to assisting disabled people when requesting assistance during times of emergency.

PRC Staff will review the policy, research current BPD's disaster emergency plan, and how it affects the disabled. Staff will provide recommendations to the Commission for review.

**Motion to pursue a policy complaint and review BPD's procedures when responding to persons with disabilities during emergencies.**

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

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

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

**6. OLD BUSINESS**

- A. Discuss update of letter to City Manager regarding the rescission of General Order A-1 "Authority – Limits and Discretionary Use."
  - a. Staff report: The staff forwarded the letter to the City Manager's Office and they are working on a response, which will be available in December.

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

- A. Hearing update
  - a. A hearing was completed on November 10.
  
  - b. The next hearing will be on December 16.
- B. Status of complaints
  - a. Two new complaints have been received with a total of 24 complaints.
- C. Next Commission Meeting: December 9, Elections for Chairperson and Vice Chairperson
- D. Comments

Commissioner Kidd asked about the results from the 2008 Statistical Report regarding an increase in the number of African-American complainants. There were concerns about the presentation made to City Council and the Council's reaction concerning two-thirds of all PRC complaints are from African-Americans, yet only thirteen-percent of the Berkeley populace is African-American. Commissioner Kidd recommended forming a subcommittee to research the racial disparity illustrated in the PRC statistical report.

Commissioner Gurgin suggested reviewing the number of arrests and contacts by race and comparing that number with the number of complaints.

Commissioner White was concerned about the ratio of African-Americans on the workforce. The Workforce Analysis is a great snapshot, but if compared to workforce five years ago, you will see a trend that may be significant. He suggested that the Commission write a letter to Equal Employment Opportunity Officer Dennis Feggans and request comparison numbers of workforce from five years ago.

**Motion to request staff to research the police workforce analysis of the last five years. M/S/C (Perezvelez/White) Motion carried.**

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

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

Ms. Urbi advised the Commission that this item was not on the agenda, and the Commission could possibly violate the Brown Act. She suggested putting this item on the agenda at the next meeting, so that the public could have proper notice.

Commissioner Perezvelez recommended making an amendment for researching workforce analysis for the last five to ten years.

**Motion to request staff to research workforce analysis for the last five to ten years. M/S/C (Perezvelez/White) Motion carried.**

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

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

Commissioner Bloom recommended analyzing the situation for context by researching the contact trend and compare it with other jurisdictions.

**Motion to request staff to research workforce analysis for the contact numbers and compare it with other jurisdictions.**

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

**Ayes:** None.

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

**Abstain:** None. **Absent:** Edwards and Huang.

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

A. Effective December 14, 2009, Michael Meehan will be Berkeley's Chief of Police.

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

A. Officer-Involved Shooting Subcommittee

a. Staff report on policy recommendations: Recommendations are still pending due to Interim Chief Gustafson's policy on avoiding making any new policy issues, which will be discussed with the new Chief of Police.

B. Regulations Review Subcommittee

a. Next meeting: December 1, 6:00 p.m. at the South Berkeley Senior Center  
b. Revised Regulations to be received at a later time.

C. Mutual Aid Subcommittee

a. Next meeting: November 23, 6:00 p.m. at the South Berkeley Senior Center  
b. Mutual Aid Agreements require additional time for further review.

**10. COMMUNICATIONS**

- A. Attached.

**11. PUBLIC COMMENT: Limited to items 12 and 13 only.**

- A. None.

**Closed Session**

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

**12. RECOMMENDATION FOR ADMINISTRATIVE CLOSURE**

- A. Case No. 2212 – Complainants Malik Amarna and Virginia Amarna  
**Motion to approve administrative closure of Case #2212. (White/Kidd) Motion carried.**

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

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

- B. Case No. 2217 – Complainant Robert O’Kary  
**Motion to approve administrative closure of Case #2217. (By consensus) Motion carried. Absent:** Edwards and Huang.

- C. Case No. 2218 – Complainant Silas Gibson  
**Motion to approve administrative closure of Case #2218. (By consensus) Motion carried. Absent:** Edwards and Huang.

**13. RECOMMENDATION FOR SUMMARY DISMISSAL**

- A. Case No. 2241 – Complainant Brandon Monroe  
**Motion to approve summary dismissal of Case #2241. (Sherman/White) Motion carried.**

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

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

**14. ADJOURNMENT**

Meeting was adjourned at 8:30 p.m.