



REGULAR MEETING MINUTES

Wednesday, October 28, 2015
Art Pick Council Chambers
3900 Main Street, Riverside, CA

CASE REVIEW – 4:00 PM

Case Review Roll Call

Rotker	Hawkins	Ybarra	Huerta	Smith	Jackson	Roberts	Andres	Adams
✓	✓	✓	✓	B	O	O	✓	✓

✓ = Present B = Absent / Business S = Absent / Sick V = Absent / Vacation O = Absent / Other
UE = Absent / Unexcused L = Late LE = Left Early ■ = Vacant

STAFF: Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Public Comment

This is an opportunity for members of the public to address the Commission on closed session items.

Mr. Guerrero addressed the Commission regarding his case.

Closed Session – Case Review

Pursuant to Government Code Section 54957, the Commission adjourned to Closed Session at 4:32 PM to discuss issues pertaining to PUBLIC EMPLOYEE PERSONNEL MATTERS.

	CPRC CASE NO.	RPD CASE NO.
1)	15-007	PC-15-02006
2)	15-010	PC-15-04011
3)	15-012	PC-15-04013
4)	15-019	PC-15-06019
5)	15-021	PC-15-07021

The Commission recessed at 5:30 PM to reconvene in the Regular Meeting.

REGULAR MEETING – 5:30 PM

PLEDGE OF ALLEGIANCE

Regular Meeting Roll Call

Rotker	Hawkins	Ybarra	Huerta	Smith	Jackson	Roberts	Andres	Adams
✓	✓	✓	✓	B	O	O	✓	✓

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STAFF: Frank Hauptmann, CPRC Manager; Phoebe Sherron, Sr. Office Specialist

Public Comments

Public comment on any subject matter within the Commission's jurisdiction.

Paul Chavez spoke regarding the Jimenez OID saying that the Commission needed to remember its purpose to hold officers accountable for their actions.

Carolyn Brodeur spoke regarding the Jimenez OID and her concerns with comments made by Commissioner Andres about the incident during the August meeting.

Bill Howe invited Commissioners to the Veterans' Day Luncheon at the Kansas Avenue Church on November 11th.

Chani Beeman presented the RCPA's findings for the Jimenez OID stating that the RCPA believed the officers' actions created a bad situation. She said the Commission missed the opportunity to prevent a similar situation in the future.

Deborah Wong gave three RCPA recommendations to the Commission:

- The Commission's findings should be based on the full context of the incident, not just the moment at which the shooting occurred.
- As no civilian witnesses were located, RCPA believed the investigations by RPD and the CPRC investigator were inadequate and asked the Commission to employ a broader range of investigators with different ethnicities, genders, and language skills.
- RCPA asked the Commission to use the Jimenez OID to argue for RPD's use of more mental health clinicians.

Michael Dunn spoke regarding the Jimenez OID. He expressed concern that the officers created a 15' semi-circle around someone who they knew was suicidal and which put them in a situation that left them no options but to shoot. He was also concerned that the Commission's findings were narrowed to a brief period of time and not the tactics that led up to the moment the shooting occurred.

Nanette Pratini spoke about the RCPA's Bill Howe and Ray Lewis Awards for Police Accountability event that took place on October 5th and other meetings held by RCPA that week.

Approval of Minutes

Commissioner Ybarra asked that the Roll Call be corrected to show his absence.

Commissioner Rotker asked to whom Commissioner Huerta had addressed his question on Page 5. Ms. Sherron said he had asked the question of Asst. Chief Vicino. Commissioner Rotker asked that that be noted. Commissioner Rotker also asked that the second sentence in the second paragraph on Page 8

under "Independent Investigators" be changed to show "The RCPA suggested..." rather than "The community suggested..." in order to accurately reflect who had made the noted suggestion.

Minutes for Approval:		September 23, 2015 Regular Meeting	
Motion:	Hawkins	Approve:	Rotker, Hawkins, Huerta, Andres, Adams
Second:	Andres	Oppose:	None
		Abstain:	Ybarra

OFFICER-INVOLVED DEATH (OID) CASE EVALUATIONS

Jimenez Officer-Involved Death (OID) Case Evaluation

Continue discussion and action, if any, on the Jimenez OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review:** Complete
- B) Stage II – Fact Finding, Request for Training & Investigation:** Complete
- C) Stage III – Policy and Procedure Process:** Complete
- D) Stage IV – Deliberation and Finding Process:** Complete
- E) Stage V – Recommendation Process:** In Process
- F) Stage VI – Written Public Report:** In Process

Vice-Chair Adams opened by calling for public comment. One member of the public opted to speak before Commission discussion while the others opted to speak after.

Carolyn Brodeur spoke about the possibility that Mr. Jimenez suffered from PTSD.

Vice-Chair Adams opened for Commission discussion by noting that it might be best to hold off on discussion of the recommendations due to three Commissioners being absent. She noted that the Commission might be able to agree to eliminate some items in the list as they were not recommendations.

Commissioner Rotker did not feel the Commission was ready to discuss the recommendations. He said that Staff made the determination as to which referred to policy or tactics and that he had a different opinion as to whether the application to policy or tactic was correct for some items. He questioned whether the Commission should be involved with recommendations for RPD's tactics. He also felt any recommendations should apply to a specific policy. He suggested that recommendations submitted by Commissioners should pertain to a specific policy.

Commissioner Andres to Asst. Chief Vicino:

- In recent less-lethal training, Commissioners Hawkins and Roberts asked about the minimum distance when using the less-lethal shotgun. The officer assisting with the training said there was no set policy regarding minimum distance at which the less-lethal shotgun should be used, but that during the review of this incident, the Department decided on 15 feet. During the incident, Sgt. Toussaint opted to use the Taser because he felt they were too close to use the less-lethal shotgun. Can you explain what kind of review RPD did and what policies were changed as a result?
 - RPD goes to Department experts regarding tactics so I am resistant to the Commission offering tactical recommendations. After the OID briefing for this case, the Department concurred with the Commission's suggestion that all officers carry a Taser and now all officers carry a Taser. Officers have to act in the moment and if there is a threat to themselves or others, they will take action. Did we have the right tactics, weaponry, the right equipment? Were we trained? Yes. Do we need to improve? Do we need to look at ourselves and evolve? Yes. RPD listens to the community and the Commission and invested in Tasers for each officer. Less-lethal shotguns can easily be converted to be a lethal weapon depending on where the officer aims. The officer with the less-lethal shotgun must have feared for his life so he fired the weapon he was armed with when the others fired lethal weapons. The Supreme Court says that incidents of this type are not to be

reviewed in hindsight, but are to be based on what the officer saw, felt, and believed was going to happen. The Department has evolved as a result of this incident. If an officer aimed a less-lethal shotgun at the upper torso or the head, it can be a lethal weapon. If an officer were to explain that that was done intentionally because they feared for their life, it would be an acceptable action. These incidents are very fluid and will always be fluid.

- The only thing that came out of the review was more Tasers?
 - Yes, but for tactical and training purposes, the Department delivers the review of cases out to the field as soon as possible. As result of this case, that process now takes place more quickly.

Based on Commissioner Rotker's suggestion, Vice-Chair Adams asked Commissioners to draft their recommendations against an existing policy or a policy they believe should be created. Mr. Hauptmann said that some Commissioners didn't necessarily want to make a policy recommendation, but wanted to express their concerns regarding the case.

Vice-Chair Adams asked that Commissioners write up their concerns or draft a recommendation related to a specific policy and return it to Staff by November 11. Ms. Sherron advised that any documents that would be attached to the November agenda had to be submitted by November 6, the day the November agenda would be posted.

Commissioner Hawkins asked if concerns could be discussed, but the general consensus was that it would be better to wait until the November meeting.

Vice-Chair Adams then opened for the additional public comments.

Paul Chavez said the officers put themselves in the position they were in. The officers weren't in combat because Mr. Jimenez was sitting down. 'Suicide by cop' was the justification for the officers' actions. Mr. Jimenez was killed, but nothing will happen to the officers.

Chani Beeman raised a point of order stating that the recommendations document the Commission had discussed had not been attached to the agenda. Ms. Sherron advised her that it had been attached and told Ms. Beeman how to find it. Ms. Beeman also said it was not right for Asst. Chief Vicino to speak at length and voice his opinion that the Commission shouldn't address RPD tactics. She added that Asst. Chief Vicino should be held to same speaking parameters as members of the public.

Linda Dunn asked that Ms. Sherron provide them with the instructions to access agenda attachments. Vice-Chair Adams asked Ms. Sherron to post the instructions on the CPRC website. Ms. Dunn then posed several questions the answers to which she said would be valuable:

- Was one person in charge? If so, at what point?
- If so, who was in charge?
- If so, did this person decide that a 15-foot semi-circle should be formed inside the fence?
- Did this person decide that the dog should be inside the fence?
- Was the option for the officers to remain outside the fence ever considered?
- After the fact, are the involved officers given the opportunity to review and discuss, together, what took place and the actions that could be taken that could result in a different outcome? They could then ask each other what they have learned.

Vice-Chair Adams asked Mr. Hauptmann when the public report draft would be completed. Mr. Hauptmann said it was completed up to the Recommendations section.

Commissioner Rotker asked if the report, at this stage, could be submitted. Mr. Hauptmann said that was up to the Commission, but that he would prefer to wait. Vice-Chair Adams asked the Commission if it was preferable to wait to which all agreed it would be best to wait.

Vice-Chair Adams closed the item by asking for recommendations to be submitted as soon as possible.

Hayes Officer-Involved Death (OID) Case Evaluation

Continue discussion and action, if any, on the Hayes OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review:** Complete
- B) Stage II – Fact Finding, Request for Training & Investigation:** Complete
- C) Stage III – Policy and Procedure Process:** Complete
- D) Stage IV – Deliberation and Finding Process:** Complete
- E) Stage V – Recommendation Process:** Complete
- F) Stage VI – Written Public Report:** In Process

Vice-Chair Adams opened by asking Commissioners to submit their rationales if they hadn't done so already and asked Mr. Hauptmann if all rationales had been submitted. Mr. Hauptmann said he had not received all of them, but that he had begun drafting the public report. He said it would be ready for review in November.

Vice-Chair Adams again asked that Commissioners submit their rationales to Mr. Hauptmann as soon as possible.

Ramirez Officer-Involved Death (OID) Case Evaluation

Begin discussion and action, if any, on the Ramirez OID Case Evaluation. The Commission may return to discussion of completed Stages, if needed.

- A) Stage I – Commission Member Review:** In Process
- B) Stage II – Fact Finding, Request for Training & Investigation:** In Process
- C) Stage III – Policy and Procedure Process:**
- D) Stage IV – Deliberation and Finding Process:**
- E) Stage V – Recommendation Process:**
- F) Stage VI – Written Public Report:**

Vice-Chair Adams opened by noting that she had not yet begun reviewing this case and asked if anyone was ready to begin discussion.

Commissioner Rotker responded by noting that Mr. Bumcrot's final report was not online. Mr. Hauptmann said it had not been completed yet, but that it would be done in time for the November meeting at which Mr. Bumcrot would be present. Commissioner Rotker also asked if the Fact Sheet would be available for the November meeting. Mr. Hauptmann said it probably would not be ready.

COMMISSION ACTIVITY REPORTS

CPRC Ad-hoc Committees

Reports from Committee Chairs, with Commission discussion and action, if any, regarding respective Committee activities and / or recommendations:

- A) Outreach Committee:** Vice-Chair Adams, Committee Chair
- B) NACOLE 2015 Conference Planning Committee:** Conference Wrap-up
- C) Formation of RPD Training & Outreach Committee:** to provide cross-training to RPD regarding CPRC history, procedures, and goals, and the scheduling of Outreach to RPD.
- D) Formation of 2015 Annual Report Committee**

A) Outreach Committee

Vice-Chair Adams:

- The Outreach PowerPoint was used during the presentation to Dr. Thompson's Community Relations class.
- The Outreach PowerPoint will be distributed to all Commissioners.
- The high schools will be contacted to schedule this year's presentations.

B) NACOLE 2015 Conference Planning Committee: Conference Wrap-up

Vice-Chair Adams:

- Chair Jackson e-mailed NACOLE to get information regarding feedback and final attendance numbers, but had not yet received a reply.
- There were approximately 500 in attendance.
- NACOLE's scholarship goals were exceeded.
- Attendees expressed amazement at the success of the Commission in regard to the conference and the information it is able to provide to the public.
- Commended Chair Jackson and Ms. Sherron for all the time and work they put into preparing for and assisting during the conference.
- Thanked the Commissioners for volunteering during the conference.

C) Formation of RPD Training & Outreach Committee to provide cross-training to RPD regarding CPRC history, procedures, and goals, and the scheduling of Outreach to RPD.

Vice-Chair Adams:

- Chair Jackson spoke at the last meeting about her discussions with Commissioner Rotker regarding the formation of this Committee.
- Noted that the Committee Members were Commissioners Rotker and Ybarra, and Chair Jackson, and asked if anyone else was interested in volunteering. Commissioner Andres volunteered to be the final member.

Commissioner Rotker:

- The Committee will discuss forms of Outreach to RPD.
- Outreach possibilities will be discussed with RPD management.

D) Formation of 2015 Annual Report Committee

Vice-Chair Adams:

- Asked for volunteers to review the 2015 Annual Report.
- Commissioner Rotker nominated Vice-Chair Adams as a Committee Member and she accepted.
- There were no other volunteers for the Committee.

Mr. Hauptmann expressed his opinion that the report should be reduced in length, especially the appendix since most of that information is already available online.

Meetings and Training Sessions

Reports from Commissioners regarding CPRC-based meetings, non-Outreach meetings, and / or training sessions attended in September / October.

September 25: Less-Lethal Hands-On Firearms Training

- Commissioners Andres, Hawkins, and Roberts

October 22: CPRC Officers / Manager Meeting

- Vice-Chair Adams and Mr. Hauptmann

Outreach

A) September / October Outreach

Reports from Commissioners regarding community meetings or events which they attended.

September 12: Golden Badge Awards

- Commissioner Ybarra

October 4 – 8: 21st Annual NACOLE Conference

- Entire Commission and Staff

October 17: NAACP Honoring of Unions

- Mr. Hauptmann

October 24 / 25: Soccer Clinic

- Mr. Hauptmann

October 27: Dr. Thompson's Community Relations Class, RCC

- Mr. Hauptmann, Vice-Chair Adams, and Commissioners Ybarra and Huerta

B) Scheduled Outreach Events

C) Future Outreach Opportunities

- 1) Input from Outreach Coordinator on potential outreach events
- 2) Input from Commission Members on potential outreach events

Vice-Chair Adams said she would follow up on school presentations, which she hopes to do in November. She reminded Commission of the Veterans' Luncheon on November 11 and the open house at Pacific Grove Hospital on November 20.

Staff Report

Mr. Hauptmann:

- Informed the Commission of the recognition plaque presented to Mr. Hauptmann at NACOLE's Sankofa function on October 7.
- Reminded Commissioners that the November meeting would start at 6 PM and that there would be no case review.
- Noted that it was the time of year when the drafting of the annual report would begin and asked Commissioners to consider reducing the size of the report. He would like any Commissioners in the ad-hoc committee to consider what might be removed.

OLD BUSINESS

Independent Investigators

Continued discussion and action, if any, to expand the diversity of independent investigators used by the Commission.

Vice-Chair Adams tabled discussion of this item due to the absence of three Commissioners, one of which was Commissioner Roberts who requested that this topic be agendized.

Commissioner Comments

Pursuant to Government Code Section 54954.2, Commission members may use this time to make brief announcements or a brief report on their own activities.

Commissioner Ybarra thanked the NACOLE 2015 Conference Planning Committee Members for all their work.

Commissioner Rotker asked Mr. Hauptmann if CPRC Investigator Mike Bumcrot had been contacted regarding Commission questions and concerns relating to expanding the investigator base used by CPRC. Mr. Hauptmann advised that Mr. Bumcrot would be present at the November meeting when that topic would be discussed.

Items for Future Commission Consideration

Items for future Commission consideration can be agendized by any Commissioner. Discussion and action, if any, will occur only during the meeting for which that item has been agendized.

There were none.

Adjournment

The Commission adjourned at 7:30 PM.

Respectfully submitted,


PHOEBE SHERRON

Administrative Assistant

10-28-15 Minutes – October Regular