

**COMMUNITY POLICE REVIEW COMMISSION
of the City of Richmond, California
(CPRC)**

Wednesday, April 6, 2022

7:00 P.M.

Zoom Meeting

MINUTES

I. CALL TO ORDER, ROLL CALL, PLEDGE

The meeting was called to order at 7:05 P.M. by Chair Yenny Garcia, with all Commission Members participating via teleconference.

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

Absent: None

Staff: Dominique Roache-Green – Present

Council Liaison: Claudia Jimenez

City Attorney's

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

II. APPROVAL OF MINUTES (March 2, 2022)

<p>ACTION: It was M/S/C (O. Garcia/Tunis) to approve the minutes of the March 2, 2022 meeting, as submitted; approved by a Roll Call vote: 7-0 (Ayes: D. Garcia, O. Garcia, Hegstrom, Jackson, Lacy, Tunis, Chair Y. Garcia; Noes: None; Abstain: None; Absent: Joseph)</p>
--

III. AGENDA REVIEW: None

Bruce Soublet, Senior Assistant City Attorney, advised that he would have to leave the meeting for a time but would return.

IV. PUBLIC FORUM

No written comments were submitted or oral comments made by any member of the public.

V. REPORT OF CITY COUNCIL LIAISON (Claudia Jimenez)

Councilmember Claudia Jimenez was not present at this meeting.

VI. REPORT BY CHIEF OF POLICE (Chief Louis Tirona or Designee)

Investigations Captain Al Walle reported that citywide violent crime from February to March 2022 was up nine percent and while property crime was down 15 percent, comparing citywide crime year-to-year from 2021 to 2022, total violent crime had gone down 21 percent, with total property crime down one percent. Last year there were 6,708 calls for service and 1,449 were self-initiated. In March, RPD officers made 161 arrests, five of which involved use of force, and he provided details for those five arrests involving use of force. He added that the ShotSpotter report activations were down 32 percent from February to March, and year over-year from 2021 to 2022 activations were down by 1.5 percent. In March, there had been 49 ShotSpotter activations for a total of 184 rounds. As to vacancies, he reported there were currently 19 police officer vacancies, six dispatcher vacancies, one property technician, three police record specialists, one crime analyst technician, two parking enforcement officers, and one system administrator vacancy.

Since the last meeting, Captain Walle reported that a dispatcher had been hired and another dispatcher had resigned with three candidates in background, and the RPD had recently hired two officers who were in training, two recruits were in the police academy, and during that time one officer had retired and another had resigned to go with another agency. There were four candidates in background. As to injuries, there were 14 officers on injury leave and five officers on modified duty. With respect to overtime, between January and February shift overtime was down 33.95 percent primarily due to the promotion of three lieutenants into patrol where overtime had been used to backfill those positions. He added that current overtime usage was 56 percent of total and at that rate would be in budget by the end of the fiscal year.

Commissioner Hegstrom clarified with Captain Walle one of the incidents with use of force issues and verified that while no gun had been fired in that case, if a gun had been fired the CPRC would be provided a report of that incident.

Vice Chair Tunis referred to upcoming force-on-force training and asked for details, to which Captain Walle noted that all use of force cases were reviewed by a Use of Force Board and during that review equipment and training needs would be evaluated. If there was a trend, the training unit would put on scenario-based training where members of the CPRC could participate by contacting the RPD. He advised the CPRC that would be a good opportunity to better understand the RPD's activities.

Commissioner Hegstrom referred to a situation in Antioch where some officers had used anabolic steroids and she asked if RPD officers could be using steroids legal or illegal, and Captain Walle understood that no RPD officers had been involved in that incident and he was not aware of steroid use.

Dominique Roache-Green, staff to the CPRC, verified that the information with respect to use of force training had previously been emailed to the members of the CPRC.

VII. REPORT BY RICHMOND POLICE OFFICERS' ASSOCIATION (Ben Therriault or Designee)

Officer Ben Therriault, President of the Richmond Police Officers' Association (RPOA), reported that he was working on a project that surveyed the RPOA membership on a myriad of things, part of which had to do with negotiations that would be provided to the CPRC next month prior to being provided to the City Council.

Officer Therriault looked forward to more community events opening up since the pandemic and he was pleased to learn that some CPRC Commissioners would participate in some of the RPD training.

VIII. REPORT BY RICHMOND POLICE MANAGEMENT ASSOCIATION (Timothy Simmons)

Captain Timothy Simmons, President of the Richmond Police Management Association (RPMA) was not present at this time.

IX. OLD BUSINESS, DISCUSSION ITEMS

A. Update on Reports and Status on Pending and Completed Investigations (Threet)

Jerry Threet, the Investigative Officer, reported that he had completed two investigations since the last CPRC meeting, one of which was on executive session for this meeting and another that would be submitted for the May meeting.

Mr. Threet reported on two open investigations remaining, one of which was the investigation considered in February where additional investigation had been sought and which was ongoing, and the other from 2018 for an excessive use of force allegation that he was continuing to investigate.

Commissioner O. Garcia thanked Mr. Threet for catching up on the backlog.

Chair Garcia verified with Mr. Threet that he was able to secure the information he needed to complete his investigations.

X. NEW BUSINESS

A. Discuss and Approve Public Summary of Complaint Finding for Case 2018-4 (Diaz)

Commissioner Hegstrom commented that she liked the report but recommended that the following text be removed: “The Commission found that while the officer had expressed minor irritation at Diaz,” since that had not been found. What had been found was that there was little or no evidence of bias. She recommended a new sentence, to read: *The Commission found that there was little to no evidence of bias by the officer and was therefore exonerated of the allegations.*

Commissioner Randy Joseph arrived at 7:30 P.M.

Chair Garcia also recommended a change to the text on the second paragraph reading: “Thus this allegation lacked creditability and undermined the credibility of Diaz’s allegations to some extent.” She requested that the sentence be removed. She did not want to give the community the perception that the community’s credibility was being questioned. She otherwise agreed with the change recommended by Commissioner Hegstrom.

Mr. Soublet advised that part of the investigation was to make credibility determinations on both sides based on the Investigative Officer's review and the review of evidence, and credibility determinations had to be made.

Mr. Threet added that the allegation the complainant had made was that she was not speeding. He stated there were two competing narratives since the officer involved stated she had been speeding and credibility was inherent in making the determination. He had made that determination in making the recommendation, and because he had determined that allegation lacked credibility it had helped to make the next determination in terms of whether there was discriminatory intent by the officer. He explained that the finding was sound with or without that portion of the statement.

Commissioner Hegstrom agreed that the finding was still appropriate with the addition of her sentence and the removal of the sentence referenced by Chair Garcia.

ACTION: It was M/S/C (Hegstrom/O. Garcia) to approve Public Case Summary for 2018-4 (Diaz); as modified to read: *The Commission found that there was little to no evidence of bias by the officer and he was therefore exonerated of the allegations;* and with the elimination of the sentence "Thus this allegation lacked credibility and undermined the credibility of Diaz's allegations to some extent;" approved by a Roll Call Vote: 6-1 (Ayes: D. Garcia, O. Garcia, Hegstrom, Jackson, Lacy, Tunis; Noes: Joseph; Abstain: None; Absent: Chair Y. Garcia [Due to technical difficulties])

B. Commissioners' Expectations, Preparations, and Protocols for Meetings According to City of Richmond Boards and Commissions Handbook (Commissioners O. Garcia/Hegstrom)

Commissioner Hegstrom stated that two months ago she and Commissioner O. Garcia had contacted the CPRC's Investigator and had been advised that was not allowed to be done. Since that time, she had done some research to determine whether that was the case and she referred to the Richmond Boards and Commissions Handbook and Page 7, Responsibilities of Board, Commission or Committee Members, which stated that one "must do your homework, be thorough in recommendations by reviewing items prior to the meeting to be fully prepared to discuss, evaluate and act on all matters scheduled for consideration." And on Page 9, Relationship with Council and Staff Liaison: "Members should feel free to contact the assigned staff liaisons for inquiries and/or support services."

Commissioner Hegstrom therefore stated that if there was a question about a closed session item, Commissioners had an obligation to reach out and get answers to understand an item before going into a meeting.

Commissioner O. Garcia commented that it had been common practice to reach out to the Investigator and he sought consistency and clarity in that regard.

Mr. Soublet explained that the CPRC was different from any other Board or Commission in the City of Richmond. The question was not about a violation of the Brown Act. He explained that Mr. Threet was an independent Investigator and his reports were to be based on the facts and the evidence, and he had stated it was inappropriate for someone to try to change the Investigator's mind.

In order to maintain the impartiality of the process and make sure both sides got a fair hearing on the investigations, Mr. Soublet stated it was essential that members of the CPRC raise concerns with the report in executive session when that issue was being raised, and not prior to that time. He understood the need for Commissioners to be prepared and reading the material provided that preparation, and if there were questions having the question ready for executive session would be important, although that did not mean the Investigator should be contacted in advance.

Chair Garcia noted that the issue reminded the CPRC to read the reports and she explained that the next item on the agenda would help to address the issue in this case by establishing clear objectives and guidelines for the CPRC to follow moving forward.

Commissioner Hegstrom suggested the CPRC needed to be prepared for the meetings and that Commissioners should be able to contact the Investigator if there was a need to do so.

Commissioner Joseph asked what made an investigator independent, to which Mr. Soublet stated the investigator would be independent from outside influences, either those judging or those making the ultimate decision, and the investigation should be discussed when the Investigator presented the findings in executive session.

Commissioner O. Garcia did not think there was any written requirement and he recommended establishing written guidance to ensure consistency going forward.

Commissioner Hegstrom reiterated that it would be useful if there were questions to get a good understanding before going into executive session.

Chair Garcia agreed that there was a need for consistency and something in writing for clarification.

Mr. Soublet added that the CPRC had long been independent from the Police Department, which he stated was what the independent Investigator was, independent from the Police Department.

No written comments were submitted or oral comments made by any member of the public.

C. Update on Executive Committee Meeting from 3.31.22, Establishing Clear Objectives and Guidelines for the CPRC to Follow Moving Forward Under the Leadership of Chair Garcia and Vice Chair Tunis (Vice Chair Tunis)

Vice Chair Tunis referred to a recent conversation with the Chair about procedural issues and reinforced the fact that the CPRC was ready to move forward. He urged Commissioners to do their homework and be ready to discuss the issues. As far as activities, he suggested that Commissioners were just showing up for the meeting and there was little participation such as in the DUI Checkpoints, and to improve the relationship with the RPD there was a need for better participation in events.

Vice Chair Tunis added that if clarity was needed, Commissioners could reach out to the Chair or Legal Counsel to come to meetings prepared to deal with it in executive session.

Chair Garcia was excited by the opportunity to serve as Chair and to have Vice Chair Tunis serve with her to hold each other accountable. She too emphasized the need to build a relationship and trust with the RPD and the community and hoped the CPRC could better communicate with each other and to start fresh. She asked members of the CPRC to communicate with the Chair and Vice Chair to address issues and stated the committees would be very important moving forward. As such, she urged Commissioners to pick a committee they were passionate about.

D. Select CPRC Subcommittees, Roles, and Members (Chair Garcia)

Chair Garcia identified the CPRC's Subcommittees, their roles and membership.

- City Council Liaison Subcommittee: Monitored City Council agendas for CPRC-related business, attended City Council meetings and spoke on behalf of the CPRC, if needed.
- Communications Subcommittee: Prepared correspondence, assigned flyers and developed CPRC-related presentations, which work may or may not overlap with other subcommittees.
- Outreach Subcommittee: Attended community events on behalf of the CPRC in a public relations format, tabling, passed out flyers and the like, connected to the community and presented for the community, and took notes of the relationship with the community to be presented to the full CPRC.
- Policy Ordinance Review Subcommittee: Oversaw revisions to ordinance and review policy-related documents from the Chief of Police.

Mr. Soublet stated in the past the City attorney's office had started looking at committees of Brown Act bodies throughout the City. He emphasized the need to create a truly ad hoc committee, which was not one with unlimited duration as were standing committees that required Brown Act compliance and required meeting notices and staff presence. He suggested that no subcommittees be formed but that Commissioners interested in specific topics identify that interest by emailing Ms. Roache-Green, which information would then be provided to the Chair and Vice Chair of the CPRC.

LISA JOHNSON, Richmond, stated that the subcommittees had been an enormous issue with the Reimagining Public Safety Community Task Force when non-Task Force members had been added to subcommittees and had participated in processes behind closed doors. She strongly encouraged the CPRC not to proceed to create subcommittees and suggested that specific things could be agendaized once a month. She stated the public wanted to understand what was going on in real time.

Commissioner Joseph expressed an interest in working with the City Council Liaison group.

Vice Chair Tunis stated that he and the Chair could list a number of items that they wanted to pursue under each topic area to advise the CPRC.

XI. OPEN FORUM BEFORE CLOSED SESSION

LISA JOHNSON, Richmond, thanked Commissioners for keeping their cameras on during the length of the meeting and requested that be a requirement memorialized in the CPRC ordinance, guidebook policy and handbook for transparency purposes.

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

The CPRC adjourned into executive session.

A. Receive Complaint Report from CIAO on Case 2021-6 (Yassin), Bias in Policing - Discuss and Vote on Findings and Recommendations

Return to Open Session

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

The CPRC returned to open session and Mr. Soublet provided the report that the CPRC had met in executive session and had taken the following action.

ACTION: For Case #2021-6 (Yassin) Bias in Policing, the CPRC had voted seven yes with one abstention 7-1: (Ayes: D. Garcia, O. Garcia, Hegstrom, Joseph, Lacy, Tunis, and Chair Y. Garcia; Noes: None; Abstain: Jackson; Absent: None) to accept the report of the Independent Investigator, and seven yes with one abstention 7-1 (Ayes: D. Garcia, O. Garcia, Hegstrom, Joseph, Lacy, Tunis, and Chair Y. Garcia; Noes: None; Abstain: Jackson; Absent: None) to accept the recommendation of the Independent Investigator of exonerated.

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

Chair Garcia stated she would change the title of this item in the future to remove the reference to Subcommittees.

Commissioner Joseph apologized for his lateness. He reported that the RYSE Center would have a grand opening for the whole community to celebrate the opening of the new building on Saturday, May 14, 2022 from 2:00 to 7:00 P.M., and those interested could log on to rysecenter.org to sign up to attend.

Commissioner Jackson stated he had sent an email to Ms. Roache-Green about a question related to the CPRC's subcommittees.

Chair Garcia provided on update on the status of CPRC business cards.

XIV. ADJOURNMENT

The meeting was adjourned at 8:41 P.M.

Yenny Garcia, Chair