

COMMUNITY POLICE REVIEW COMMISSION
of the City of Richmond, California
(CPRC)
Wednesday, June 7, 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), Andre Jackson, Carol Johnson, Randy Joseph, and Daniel Lawson

Absent: Oscar Garcia, Steven Lacy, and Rachel Lorber

Staff: Lilia Corral - Present

Council Liaison: Claudia Jimenez – Present

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

II. STATEMENT OF CONFLICT OF INTEREST

Pam Lee, Legal Counsel representing the City Attorney's Office, explained that this was the time when any member of the CPRC who had a conflict of interest with respect to any item on the agenda to identify that Conflict of Interest. When asked, she explained that there were several aspects of conflict of interest and she could provide the applicable regulations to the CPRC and the public; the regulations related to the Conflict of Interest Code under the Government Code and the Fair Political Practices Commission (FPPC), as well as general Conflict of Interest Law in that there were several conflicts of interest involved such as economic, financial, and bias.

Chair Hegstrom verified with Ms. Lee that while she understood that group emails amongst members of the CPRC were not allowed, it would be appropriate if group emails related to a social gathering, such as part of the scheduling related to tabling that was not part of a meeting.

III. AGENDA REVIEW

There were no changes to the published agenda.

IV. PUBLIC FORUM

Staff Liaison Lilia Corral advised of an email from Cordell Hindler, as follows: *Good evening Chair Hegstrom, Commissioners and staff, I am forwarding the following comments for the record: When the Council approved Carol Johnson for the [inaudible ...] the remaining vacancies. I am currently working on a project in relation to the Community Police Review Commission. That is all.*

V. REPORT OF CITY COUNCIL LIAISON (Claudia Jimenez)

Staff Liaison Corral advised that Claudia Jimenez, the City Council Liaison, had asked to be able to join the meeting on Zoom but she was not available on Zoom at this time.

Commissioner Joseph commented for the record that while participants were allowed to join CPRC meetings by Zoom, Commissioners had to be present in-person at all meetings, and he questioned the fairness of that situation.

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

Assistant Chief of Police Tim Simmons presented the report from Chief French and offered the basic crime report for the month of May 2023 in comparison to last year's statistics. He reported that in April 2023 there was a second homicide which brought the total homicides for the month to two, with a third that had occurred this week being investigated. This time last year there were seven homicides. Comparing this month to last month, he reported there were seven sexual assaults in May and six in the month of April; 25 robberies in May and 16 in April; 80 aggravated assaults in May and 71 in April; 31 burglaries in May and 33 in April; 115 felony larcenies in May and 156 in April; 103 vehicle thefts in May and 103 in April; and no arsons in May but one in April. With respect to statistical changes for Category 1 crimes and property crimes, he noted there had been no change in homicide numbers for the month but for sexual assaults there had been a 75 percent increase month over month; 25 robberies for a 9 percent increase; aggravated assaults a 321 percent increase; burglaries a 45 percent decrease; larcenies a 37 percent increase; and vehicle theft a 3 percent increase. Overall for May there had been a 26 percent increase in Part 1 person crimes.

City Council Liaison Claudia Jimenez was available on Zoom at the start of Assistant Chief Simmons' report.

Chair Hegstrom asked about a comparison with last year and Assistant Chief Simmons stated in comparison to May 2022, there had been two homicides compared to one in May 2023; for sexual assaults there had been 19 in 2022 compared to seven in 2023; and robberies 18 in 2022 compared to 25 in 2023. He cited a recent incident about a Richmond officer who had been able to stop a robbery in Richmond from a crew that had been involved in a robbery and chase earlier in the day from another jurisdiction into Richmond. He noted that officer would be getting a commendation for a job well done.

With respect to the ShotSpotter Report, Assistant Chief Simmons acknowledged the CPRC's request for information to include not just ShotSpotter activation but calls for service and shots fired in comparison to when a citizen was calling to report shots fired. He provided the calls for service and the comparison of calls for service in relation to ShotSpotter activations to see how often people in the community were hearing gun shots that did not necessarily get registered on the ShotSpotter system.

Assistant Chief Simmons identified 46 ShotSpotter activations in May 2023 with 74 individual calls for service. He added that just because someone called and heard gunshots did not mean all those calls were gunshots. Because the ShotSpotter system filtered out everything except shots, he suggested it was probably more accurate than the calls for service.

With respect to the staffing situation, Assistant Chief Simmons reported that the RPD had been approved for 145 sworn officers and there were currently 116 of those positions filled with 29 total sworn vacancies, with six sergeant vacancies and 23 officer vacancies. Eight officers were currently on injury leave, one on light duty, and one officer out on maternity leave. There were currently seven new officers in the Field Training Program and a brand new officer who had completed that training earlier this week. Officers were still on mandatory overtime where the officers were required to pick extra shifts beyond their normal work schedule. Management had engaged in a temporary suspension of minimum staffing requirements for the good of the order of officer health, safety and wellness. When the new officers had completed their training they would help alleviate the mandatory overtime. In addition to the seven officers in field training, there were two officers to start field training next week, seven new recruits in the Police Academy currently being trained, and three more to start the academy in July, with nine candidates in background.

Assistant Chief Simmons stated the influx of new personnel was a direct reflection of the City Council's willingness to offer a contract that was attracting people into the profession, and he thanked the City Council for moving forward with that since the RPD was reaping the benefit of seeing people choosing the City of Richmond. He confirmed RPD's goal of filling all the vacant positions by the end of the year and he commented that there would be nine officers in field training at one time, which had previously been unheard of. There was a lot of RPD movement on the hiring front, which was very encouraging with being able to fill the 29 vacant sworn positions.

Assistant Chief Simmons referred to some recent events such as the Cinco de Mayo celebration where this year about half of the normal staffing was available to man the event. There had been some issues with fighting as a result when additional resources had to be called in. He noted that the private security had not been helpful at all and some of those companies would not be allowed to participate again, although overall Cinco de Mayo had been a great success.

With respect to Juneteenth, Assistant Chief Simmons stated the RPD was preparing for that celebration. He noted that last weekend members of the RPD along with Councilmember Jimenez had taken part in the Richmond Pride events and had a dedicated liaison officer at RPD who was working with the Rainbow Coalition on all their events to help address that community's needs. He also announced that the RPD would be announcing the dates and application process for the Community Safety Academy and he encouraged members of the CPRC to be a part of that process. The commitment would involve every Thursday for four evening hours for 11 weeks and every other Saturday morning for three hours. He encouraged interested parties to participate and described the process, the training, and the opportunity, with commencement on September 28, 2023 and with graduation on November 16, 2023. The application process could be done on-line. There were 18 spots open that would be filled through a vetting process.

When asked why the crime stats had no longer been posted online, Assistant Chief Simmons stated that was due to short staffing at RPD but it would be coming back when a qualified employee had been properly trained to provide those posts.

Chair Hegstrom moved back to the City Council Liaison Report at this time.

V. REPORT OF CITY COUNCIL LIAISON (Claudia Jimenez)

City Council Liaison Claudia Jimenez reported that the City Council was studying priorities and encouraged members of the CPRC to participate. She noted that the City Council was negotiating with the employee associations to address a number of issues that would be discussed in closed session. In addition, the City Council was considering the budget and had been receiving presentations on the budget. There would be extra meetings in July to consider the budget after which the City Council would recess during the month of August. With respect to the Juneteenth celebration, she stated that would start on June 17 at Nicholl Park with the parade beginning at the Booker T. Anderson, Jr. Center at 11:00 A.M. ending at Nicholl Park. She thanked the CPRC for tabling at the Cinco de Mayo celebration and for providing information on the role of the CPRC.

City Council Liaison Jimenez also stated that a presentation from the 23rd Working Group had been provided to the City Council and had focused on human trafficking along with other issues affecting the 23rd Street Merchants and other organizations working on violence prevention and human trafficking prevention. Another presentation related to the Port of Richmond, offshore wind and the possibilities involved along with other opportunities with the deep-water Port that could accommodate new industries and create many jobs had been discussed to revitalize the Port.

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

Sergeant Ben Therriault, President of the Richmond Police Officers' Association (RPOA), provided additional details to the incident reported by Assistant Chief Simmons, which had briefly been a pursuit where the block camera had identified the vehicle. The pursuit had been stopped due to safety concerns and the vehicle had crashed awhile later at San Pablo and Barrett Avenues, with injuries, and the suspect had fled to El Cerrito. Eventually the suspect with an outstanding warrant had been tracked down and had been taken into custody.

While he was hopeful, Sergeant Therriault commented that he did not anticipate being able to fill the RPD's 29 vacant sworn positions before the end of the year.

In response to a comment from a member of the CPRC that long-term violent crime was going down, Sergeant Therriault agreed but did not want to jinx it. He noted there was a big difference in how assaults were considered with respect to serious bodily injury versus great bodily injury. Those two different things in California and the Penal Code were based on injuries, to be determined by the agency or if it turned into a crime the prosecutor would make that call based on the evidence.

Sergeant Therriault stated with respect to recruiting that the RPOA was in support of everything that had been submitted and on the agenda, noted that the San Pablo PD was fully staffed as was Fairfield PD, and emphasized that the RPD wanted to have things that set it apart with a different approach and community mind-set. He supported doing what had to be done to shape that mind-set. With respect to the list of recommendations that could be pursued to help recruit and retain officers, he added tuition reimbursement for college expenses given the benefit of a higher educated workforce, which had previously been requested but had not been approved.

VIII. REPORT BY RICHMOND POLICE MANAGER’S ASSOCIATION (Esteban Barragan or Designee)

There was no report from the Richmond Police Management Association (RPMA) at this time.

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

Jerry Threet, Investigative and Appeals Officer, reported there was currently one complaint pending from 2023 that had not been completed. The investigation remained on hold due to the RPD’s records not being available given an active criminal murder investigation. The Use of Force Data Analysis was also on hold pending the release of the public dashboard he had been directed by the CPRC to use. With respect to the Annual Report from the CPRC and his direction to complete a status report for all complaints brought in 2022, he reported that had been transferred to the administrator on May 5, 2023.

Commissioner Lawson verified that there was only one pending complaint and asked about the process of automatic investigations related to a death in custody or a notice from Eddie Aubrey of the Office of Professional Accountability to advise the CPRC and the Investigative and Appeals Officer at the same time to initiate those investigations. He asked about the case with respect to Ivan Gutzalenko who had died in police custody and the status of that case.

Mr. Threet stated he was not aware of that name but would look into it for the CPRC.

A. Public Case Summary 2023-2 (Hurtado)

ACTION: It was M/S/C (Joseph/Tunis) to approve Public Case Summary 2023-2 (Hurtado), as submitted; approved by a Roll Call vote: 6-0 (Ayes: Jackson, Johnson, Joseph, Lawson, Tunis and Chair Hegstrom; Noes: None; Abstain: None; Absent: Garcia, Lacy and Lorber).

After some research, Staff Liaison Corral advised that a final report from the District Attorney’s Office this year had related to Ivan Gutzalenko who had died in 2021. Additional information would be presented to the CPRC to clarify the situation.

X. OLD BUSINESS, DISCUSSION ITEMS

A. Tabling at Events: Juneteenth (C. Hegstrom)

Chair Hegstrom thanked everyone who had attended the Cinco de Mayo event, and specifically Commissioners Garcia and Lorber who had set everything up. She emphasized that the same help would be needed for Juneteenth and there was a need to find a vehicle large enough to transport the tables and other accessories needed for the tabling. A poll to identify those CPRC members who might be present was taken in an effort to make sure that the tabling duties from 10:00 A.M. to 6:00 P.M. could be satisfied. Staff would poll the CPRC prior to the event.

XI. NEW BUSINESS

A. Discuss and Vote on Recommendations to the City Council/City Council Liaison (C. Hegstrom/O. Garcia)

Chair Hegstrom advised that this item had been initiated by Commissioner Garcia who had asked Police Chief French to advise what was needed by the RPD to assist in its efforts to recruit and retain officers. She noted that the RPD had prepared the numbers.

Assistant Chief Simmons explained in response to Commissioner Lawson that he and the Chief had been asked to produce recommendations that the CPRC could discuss and potentially recommend to the City Council through the City Council Liaison that would be impactful to the recruitment and retention of sworn personnel. He added the desire was to recruit lateral police officers from other agencies that met RPD's criteria since those officers could be in service to the City within six weeks as compared to a year. One of the dynamics that had been lost in the last couple of years was a lot of expertise and specialized training to other agencies that were benefitting from the City of Richmond's investments. The attempt was to recruit highly qualified, tendered officers from other agencies to reinvest back into the Richmond community and meet Richmond's ethical and philosophical standards.

Commissioner Johnson questioned the recommended vehicle take-home program given that those vehicles could be broken into or stolen, and Assistant Chief Simmons advised that a comprehensive study had been conducted on take-home car programs. He noted that in cases where the program had been developed the Police Departments had become fully staffed. He stated it was an important recruitment and retention tool in that there was no desire to lose any more officers to other agencies. The take-home car program would be a benefit that would not be offered by all agencies, and even though the new approved contract was great there were other higher paying agencies and other benefits were recommended to better help recruitment and retention.

On the discussion, there were comments that an officer assigned a police car would mean that officer would take better care of the car and Assistant Chief Simmons stated that other studies had shown that the police vehicle would last longer because rather than have a vehicle that would be used 10 to 12 hours and be immediately passed on to another officer for another 10 to 12 hours would allow some down time as an assigned vehicle in that the engine would last longer because it would operate more like a regular vehicle with some down time. He added, when asked, that there were a sufficient number of vehicles to accommodate the assigned vehicle program for all sworn officers. Information was still being gathered to identify the cost of the program.

Commissioner Lawson requested a report from the Finance Department to identify the cost of the program and he did not want to consider the recommendation without knowing the budgetary impacts.

A discussion developed on the CPRC's function in this case, not to make budgetary decisions but to make recommendations, which was a purview of the CPRC.

CPRC Legal Counsel Pam Lee stated with respect to the purview of the CPRC that the CPRC was tasked with a broad understanding of looking into, supporting and evaluating the procedures and administrative rules of the RPD.

Ms. Lee stated the specific issue related to the retention and recruitment efforts with respect to sworn police officers within the RPD, which also fell within the purview of the Personnel Board and was an issue with respect to meeting, conferring and labor negotiation which usually occurred behind closed doors. She noted that a contract had already been signed with the RPOA in October 2022, while the RPMA was currently in negotiations with the City. As such, the issue under discussion was more complicated since much of the negotiations were behind closed doors and Brown Act issues were involved, and while that did not necessarily affect the CPRC in labor negotiations, in terms of looking into the actual impacts of the signing bonus, recruiting bonus and take-home program those would require more financial investigation. In addition to that there would be a lot more with respect to tax issues and professional liability that Risk Management would have to address along with considerations as to the use of the vehicle when the officer would be on duty versus off duty.

Ms. Lee added that those issues were very specific and it was not within the CPRC's purview to discuss those specific aspects, which considerations would have to be vetted. There was no desire to interfere with active negotiations under the Meyers-Milias Brown Act (MMBA) that governed public labor negotiations. She cautioned the CPRC with respect to the actual recommendations that were being made and added that if the City Council considered the recommendations that would be behind closed doors and would not be public until the final conclusion of an agreement. She would be happy to provide further information to the CPRC if desired.

Chair Hegstrom asked about a general recommendation to the City Council to consider.

Ms. Lee stated the recommendations would recommend to the City Council or City Council Liaison to consider some or all of the recommendations, but she reiterated the number of factors involved in the process.

Commissioner Lawson reiterated the desire for more information related to the budget.

Assistant Chief Simmons commented that the recommendations would not affect negotiations and there was no reference to MMBA at all. He stated all they were asking for was resolutions in spirit and support and there was no legal and binding authority, which was the purview of the City Council. The RPD was also not asking for job changing classifications and he did not understand why the Personnel Board would be involved. Any negotiations would have to come out to the public. He did not oppose the need to provide more information.

Ms. Lee stated the issue of the signing bonus might not be within the purview of bargaining or the Memorandum of Understanding (MOU) because it related to new recruits, although the referral program and the vehicle take-home program were in the scope of bargaining because they affected terms and conditions of employment. To the extent there were currently ongoing negotiations with respect to the RPMA, any recommendation from the CPRC to the City Council was something that had to be carefully addressed. She understood there were certain benefits of the take-home vehicle program but there were potentially controversial issues making a recommendation simply from a legal perspective of open negotiations. She did not want to be seen as advocating for one party over another and the neutrality of the CPRC had to be maintained.

Ms. Lee understood the recruitment and retention problems and respected that the CPRC was trying to do whatever it could to promote the city welfare and public health and safety.

Commissioner Joseph referred to the four recommendations on the list. He could accept Recommendation No. 4 (*Support efforts by the police department to increase technology, such as CCTV cameras, that enhance the ability of the police department to solve crimes with fewer officers*) on the list but would want the community to work with officers so that cameras would be placed with equity in mind. He understood the benefits of Recommendation No. 3 (*A police vehicle take-home program that will allow officers to take a police vehicle home at the end of their shift*) but wanted more information along with the budget impact. With respect to Recommendation No. 1 (*Signing bonus of \$10,000 to any new officer who is successful in joining the department*), he wanted to see that for all city employees and suggested that \$10,000 was reasonable compared to the \$75,000 signing bonus offered by the City of Alameda and the \$50,000 bonus offered by BART. With respect to Recommendation No. 2 (*Recruiting bonus of \$1,500 to current officers who successfully recruit/refer a new officer who joins the department*) he wanted to see bonuses for employees coming to the City of Richmond and the same bonuses related to the new recommendation for *college tuition reimbursement*.

Commissioner Johnson referred to acceptance of lateral officers from other departments and expressed concern that those officers might not be suitable for the RPD given potential issues in their current employment, and Assistant Chief Simmons advised that the RPD had access to all the internal affairs and complaint files that had to be documented in the background process, which would be the first place the RPD would see how a lateral officer performed, that officer's discipline record and any complaints. If there were any issues, the pursuit of that officer would be terminated.

Chair Hegstrom asked what the CPRC wanted to do with respect to the list.

Commissioner Joseph suggested Recommendation No. 4 was the least controversial and could be discussed at this time.

Ms. Lee cautioned the potential for specific and unintended consequences related to the pursuit of the recommendations on the list that should be further researched.

Chair Hegstrom expressed concern that given the Fourth of July holiday and the retreat in August, it might not be possible to make a recommendation to the City Council/City Council Liaison before the fall, although she was advised that a special meeting could be scheduled.

Commissioner Lawson reiterated his request for more information given his concern for the impact to the City's budget.

The CPRC discussed how recommendations could be formatted to show the City Council its support for the RPD without including specific numbers.

ACTION: It was M/S/C (Lawson/Johnson) to continue the discussion of recommendations to the City Council/City Council Liaison to the next meeting pending the receipt of more information related to the budget; approved by a Roll Call vote: 4-2 (Ayes: Johnson, Joseph, Lawson, and Tunis; Noes: Jackson and Chair Hegstrom; Abstain: None; Absent: Garcia, Lacy and Lorber).

B. Discuss Retreat/Training Session in August (C. Hegstrom)

Chair Hegstrom asked if Ms. Lee could prepare something in the way of legal training for the retreat scheduled for a Saturday in August. A Doodle poll was recommended to find an appropriate date with the understanding that the same rules would apply with respect to regular in-person meetings.

Ms. Corral stated that the next meeting scheduled for July 5 was recommended to be moved to July 12 given the close proximity to the Fourth of July holiday and a Doodle poll would be taken to determine whether or not there would be a quorum for the July 5 meeting.

C. NACOLE Conference in Chicago (R. Joseph)

Commissioner Joseph stated that the NACOLE [National Association of the Civilian Oversight and Law Enforcement] conference would be held in Chicago this year from November 12 to 16, 2023. The benefits of the conference were highlighted and commended, the cost of the conference would be paid by the City for CPRC members and there would be a food stipend for reimbursement. Early registration and travel reservations were recommended.

Chair Hegstrom noted that usually the preference was to allow new members of the CPRC to attend the NACOLE conference. Those CPRC members interested in attending the conference were encouraged to identify that interest as soon as possible.

Ms. Corral advised that she would make sure that members of the CPRC could attend a conference in Illinois and would verify the budget and the number of CPRC members able to attend this year, if it was possible.

At this point in the meeting information related to the Ivan Gutzalenko case was provided by CPRC staff and Mr. Threet.

XII. REPORTS FROM COMMISSIONERS, STAFF, AND RIDEALONGS

Chair Hegstrom stated that Cinco de Mayo had been great and she thanked all those involved.

Commissioner Joseph stated with respect to the Reimagining Public Safety Community Task Force that another Community Summit would be held on Saturday June 10, 2023 with respect to traffic safety, income inequality, youth safety and employment. The next two summits would combine police accountability and mental health and he urged the community to help identify the issues and provide feedback to make the City of Richmond a better place. He urged everyone to come out to have those conversations.

CPRC members were encouraged to schedule ridealongs. The number to schedule ridealongs was reportedly on the website.

Commissioner Johnson was welcomed and asked to introduce herself, which she did and explained that she was a community activist and had already been involved in the City's Human Rights Commission.

The CPRC adjourned into Executive Session at approximately 8:55 P.M.

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

A. Receive Complaint Report from CIAO on Complaint 2022-4 (Hugo), Discuss and Vote on Finding and Recommendations

The CPRC reconvened at approximately 9:30 P.M. from Executive Session.

ACTION: Legal Counsel Pam Lee stated the CPRC had met in Executive Session to discuss Complaint 2022-4 (Hugo) and had voted 6-0 to accept the report (Ayes: Jackson, Johnson, Joseph, Lawson, Tunis and Chair Hegstrom; Noes: None; Abstain: None; Absent: Garcia, Lacy and Lorber); and had also voted 6-0 (Ayes: Jackson, Johnson, Joseph, Lawson, Tunis and Chair Hegstrom; Noes: None; Abstain: None; Absent: Garcia, Lacy and Lorber) to accept the findings with respect to the complaint with respect to 1) unnecessary force that the findings were not sustained; and 2) with respect to discrimination that the findings were that the officers were exonerated. The other aspect was the recommendation that the Office of Professional Accountability look into whether the complainant Hugo's rights were violated with respect to the Fourth Amendment search and seizure, if not already determined.

Eddie Aubrey, Office of Professional Accountability, referred to Ivan Gutzalenko's case and explained the practice related to an in-custody death involving police officers. In the Gutzalenko case, the death had occurred on March 10, 2021, an email had been sent to Shané Johnson and Bruce Soublet on March 10, 2021, which email had indicated that it was to be forwarded to the CPRC concerning an in-custody death that had occurred on that date. The email had presented the details of the case, who was involved, the agency that had responded, the officers involved, and the outcome on that date. It was up to the administrator or attorney to forward that email to the CPRC, which had been done in this case.

Mr. Threet stated he had not investigated the case, although Mr. Aubrey stated that Ms. Johnson had sent a copy of the email to Mr. Threet, Chief French and the CPRC on March 11, 2021 at 7:32 A.M. Mr. Threet stated he could investigate the case and look at the report recently released by the District Attorney's Office.

Ms. Lee would verify the situation with the City Attorney's office.

XIV. ADJOURNMENT

The meeting was adjourned at 9:37 P.M.

Carol Hegstrom, Chair