

COMMUNITY POLICE REVIEW COMMISSION
of the City of Richmond, California
(CPRC)
Wednesday, April 5, 2023
7:00 P.M.

MINUTES

I. CALL TO ORDER, ROLL CALL, PLEDGE

The meeting was called to order at 7:00 P.M. by Chair Carol Hegstrom in the Employee Lunchroom in the Basement of 450 Civic Center Plaza at Richmond, California.

Present: Carol Hegstrom (Chair), Dow Tunis (Vice Chair), Oscar Garcia, Andre Jackson, Randy Joseph, Daniel Lawson and Rachel Lorber

Absent: Diego Garcia and Steven Lacy

Staff: Lilia Corral - Present

Council Liaison: Claudia Jimenez – Present

**City Attorney's
Office Representative:** Pam Lee - Present

II. INTRODUCTIONS OF NEW COMMISSIONERS

The two new Commissioners Daniel Lawson and Rachel Lorber introduced themselves, identified their background, and described their reason for serving on the Community Police Review Commission.

III. STATEMENT OF CONFLICT OF INTEREST

Pam Lee, Legal Counsel representing the City Attorney's Office, described the purpose of the Statement of Conflict of Interest when any member of the CPRC who had a conflict of interest with any item on the agenda would have to recuse himself or herself from that item, and when any member of the CPRC would have to identify any ex-parte communication with any party involved in a complaint or a business item on the agenda without the presence of any other member of the CPRC, would also have to be reported at this time. She offered examples of conflict of interest and ex-parte communications.

IV. APPROVAL OF MINUTES (February 1, 2023 and March 1, 2023)

<p>ACTION: It was M/S/C (Tunis/Joseph) to approve the minutes of the February 1, 2023 and March 1, 2023 meetings, as submitted; approved by a Roll Call vote: 7-0 (Ayes: O. Garcia, Jackson, Joseph, Lawson, Lorber, Tunis and Chair Hegstrom; Noes: None; Abstain: None; Absent: D. Garcia and Lacy).</p>

V. AGENDA REVIEW

Commissioner Joseph requested that Item XII, Update on the CPRC Annual Report be deferred from the current agenda.

VI. PUBLIC FORUM

Randy Joseph reported that the RYSE Center Annual Be a Kid Fundraiser for adults only would be held on Friday, April 28, 2023 from 6:00 to 9:00 P.M. at the new building at 3939 Bissell Avenue. He thanked Chair Hegstrom for donating tickets to the event.

Staff Liaison Lilia Corral reported that she had received an online submission from CORDELL HINDLER, who had been pleased that the CPRC was meeting in-person and who reported that he would be providing an update on a project that he was working on.

VII. REPORT OF CITY COUNCIL LIAISON (Claudia Jimenez)

City Council Liaison Claudia Jimenez reported that at its last meeting in March, the City Council had approved a draft budget with \$8 million plus in revenue that had not been budgeted and options had been considered, with \$3 million plus dedicated to sidewalk repair and Americans with Disabilities Act (ADA) compliance; \$750,000 into Carlson Boulevard to complete street safety improvements for pedestrian safety; staffing to extend Library hours to weekends; and other dedications. She reported that budget meetings for the 2023-2024 Budget would be hosted by the Finance Department on April 10 (7:00 P.M.), April 17 (3:00 P.M.), and April 20 at (1:00 P.M.). She invited the community to participate in those meetings and stated the City Council would consider the budget in May 2023 and have until the end of June 2023 to approve the budget.

Commissioner Oscar Garcia noted that the Cinco de Mayo parade was annually funded by the City of Richmond and the City of San Pablo, although he understood that Richmond had reduced its \$5,000 budget to \$2,500 this year. He requested that the City Council consider increasing the budget to historic levels.

City Council Liaison Jimenez stated she would advocate for that request.

Commissioner Oscar Garcia also understood that the 23rd Street Merchant's Association would be meeting with the Police Chief on April 6 with respect to issues related to crime, robberies and loitering on 23rd Street that was having a negative impact on the businesses along that corridor. He asked the City Council Liaison to help support that effort and also asked the Mayor's Office for its help in that regard.

Council Liaison Jimenez expressed a willingness to participate and asked to be apprised of any such meetings in her district in the future.

Shiva Mishek, Chief of Staff to the Mayor's Office, expressed the willingness to contribute some of the Mayor's budget to the Cinco de Mayo event.

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

Police Chief Bisa French noted her understanding the City would be contributing the full \$5,000 to the Cinco de Mayo event with half to the Saturday parade and half to the Sunday event. She noted that the City of San Pablo only contributed to the parade. She stated that Richmond would be contributing heavily to the full festival on Sunday.

Chief French provided the monthly crime report through March 28, 2023, and reported that there had been one homicide, 42 aggravated assaults, 14 robberies, 10 sexual assaults, 20 burglaries, 94 thefts, 86 stolen vehicles and one arson, and staff had towed 158 vehicles and had responded to 123 vehicle collisions that included nine DUI investigations and responding to six side shows. The homicide had occurred on March 8 in the 2300 block of Aberdeen, officers had identified suspects responsible for the homicide on that night, although the District Attorney (DA) had made no charges in that case because it was a self-defense case, which was now closed. Another significant incident had occurred on March 23 when a suspect who had stolen a semi-truck had tried to drive over a patrol car with an officer in it. The suspect, who had tried to run away had been captured with canine contact.

Chief French reported that the Richmond Police Department (RPD) had also participated in a Human Trafficking Task Force meeting along with the DA's office to address issues related to prostitution and trafficking along the 23rd Street corridor. It was the second meeting of the year in which business owners and community members had come together with the DA's office, RPD, Community Violence Solutions and the Family Justice Center to work on solutions to the ongoing problem. She would be meeting with the 23rd Street Merchant's Association to talk about the issue tomorrow. She reported on March 29, members of the RPD, Richmond Fire District (RFD), Contra Costa Health, the DA's Office and West Contra Costa Unified School District (WCCUSD) had held an education forum on the use of fentanyl and how it was affecting each of those agencies. The recording of that meeting should be replayed on KCRT.

Chief French also reported that last week there had been a swearing in and welcome ceremony for new RPD employees, at which time two new police officers had been sworn in and six additional employees had been recognized including three police officer trainees who would go to the police academy, two Records Specialists, and one Communications Dispatcher. Additionally, she had the honor to recognize and acknowledge the service of a staff member who had been with the RPD for 40 years, and had recognized Captain Al Walle who had worked his final shift as a Richmond Police Captain last Wednesday. She had also promoted two captains, two lieutenants and two sergeants, one of whom was Ben Therriault. A promotional ceremony had been scheduled for April 10, 2023 at 7:00 A.M.

Chief French added that the RPD continued to be under staffed, had done some significant hiring this year but all officers hired continued to be in training. The RPD had 29 sworn vacancies at this point and 19 professional staff vacancies, with 10 officers out on injury leave and three on modified duty. There remained mandatory overtime sign-ups for officers, sergeants and lieutenants given that there were not a sufficient number of officers to fill the patrol teams. Further complicating the mandatory overtime and understaffing were upcoming events such as Cinco de Mayo that required a significant number of officers to accommodate the activities.

Chief French stated that last month she had met with Investigative Officer Jerry Threet, Council Liaison Jimenez, Chair Hegstrom, and others to look at use of force, and had submitted a request for legal opinion on some of the information. She noted that the legal opinion had not yet been submitted by the City Attorney's Office. She suggested it would be beneficial to set up a presentation with the CPRC on the use of force and requested that be placed on a future CPRC agenda.

Chief French also recognized the RYSE fundraiser scheduled for April 28 but noted that the Officer of the Year Dinner would be held on the same night at 6:00 P.M., when Officer Terry Thomas would be recognized as the Officer of the Year this year, and the Staff Member of the Year Teamwork Award would go to the Communications Center.

Commissioner Lawson asked about the comparison with respect to UCR (Uniform Crime Reporting) data and the National Incident-Based Reporting System (NIBRS) and noted that some of the numbers had gone down while others had increased, and Chief French explained that burglaries used to include auto burglaries, although that had been taken out and put into another category, which had affected the numbers.

Chief French also advised, when asked, that the Officer of the Year dinner was hosted by the Kiwanis and the Richmond Police Activities League (PAL), and members of the CPRC were invited to attend.

Commissioner Lorber was interested in the use of force presentation and asked about other issues that had happened throughout the country such as police beatings that had led to death, and police pursuits.

Chief French advised that she had changed the policy last year and those issues had been a huge topic of conversation within the RPD. The new policy was that there could be no chases after vehicles simply because there was a stolen vehicle. The policy had been changed given that innocent people were being killed by police pursuits of what was essentially a property crime, although she recognized the importance of vehicles to the users. She added that the weight of risk to the community to the actual crime had been discussed thoroughly by the RPD.

Commissioner Joseph asked about car towing and why cars were being towed, and Chief French stated that rarely were cars towed for a parking violation unless it was something significant. The cars that were being towed were primarily abandoned vehicles, missing tires, red tagged, as well as those vehicles abandoned, stolen or being used as housing at the Castro homeless encampment. Five to 10 vehicles were removed from the encampment monthly. She explained there was a list of 200 to 300 cars identified for removal through complaints but due to under staffing the RPD was working hard to get all the abandoned vehicles throughout the City.

Commissioner Joseph verified with Chief French that the RPD was working to address the robberies around ATM machines and educating the public about those dangers, and that the RPD was also working to address the issue of prostitution in and around the 23rd and 24th Street corridors, especially in light of the new law that had taken effect on January 1, 2023 where the RPD could not just contact a woman strictly for that purpose and had to have another reason, which was one of the issues the 23rd Street merchants wanted to discuss with the RPD. He also verified with the Chief that there continued to be problems with stolen catalytic converters. It was also noted that freeway shootings were addressed by the California Highway Patrol (CHP).

Commissioner Oscar Garcia asked if the RPD was able to allow new and newish Commissioners to have the use of force exercise it had previously provided and Chief French explained that the RPD was attempting to revise some of that training and the Community Safety Academy was planned to be brought back at the end of the summer.

Chief French stated the scenario based training that had been provided to the CPRC could be considered for a return if there was interest in doing so, and CPRC members expressed an interest in that training and in the Community Safety Academy.

Chair Hegstrom stated the CPRC had been charged with communicating its decisions on complaints to the Police Chief, which had previously been done by email where the Chief had 30 days to respond, and while an email had been sent some time ago, there had been no response. She expressed a desire to get back into the routine where the CPRC would send a letter/email to the Police Chief who would respond within 30 days.

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

Ben Therriault, President of the Richmond Police Officers' Association (RPOA), stated he remained the RPOA President after his promotion. He reported the RPOA's biggest issue was the staffing issue. He noted that the City of Alameda had been offering a \$75,000 signing bonus for new officers (\$25,000 up front and \$50,000 at the completion of training). He asked everyone who knew of anyone interested to advise the RPD to help pursue recruits. He also reported there had been a number of catalytic converter thefts, with lookouts and weapons involved, and there had been an uptick because of the value and market for the item. He stated that new officers needed to be prepared that the thefts were getting more sophisticated.

Commissioner Joseph noted that many who tried to stop catalytic converter thefts were being threatened with firearms and he asked if there were any tips to the public. He took this opportunity to congratulate Officer Therriault on his promotion to Sergeant.

Officer Therriault suggested that anyone who saw a theft of a catalytic converter should call it in and let the RPD do its job.

X. REPORT BY RICHMOND POLICE MANAGEMENT ASSOCIATION (Esteban Barragan or Designee)

Lieutenant Ernest Loucas was present on behalf of the President of the Richmond Police Management Association (RPMA). He acknowledged the promotions recently made by the Chief and identified the upcoming promotional ceremony. He reiterated that staffing was an issue and with mandatory overtime working 18 hours a day for multiple weeks the RPD was being stretched thin. He emphasized that the RPD was looking to increase ranks as quickly as possible and reintroducing and revamping the mental health program. He added that the Police Chief had made a number of changes around the RPD for just that reason and he invited members of the CPRC to a tour to see some of the changes. There was a concern to ensure that officers were being taken care of and had a better work/life balance. As a use of force instructor, he stated it was beneficial to understand the types of decisions that needed to be made and the time when decisions needed to be made, and he urged everyone to participate in the Community Safety Academy when reinstated, and invited the CPRC and the City Council to participate in the ridealong program.

Lieutenant Loucas added that the RPMA was currently out of contract and was in negotiations with the City. He looked forward to completing negotiations with an equitable outcome.

Chair Hegstrom asked the RPD to send an email to the CPRC with the contact to schedule ridealongs.

XI. REPORT BY INVESTIGATIVE AND APPEALS OFFICER (Jerry Threet)

Jerry Threet, Investigative and Appeals Officer, reported there were currently three complaints with the CPRC, one of which was on hold due to the complainant recovering from surgery and there being an active murder investigation, with the records being withheld for the time being. The second investigation was still in the interviewing stage and he was waiting on a response to interview requests. For the third complaint, the allegations were not within the purview of the CPRC and he had written the complainant to consult with her about the allegations and to see if she agreed, and if she did she could withdraw the complaint. He added that the Use of Force Data Analysis and Annual Report projects were on hold for the time being.

Mr. Threet responded to questions and explained that there was no specific deadline to file a complaint with the RPD, although there was a statute of limitations on imposing discipline under state statute, which was basically a year. Generally, there was no issue in the types of complaints received, which were usually filed immediately after an incident.

XII. OLD BUSINESS, DISCUSSION ITEMS

A. Update on the CPRC Annual Report (R. Joseph)

Commissioner Joseph had removed the item from the current agenda.

XIII. NEW BUSINESS

A. Tabling at Events (C. Hegstrom)

Chair Hegstrom recommended that a calendar of events be established.

Commissioner Lawson noted that the Cinco de Mayo event had been scheduled for Sunday, May 7, 2023 from 10:00 A.M. to 5:00 P.M. He recommended starting at noon and tabling from noon to 4:00 P.M. The CPRC determined to sign up for that event and Commissioner Lawson agreed to facilitate that sign-up with staff.

To table for the Cinco de Mayo event, Commissioner Joseph volunteered to serve from 12:00 to 2:00 P.M.; Chair Hegstrom volunteered to serve from 2:00 to 4:00 P.M.; and staff noted that a timesheet could be provided to allow CPRC sign-ups. Handouts were also recommended. The details of setting up and breaking down were described and Commissioner Lawson volunteered to help in that regard.

B. Appointments and Conflict of Interest

Commissioner Oscar Garcia offered examples of a potential conflict of interest and reminded the public that complaints about the RPD had been made by a public defender on behalf of a client, and he had no problem with that.

With respect to that complaint, Commissioner Oscar Garcia stated it had turned out that the way the complaint had been framed did not align with the facts that the Investigative Officer had found, which had resulted in a difference in conclusion. Given that newly-appointed Commissioner Lorber worked for the Public Defender's Office, which was often defending clients that had been accused by the RPD, and without the Statement of Conflict of Interest, he stated that Commissioner Lorber and any other Commissioner would have to identify a conflict of interest if one existed. He was therefore pleased to see the Statement of Conflict of Interest on the agenda and wanted to make sure that the CPRC was not being compromised in any way.

Commissioner Joseph referred to the Ethics Training and noted that anyone with a conflict of interest would have to remove himself/herself from the discussion given that could place the individual and the CPRC in legal trouble. He supported the procedures, as established, as long as Commissioner Lorber immediately recused herself when there was a perceived conflict of interest. He stated the best course of action would be to recuse oneself from the process whenever there was a perceived conflict of interest.

Chair Hegstrom explained that recusal would best be done when the complaint was first filed and submitted to the whole CPRC.

Vice Chair Tunis commented that Legal Counsel Lee had clarified the issue which should now be clear to all members.

Council Liaison Jimenez spoke to the City Council's appointment of Commissioner Lorber to the CPRC and asked the Mayor's Chief of Staff to clarify the situation.

Shiva Mishek explained that the Mayor's Office was in charge of appointments for all City Boards and Commissions and she described the process when an individual submitted an application. She stated the entire office was very familiar with the Richmond Boards and Commission Handbook, Ethics Training and Form 700s, and in Commissioner Lorber's case, the office had looked into every single possible, applicable objection that could be made in a codified sense. She had spoken with the California Attorney General and had done extra due diligence to ensure there was no issue having Commissioner Lorber on the CPRC. She added that the CPRC was taken incredibly seriously and there was no desire that anything be done to compromise the CPRC given its highly-visible, highly-politicized mission. She also understood there had been some discomfort around the appointment of Commissioner Lorber and the Mayor's Office was open to discussing the issues as they came up. She stressed that everything had been done within the bounds of existing law.

Ms. Mishek responded to several questions from Commissioner Oscar Garcia and advised that the Mayor's Office was doing a research project around the CPRC to determine how often the CPRC rulings matched up with what the RPD did, and one of her staff had researched all of the CPRC's minutes and had prepared a spreadsheet about every public complaint and ruling. She also explained why applications for appointment to the CPRC had been redacted due to the fact that members of the City's Boards and Commissions had been harassed by the public and sensitive information on applications included in City Council packets had been redacted for the sake of privacy. She would share the information with the CPRC as to what was routinely redacted such as references, place of work, phone numbers, and email, and stated that any inconsistency in levels of redaction was unintended.

When asked if the Mayor's Office recruited those who joined City Boards and Commissions, Ms. Mishek affirmed there could be some recruitment depending on the Commission, although the office did not have the capacity to recruit.

Referring to a comment that he had received donations from the RPD unions, Commissioner Oscar Garcia stated that the RPD union had sent money that had nothing to do with him that he had never touched and he wanted to make sure that folks were aware that if there was a police officer who caused issues he would never be okay with that because he had grown up in a Richmond where he had been racially profiled and he did not want his family to grow up in a similar Richmond or have any kid in Richmond experience what he had experienced.

XIV. REPORTS FROM COMMISSIONERS, STAFF, AND RIDEALONGS

CPRC staff reported that an email would be sent out related to citywide training for Richmond Boards and Commissions in May.

The CPRC adjourned into executive session at approximately 8:45 P.M.

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

A. Receive Complaint Report from CIAO on Complaint 2022-5 (Paul), Discuss and Vote on Finding and Recommendations

The CPRC reconvened at approximately 9:41 P.M. from Executive Session.

ACTION: Legal Counsel Pam Lee stated the CPRC had met in Executive Session to discuss one complaint and had voted to accept the report by a vote of 6-0-1 (Ayes: O. Garcia, Jackson, Joseph, Lawson, Tunis and Chair Hegstrom; Noes: None; Abstain: Lorber; Absent: D. Garcia and Lacy), and had voted 6-0-1 (Ayes: O. Garcia, Jackson, Joseph, Lawson, Tunis and Chair Hegstrom; Noes: None; Abstain: Lorber; Absent: D. Garcia and Lacy) to accept the recommendations of the report with: 1) the recommendation of unfounded with respect to allegations of unreasonable use of force; and 2) the recommendation of exonerated with respect to the allegations of discrimination.

Commissioner Lorber clarified for the record because of the earlier discussion that she had not received the report prior to the meeting. Her abstention was due to the fact she had not read the report and not due to a conflict of interest.

XVI. ADJOURNMENT

The meeting was adjourned at 9:43 P.M.

Carol Hegstrom, Chair