

**COMMUNITY POLICE REVIEW COMMISSION
(CPRC)**

Wednesday, January 6, 2021

7:00 P.M.

Zoom Meeting

MINUTES

I. CALL TO ORDER, ROLL CALL, PLEDGE

The meeting was called to order at 7:01 P.M. by Chair Randy Joseph.

Present: Randy Joseph (Chair), Yenny Garcia (Vice Chair), Diego Garcia, Oscar Garcia*, Carol Hegstrom, Andre Jackson*, Donnell Jones*, Steven Lacy and Dow Tunis
*Arrived after Roll Call

Absent: None

Staff: Shané Johnson, Staff Liaison – Present

Council Liaison: Vacant

City Attorney's

Office Representative: Bruce Soublet, Senior Assistant City Attorney – Present

II. APPROVAL OF MINUTES (November 4, 2020 and December 2, 2020)

The minutes from the December 2, 2020 meeting were not available.

<p>ACTION: It was M/S/C (Y. Garcia/Lacy) to approve the minutes of the November 4, 2020 meeting, as submitted; approved by Roll Call vote 6-1 (Ayes: D. Garcia, O. Garcia, Y. Garcia, Hegstrom, Lacy, and Joseph; Noes: None; Abstain: Tunis; Absent: Jackson and Jones.)</p>
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III. AGENDA REVIEW

There were no changes to the agenda.

IV. PUBLIC FORUM

Cordell Hindler, Richmond, asked for an item to be placed on the next agenda for a CPRC retreat to allow the new Commissioners to better understand the CPRC. He also recommended a return to in-person meetings.

V. REPORT OF CITY COUNCIL LIAISON (Vacant)

Senior Assistant City Attorney Bruce Soublet advised that it was unlikely a City Council Liaison would be announced until after the February CPRC meeting.

VI. REPORT BY CHIEF OF POLICE (Chief Bisa French or Designee)

Chief Bisa French stated that 2020 was a difficult year for the Richmond Police Department (RPD) given the pandemic, budget issues and cuts, and the attempts to be intentional about reform efforts. She highlighted the socially distant activities of the RPD during December including the Police and Fire Toy Giveaway with a \$50,000 gift card giveaway for about 500 families. While the Richmond Police Athletic League's (PAL's) usual Shop with a Cop could not be accommodated this year several officers and other RPD staff had delivered toys and food to many PAL families and had honored some of the matrons of the City by delivering goods to them as well. She thanked Commissioner Lacy for the toy giveaway at PAL on Christmas Eve when the RPD had participated.

Chief French identified other highlights from 2020 and reported that the year had ended with 22 homicides, 235 firearms had been recovered from the streets last year, and there had been 1,141 traffic collision reports, 61 of which were DUI collisions. Statistics were still being compiled and more information would be available next month.

Captain Timothy Simmons reported that 2020 had been an active year related to gun violence. In December, the RPD had wrapped up a Community Violence Reduction project that ended up yielding seven individuals in custody as a result of actively shooting and committing gun violence in the City. Of the 235 firearms taken off the street a total of 17 guns had been tied specifically to gun shooting events that had occurred directly in the City as a result of the team's investigation. Follow-up to those investigations was still occurring as was follow-up to nine shooting events that had resulted in two homicides during the month of December.

Chief French reported the 2021 deployment for the RPD had 145 actual sworn officers, which included one officer in the academy. The RPD had been budgeted for 157 officers and there were 12 vacancies with 16 officers on injury or light-duty leave. The RPD was still significantly understaffed and to make sure there were sufficient officers to respond to 911 calls more officers had been moved into patrol and an additional team had been assigned to the weekend shift, which would mean that more officers would be moved out of other assignments. While still focused on shootings and homicides there was insufficient staffing to keep up with the level of shootings and homicides from last year.

Chief French stated that New Year's Eve had gone well with few issues despite the fireworks that continued across the City. Fireworks were a huge issue for the RPD and an extra team had focused on that issue.

Captain Simmons stated an entire second team had been out for New Year's Eve with a total of 14 additional officers in seven additional cars. He described the challenges involved in order to take action on fireworks and explained that the process turned into an education and engagement effort to educate the public about how it affected the community at large. He understood the frustrations involved with both the police and the public, recognized that fireworks were oftentimes a family event, and stated attempting to address the issue could be overwhelming. He explained that addressing the issue would have to be done in a regional approach since it stretched far beyond Richmond.

Chair French described the steps she had taken with the RPD when chosen as Police Chief in August 2020 to discuss the vision and values of the RPD when she had engaged the RPD to get involved in the values to be able to uphold them.

Chief French had asked for three to five top values and everyone in the RPD had voted on those values and had created a mission statement, as follows:

The mission of the Richmond Police Department is to prevent crime and maintain order. We work in partnership with our diverse community to help solve neighborhood problems, address root causes of crime and improve the quality of life in Richmond. We strive to perform in a manner that promotes public trust, confidence, safety and security.

The values voted upon by the RPD were integrity, professionalism, service, leadership, and respect.

Cordell Hindler stated one of the issues he had previously raised related to some of the problematic businesses such as 7Eleven and what could be done to have them clean up their act. He noted there used to be neighborhood council meetings on a monthly basis when an RPD officer was present and when the public could address those types of concerns, and he urged that to occur again. He also spoke to the street racing and donuts and asked for more patrols in the area. He was pleased that Louie Tirona was now the Assistant Chief of Police.

Carol Lou Johnson asked about the number of liquor stores and suggested that would have a direct result on the number of DUIs and traffic collisions.

Responding to questions from the CPRC, Chief French reported that there were 18 homicides in 2019 and 22 in 2020, and overall shootings had also gone up from year to year which included both targets of the shooting and those who had actually been shot. COVID had been a huge issue since numerous officers had been both exposed to and had tested positive for COVID, which had affected assignments and which had required overtime. She added with respect to masking that there was a directive where anyone must wear their mask and 99 percent of the time officers were wearing masks, although there were situations where a mask had been a problem in the performance of service.

Vice Chair Yenny Garcia expressed her pride with the Chief and the RPD for its service during this difficult time. She liked the new mission statement but stated the main issues for the community were the causes for that crime and the need to improve the quality of life of Richmond residents. She again thanked the Chief, the RPD and other individuals who had wanted Richmond to be a place where everyone felt safe.

Chair Joseph referred to the homeless encampments within the City and understood that the residents of those encampments felt that the police were harassing them, and Chief French expressed surprise since the RPD had not been moving homeless encampments during the pandemic. She added that whenever the RPD went to homeless encampments it was with the core team that provided services to the homeless and there was no harassment. There had been several shootings at the encampments and the RPD had tried to investigate the shootings and get information. The RPD had partnered with Safe Organized Spaces (SOS!), a non-profit run by Daniel Barth, to clean up the area up to make sure that adjacent businesses were not being scared away.

Staff Liaison Shané Johnson explained that she could provide more information on SOS! and on the City's contribution through Chevron's Modernization Project Environmental and Community Investment Agreement (ECIA) grant.

VII. REPORT BY RICHMOND POLICE MANAGEMENT ASSOCIATION (Captain Timothy Simmons)

Captain Timothy Simmons, President of the Richmond Police Management Association (RPMA), stated this was the first report of the RPMA, the only bargaining association for police captains and police lieutenants representing the middle and senior management of the RPD minus the Chief and Assistant Chief. The RPMA worked closely with the Richmond Police Officers' Association (RPOA) on community endeavors and working conditions within the RPD. Both worked with community groups. He stated the RPMA participated in and donated funds to support the Toy Giveaway with PAL, the Shop with a Cop program, and the Steven Lacy Foundation. There were several events that the RPMA participated in to try to give back. He thanked Commissioner Garcia officially who had partnered with the RPMA and RPOA to provide masks for officers.

Raising an issue of concern, Captain Simmons identified an alarming trend both within RPD and law enforcement in general in the greater Bay Area of an exodus of skilled police officers who were choosing to make their career in a different field or finding other departments for a variety of reasons. While that was nothing new, he stated the loss of tenured police officers and supervisors who were diverse, who brought unique perspectives to the organization and who had a very unique skill set was cause for serious concern. He recommended a partnership with the CPRC to determine the cause and see what could be done collectively to ensure that skilled, qualified officers remained in Richmond given the huge investment in those officers. He sought a discussion month-over-month to work together to address the problem.

Captain Simmons confirmed that the Police Chief and others held exit interviews and while some of the reasons were economic in nature, it had been discovered that some reasons related to the discussions by the City Council and the implication of economic constraints and insolvency that did not offer a feeling of long-term employment, and some were not sure if the City's leadership as a whole supported law enforcement given uncertainties in the City's political climate. When asked, he explained that no reason for leaving related to the CPRC and he suggested that most in the RPD did not see the CPRC in a negative light. He added that whatever encouragement could be provided by the CPRC to shift the dialogue in a positive direction would be helpful to the RPD. He added it mattered to the RPD that members of the CPRC had participated in the Community Safety Academy and other events.

Commissioner Diego Garcia mentioned that there was a lot of misconception about law enforcement and a city could not function without a police department or without a city council and they all had to learn how to work and communicate with each other to create the best working practices to enhance and support the officers of the RPD. He noted that the CPRC had the best intentions for the RPD and for the community.

Vice Chair Garcia chaired the meeting at this time since Chair Joseph had lost his connection to the Zoom meeting.

Commissioner Tunis noted that a few members of the CPRC were brand new and they needed to understand what the officers did and the policies involved.

VIII. REPORT BY RICHMOND POLICE OFFICERS' ASSOCIATION (Ben Therriault)

Detective Ben Therriault, Investigation Officer, referred to the lawlessness that had occurred at the U.S. Capitol this date and condemned what had occurred and stated it was unacceptable and a disgrace.

Detective Therriault also highlighted the participation in the Toy Giveaway in the PAL program, and commended all those who always stepped up to help those in need. He referred to the report from the Police Chief about the 145 actual officers and noted that 22 positions were frozen for budgetary reasons, there were 12 vacancies, and other officers were out due to injury. Staffing was difficult and it correlated to the crime that was occurring. He pointed out that when he had started 12 years ago, a hiring increase had peaked at 205 officers in 2015, which was the best year and also the lowest year for homicides and criminal incidences, which were starting to increase again. As to why officers were leaving, many left because they didn't feel supported and the actions of the City Council did not help to attract people to the City. The defund movement had also helped encourage people to leave and had caused problems in hiring and retaining good qualified people. He acknowledged that some of those things were a national issue.

As to the homeless issue, Detective Therriault stated no one was being displaced. The RPD was trying to help unhoused people who were all over the city and there was a lot of people out there but there was no harassment and he had been surprised to hear that and perhaps there should be some follow-up to that suggestion. He added that COVID was a huge problem and many in the RPD had to be quarantined. The RPD was doing the best it could, tried to limit their exposure and most wore a mask as required.

Chair Joseph reconnected to the Zoom meeting and chaired the meeting at this time.

Cordell Hindler agreed about the defunding issue and suggested it was difficult to retain officers given that issue.

Commissioner Jones recommended an investigation into the loss of officers and the consideration of ways to improve the situation to retain officers. He supported efforts within the RPD, on the CPRC, City Council and elsewhere to find why officers were leaving. He emphasized the need to troubleshoot in all areas.

IX. OLD BUSINESS, DISCUSSION ITEMS

A. Update on Reports Status (Threet)

Jerry Threet, Investigative Officer, had one investigation in closed session and four in process. The investigation of Ms. Lynn, the journalist at the protest in Oakland was ongoing but not a lot of evidence was available. The officer involved shooting was close to completion, and he had requested information for two additional investigations from 2020, both involving allegations of excessive force.

B. Discuss AVR Footage (Hegstrom/Soublet)

Chair Joseph noted that the item had been discussed last month, it had been determined that the CPRC was able to view AVR footage, and Mr. Soublet would provide more information at this meeting.

Commissioner Hegstrom noticed on the case to review under closed session there was no AVR footage and she asked about that as well.

Senior Assistant City Attorney Soublet stated he had done some research on the issue and had discussed the issue with the new City Attorney and other attorneys in the office dealing with the release of AVR footage under the new SB1421 statutes, and had looked at both the RPD Policy Manual and the ordinance for the CPRC. His conclusion was that the CPRC would be entitled to view-only access to available AVR footage of incidents where a complaint was being investigated and the CPRC would be given the same access as the Investigative Officer.

Once a complaint had been identified and the Investigative Officer had reviewed the AVR footage, the CPRC would be allowed to make an appointment with the Office of Professional Accountability to view the footage, there would be a blanket confidentiality agreement that would have to be signed to cover any AVR footage for review and investigative analysis. Nothing could be recorded, there could be no cell phones, no copies could be made, and he recommended no more than three members of the CPRC at a time to avoid quorum issues. The footage could not be discussed with any other member who was not present at that time because that could lead to a serial meeting prohibited under the Brown Act. If only one CPRC member viewed the video that individual could not discuss it with any other person on the CPRC. The only time there could be a discussion of what was on the AVR footage was in the context of the executive session called to discuss that matter. Under those parameters there would be view-only access to any AVR footage that was in the possession of the RPD that had been released to the investigator, which was how it would be handled from now on.

Vice Chair Garcia clarified that would not require a public records request. She verified with Mr. Soublet that footage would not be available for the executive session scheduled after this meeting given that there would not be time to make the necessary arrangements prior to that discussion. She supported the view-only access and the importance of having that opportunity.

Commissioner Hegstrom verified that the AVR footage could only be viewed at the Office of Professional Accountability at 440 Civic Center Plaza, and Mr. Soublet clarified that City Hall was closed to the public except by appointment and business was still being carried on at City Hall given the pandemic. The number of CPRC members requesting to view the footage would have to be identified at the time of appointment to ensure social distancing. He clarified that the Investigative Officer also had view-only access to the AVR footage.

Commissioner Hegstrom made a motion that the executive session be considered next and that the remainder of the agenda continue after that time. Vice Chair Garcia seconded the motion.

Mr. Soublet stated that should have been done during the agenda review at the beginning of the meeting but the Chair had the discretion to accommodate the request.

On the discussion of reordering the agenda, the need to address the designation of the CPRC subcommittees and the inconvenience to the public listening who would have to wait until after the executive session to hear the continuation of the meeting, the CPRC continued on without reordering the agenda.

Mr. Soublet emphasized the need to streamline meetings and keep in mind that comments and discussions had to be within the purview of the CPRC and the Commission's authority. For members of the public, he clarified that if there was comment on the next agenda item it would have to occur before the discussion because once the discussion had started that would close the opportunity to be heard.

There was no action on the motion and second.

X. NEW BUSINESS

A. Discuss and Recommend CPRC Response to Community Members for Cases Outside of the Commission's Purview (Chair Joseph/O. Garcia)

Commissioner Oscar Garcia referred to the discussion at the last meeting and the reference to disturbing details of a case that had come to the CPRC that was not within its purview along with his desire for a letter to reach out to the complainant to indicate that the CPRC cared. He had reconsidered his request, suggested it would be difficult for Ms. Johnson to have the added task of managing that work given the number of cases involved and asked if that could be done on a case-by-case basis.

Mr. Soublet stated there were already responses to claimants who had been notified when cases were not under the purview of the CPRC but those letters did not go into the type of detail that Commissioner Garcia had proposed.

Ms. Johnson suggested it was important to discuss the subcommittees first since the Communications subcommittee could more appropriately work on those types of issues.

Mr. Soublet explained that after the formation of the subcommittees he could work with that group to address the request, and added that letters would come from the CPRC.

Commissioner Oscar Garcia wanted to make a motion that the Communications subcommittee prepare a personalized letter that could be used as a form with Mr. Soublet's input. Given that subcommittee had yet to be formed with the new membership, it was stated that a motion would be premature at this time.

B. Review Existing Subcommittee Groups, Define Tasks, and Create New Groups and/or Assign/Reassign Members (Chair Joseph/Staff S. Johnson)

Ms. Johnson advised that she had submitted a list to all CPRC members last month to identify the existing subcommittees and had identified what those groups were responsible to do. She recommended that the subcommittees be established again and that their role and responsibilities be clarified. She identified the existing subcommittee groups and their existing membership and asked the CPRC to determine whether to keep those four groups or modify them and identify the membership.

On the discussion, it was noted that those subcommittees had been formed in one of the CPRC retreats and the scope sometimes overlapped but had neither been defined nor formalized. Members of the CPRC identified their understanding of the roles of each subcommittee, with *Outreach* being responsible for being aware of community events, contact those organizing the events so the CPRC could have an informational table, pass out flyers and provide presentations where needed.

Vice Chair Garcia noted that the *Outreach* Subcommittee had a high commitment level given the number of committees involved.

The *City Council Liaison* subcommittee monitored City Council agendas for CPRC-related issues and a member was present to comment for the CPRC or bring information back to the CPRC. The *Communications* subcommittee had worked to prepare the new ordinance, now approved, and once published the CPRC would have expanded powers. This subcommittee overlapped with *Outreach* given the desire to create a flyer in collaboration with the *Communications* group and work on official communications for the CPRC such as what had been recommended by Commissioner Oscar Garcia. It was recommended that this group also be responsible for CPRC presentations.

Mr. Soublet recommended a name change for the *Policy Review* subcommittee to the *Policy/Ordinance Review* subcommittee. The *Policy/Ordinance Review* subcommittee was self-explanatory.

Ms. Johnson stated she would send out the CPRC flyer to the new members.

Mr. Soublet clarified there was only one voice for the CPRC which would be the majority of the Commission. The subcommittees were working groups designed to allow the CPRC to work more efficiently. He reminded everyone that no more than four CPRC members could be on any subcommittee. The subcommittees would designate a new Chair going forward.

It was noted that Commissioner Diego Garcia had left the Zoom meeting.

After discussion, the membership of the four subcommittees was determined, as follows:

Outreach Membership: Y. Garcia, D. Garcia*, Lacy, and Jones

**Commissioner Jackson would replace Commissioner Diego Garcia if he was not interested in remaining on the Outreach subcommittee.*

City Council Liaison Membership: O. Garcia, Y. Garcia, Lacy and Tunis

Communications Membership: D. Garcia, Hegstrom and Joseph

Policy/Ordinance Review Membership: D. Garcia*, Hegstrom, Jones and Tunis

**Commissioner Joseph would replace Commissioner Diego Garcia if he was not interested in remaining on the Outreach subcommittee.*

XI. OPEN FORUM BEFORE CLOSED SESSION

Mr. Soublet left the meeting at this time to make ready for the Closed Session.

The CPRC adjourned into executive session at 9:18 P.M.

XII. EXECUTIVE SESSION – CLOSED TO THE PUBLIC – Government Code §54957(b)

- A. Receive Report from CIAO on Case #2020-7, Unnecessary and Excessive Use of Force, and Racially Abusive Treatment of Veronica Castellanos – Discuss and Vote on Findings and Recommendations**

B. Report Any Final Action(s) Taken in Executive Session

The CPRC returned to open session at 9:36 P.M. and Mr. Soublet stated that no final action had been taken and the discussion and decision on the case would be held over until next month to allow Commissioners to make the necessary arrangements to view the AVR footage. He reiterated the prohibitions previously identified and stated that while viewing the video tape there was an evidentiary standard that was clear and convincing evidence, a definition of which could be provided if requested.

XIII. REPORTS OF SUBCOMMITTEES, COMMISSIONERS, AND STAFF, RIDEALONGS

Commissioner Oscar Garcia advised that he had made a presentation to the Reimagining Public Safety Task Force and he suggested a presentation also be made to the City Council soon given some misconceptions as to the CPRC's role and scope, with presentations to also be made at community events.

Commissioner Hegstrom reported she had completed her Ethics Training and had also done a seminar on line with the National Association of Civilian Oversight of Law Enforcement (NACOLE), reviewing cases where there had been protests. She expressed her hope that ridealongs would again become available soon.

Chair Joseph stated he was part of Reimagining Richmond that met every Wednesday from 5:30 to 7:00 P.M., a working group that worked on police accountability and what public safety looked like in Richmond. He invited the community to join, wanted to hear all points of view, and stated that all community members were welcome.

Vice Chair Garcia had also gone through the Ethics Training and had attended the NACOLE Protest Seminar. She advised that some funds were available for the NACOLE seminars and every so often there was training available for members of the CPRC. She recommended the training as important and useful.

Chair Joseph described his opportunity to observe RPD interviews, which had been very interesting and informative, and Vice Chair Garcia urged a presentation by the Chair to describe how the process worked.

Commissioner Hegstrom requested a report from Mr. Soublet on the changes to the Brown Act at the next meeting but Mr. Soublet presented highlights at this time. He added that a new ethics pamphlet would be sent to the new members and everyone would need to take the two-hour Ethics Training.

XIV. ADJOURNMENT

The meeting was adjourned at 9:53 P.M.

Randy Joseph, Chair