



Police Review Commission

## POLICE REVIEW COMMISSION REGULAR MEETING MINUTES

Wednesday, December 9, 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 Kamau Edwards  
Commissioner Vonnie Gurgin  
Commissioner Jonathan Huang  
Commissioner Sharon Kidd  
Commissioner Michael Sherman  
Commissioner William White

Absent: None.

PRC Staff: Victoria Urbi, PRC Officer

BPD Staff: Interim Police Chief Eric Gustafson and Sergeant Jennifer Wilson

**2. ORDER OF AGENDA** Commissioner Kidd requested to move Item 5A in the Agenda until Commissioner Sherman arrives.

**3. PUBLIC COMMENT:** *Speakers are generally allotted up to three minutes. To ensure adequate time for action items on the Agenda, the Commission may limit the number of public speakers during the public comment period.*  
None.

**4. APPROVAL OF MINUTES**

A. Regular Meeting: November 18, 2009

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

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

**Noes:** None. **Abstain:** Huang. **Absent:** Sherman.

## 5. NEW BUSINESS

- A. Berkeley Police Department's crowd control response to the U.C. Berkeley student protest on November 20, 2009 and Mutual Aid issues.
- a. Commissioner Sherman reported that the Berkeley Police Department, the Sheriff's Department, and other law enforcement agencies were called in by the University of California to assist with crowd control during a student protest. The PRC received a complaint and two electronic mails after the protest.

Commissioner Sherman had concerns, because he was present during the protest. A videotape shows two police officers severely beating a man. The University and news reports described a peaceful demonstration, until the Alameda County Sheriffs were brought in. Commissioner Sherman asked, "Should the Berkeley Police have been called in?"

Interim Chief Gustafson stated that Berkeley Police was on campus since 6:37 a.m. The University of California discovered a break-in at Wheeler Hall, and they did not have enough officers to maintain safety and conduct crowd control. The University called the City Manager's Office first.

As the crowd grew, the University officially called Mutual Aid, which is the County Sheriff who called in officers from other agencies. Interim Chief Gustafson stated that there was a command officer present and that it was not safe for the University of California to leave Police exposed. Commissioner Sherman has a copy of the video.

Commissioner Bloom stated that the Berkeley Police Department is currently working on drafting a new Mutual Aid Agreement with the Alameda County Sheriffs. He suggested that the student protest incident be considered in the new draft.

### **Note: Agenda Item C was moved to Item B.**

- B. City Commission United Nations Reporting Project from the Peace and Justice Commission.
- a) Peace and Justice Commissioner, Diane Bohn, is working on drafting reports to the United Nations Committees and the City Council regarding human rights treaties. A treaty on the civil and political rights addresses the elimination of racism and torture. She wants to work with Commissions to address racial and economic disparities, and she is looking for a liaison. She would also like to review demographics on arrests and the number of complaints by race. Commissioner Sherman volunteered to be the liaison, and other Commissioners are welcome.
- C. Elections
- a) Staff reviewed the election procedures
- b) Elections for Chairperson  
**Motion to elect Commissioner Perezvelez as Chairperson for 2010.**  
**M/S/C (Smith/Sherman) Motion carried.**  
**Commissioner Perezvelez was elected by Acclamation.**
- c) Elections for Vice Chairperson  
**Motion to elect Commissioner Bloom as Vice Chair for 2010.**  
**M/S/C (White/Sherman) Motion carried.**  
**Commissioner Bloom was elected by Acclamation.**
- d) Announcement of results: Commissioner Perezvelez was elected as Chair and Commissioner Bloom was elected as Vice Chair.

- e) Chair Smith's final closing remarks  
Commissioner Smith thanked the Commission and Ms. Urbi for her one-year term of being Chair.

D. Commission Meeting Schedule for 2010 (See attached communication)  
The schedule was approved.

## 6. OLD BUSINESS

- A. Discuss 2008 Statistical Report on increase in the number of African American complainants. Commissioner Sherman suggested that PRC staff check on this to first see what the City Manager will do in order to address City Council members' Moore and Anderson's concerns.
- B. Discuss redacted police reports and PRC's mandate on confidentiality of investigative records.
  - a. Commissioner White talked to Ms. Urbi about a case regarding a redacted police report. He does not understand why redacting procedures continue to exist when the PRC maintains confidential records. Ms. Urbi has raised this issue with the City Manager, and she will provide an update after a review of the issues.
  - b. Commission discussion and action  
Vice Chair Perezvelez stated that it has been discussed at length that the PRC would like to see changes in the police reports from public records to confidential records. Currently, it is the Berkeley Police Department's procedures to redact police reports.
- C. Discuss update of letter to City Manager regarding the rescission of General Order A-1 "Authority – Limits and Discretionary Use."
  - a. Commissioner Perezvelez' update.  
On December 7, 2009, Chair Smith, Vice Chair Perezvelez, Deputy City Manager Lisa Caronna, Interim Police Chief Eric Gustafson, PRC Officer Victoria Urbi, and Deputy City Attorney Matt Orebic met to discuss General Order A-1.

### **Motion to accept the revised language of General Order A-1.**

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

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

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

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

- A. Hearing update. Next hearing is scheduled on December 16<sup>th</sup> with Commissioners Edwards, Huang and White. There is another hearing scheduled for December 23<sup>rd</sup> with Commissioner Perezvelez, Commissioner Bloom and Commissioner Gurgin.
- B. Status of complaints: Currently, there are 21 open cases.
- C. Ms. Urbi reported that she will be out from mid-January to April 1, 2010. The City Manager will appoint a person to take over the PRC Officer position while she is on leave.

## 8. BERKELEY POLICE DEPARTMENT'S REPORT

Interim Chief Gustafson reported that Chief Michael Meehan starts on December 14, 2009.

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

### A. Regulations Review Subcommittee:

Vice Chair Perezvelez stated that the Regulations will go to the City Attorney's Office for review. It will be presented to the full Commission for review, discussion and action, hopefully on January 13<sup>th</sup>. Some members of the subcommittee wanted to expand the scope of the subcommittee to discuss mediation and the way allegations are written. Commissioner Sherman suggested the need of staff to be part of this subcommittee due to staff expertise and knowledge of the allegations. Commissioner Perezvelez suggested to start with mediation first. Commissioner Bloom suggested expanding mediation to offer to all complainants and subject officers, to check costs, and review the pros and cons of Commissioners conducting mediations. These issues could be reviewed in the absence of the PRC Officer.

Chair Smith stated that although questions were raised regarding allegations and mediation, these really are not issues that flow out of the Regulations Subcommittee. The Regulations, Allegations and mediation are separate issues and are not linked. She recommended forming two new subcommittees.

**Motion to expand the scope of the Regulations Review Subcommittee to include review of the mediation process, and then begin a new Allegations Subcommittee when Victoria Urbi returns from leave.**

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

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

**Noes:** None **Abstain:** None **Absent:** None

**Commissioner Bloom moved to do an initial research on mediation, and work with an intern at the PRC office.**

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

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

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

Commissioner Bloom will generate an informational report to the Commission for discussion.

### B. Mutual Aid Subcommittee (Commissioners Bloom, Kidd and Huang)

Commissioner Huang stated that at their December 8<sup>th</sup> meeting, one of the main issues that arose was the interpretation of a specific ordinance regarding Council approval of mutual aid agreements. The subcommittee found that the Berkeley Police Department had a narrow interpretation of that ordinance. Therefore, the subcommittee recommended to the full Commission that the BPD put back all those rescinded understandings with the Federal government back into the Mutual Aid Agreement binder to be approved by City Council. The subcommittee also requested that a representative from the City Attorney's office come to the next PRC meeting to explain his interpretation of that ordinance, and why certain agreements from 2005 were rescinded.

Ms. Urbi stated that BPD worked with Deputy City Attorney Matthew Orebic to rescind several agreements from 2005 and make the 2009 agreements more practical for BPD, because their argument was that they were not using many of the 2005 agreements and were not within the context of the ordinance. Jim Chanin and Matthew Orebic had a long discussion on this matter. The subcommittee requested that Mr. Orebic attend the January 13<sup>th</sup> meeting to discuss the rescinded agreements.

**10. COMMUNICATIONS**

A. Commissioner White announced a public meeting of the BART Board review process and hiring of a new BART Chief of Police on Thursday, December 17<sup>th</sup> at 6:00 p.m.

**11. PUBLIC COMMENT: Limited to item 12 only.**

**Closed Session**

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

**12. PETITION FOR REHEARING**

A. Case No. 2227 – Complainant Ollie Beasley

**Motion to deny the Petition for Rehearing.** (Complainant did not show up).

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

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

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

**13. ADJOURNMENT**

Meeting was adjourned at 9:30 p.m.

Maritza