

OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

## POLICE ACCOUNTABILITY BOARD SPECIAL MEETING

**Wednesday, July 7, 2021  
7:00 P.M.**

### Board Members:

KITTY CALAVITA  
MICHAEL CHANG  
REGINA HARRIS

JULIE LEFTWICH  
DEBORAH LEVINE  
NATHAN MIZELL

JOHN MOORE III  
CHERYL OWENS  
ISMAIL RAMSEY

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting of the City of Berkeley Police Review Commission will be conducted exclusively through teleconference and Zoom videoconference and there will not be a physical meeting location available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/81172623383>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **811 7262 3383**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

### **AGENDA**

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. ELECTION OF TEMPORARY CHAIRPERSON (discussion and action)**
- 4. MAYOR'S WELCOME**

The Police Accountability Board and Office of the Director of Police Accountability (ODPA) were created to provide independent civilian oversight of the Berkeley Police Department. It reviews and makes recommendations on police department policies, and investigates complaints made by members of the public against police officers. For more information, contact the ODPA.

1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955  
Website: [www.cityofberkeley.info/dpa/](http://www.cityofberkeley.info/dpa/) Email: [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

**5. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time.)*

**6. INTRODUCTIONS**

- Police Accountability Board Members
- Staff of the Office of the Director of Police Accountability
- Chief of Police and other Police Department staff
- Berkeley Police Association representatives

**7. DIRECTOR OF POLICE ACCOUNTABILITY'S REPORT**

Status of complaints; work completed and still to be done for transition; upcoming policy matters; Board member training requirements; confidentiality requirements and agreement; stipends; NACOLE (National Association for Civilian Oversight of Law Enforcement) conference.

**8. NEW BUSINESS (discussion and action)**

- a. Establish temporary standing rules for the Board's conduct of business
- b. Establish regular meeting schedule for the remainder of 2021
- c. Consider forming subcommittee to draft regulations for handling complaints
- d. Consider forming subcommittee for outreach activities

**9. FUTURE AGENDA TOPICS (discussion and action)**

Discussion of items to be placed on future agendas

**10. ELECTION OF BOARD CHAIRPERSON AND VICE-CHAIRPERSON (discussion and action)**

- a. Establish procedures for elections
- b. Conduct election of Chairperson and Vice-chairperson

**11. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on this agenda only.)*

**12. ADJOURNMENT**

**Communications Disclaimer**

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.



**Communication Access Information (A.R. 1.12)**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer**

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of Director of the Police Accountability Board, located at 1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA.

Contact the Director of Police Accountability (Board Secretary) at [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

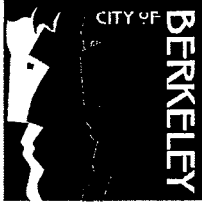




**POLICE ACCOUNTABILITY BOARD (PAB)  
SPECIAL MEETING ATTACHMENTS  
JULY 7, 2021**

<b><u>AGENDA-RELATED</u></b>	
<b>Item 7.</b> – Confidentiality Agreement.	Page 7
<b>Item 7.</b> – The 27 <sup>th</sup> Annual NACOLE Conference, 2021 Virtual Annual Conference – Session Schedule.	Page 9
<b>Item 7.</b> – The 27 <sup>th</sup> Annual NACOLE Conference, 2021 In-Person Conference – Session Schedule.	Page 13
<b>Item 8.a</b> – Police Accountability Board Proposed Temporary Standing Rules.	Page 15
<b>Item 8.b</b> – July – December 2021 Calendar.	Page 17
<b><u>COMMUNICATIONS</u></b>	
Charter of the City of Berkeley, Section 125, Article XVIII.	Page 19
Resolution NO. 69,531 N.S.	Page 37
7-1-21 email from City Clerk re Commission Reorganization Update.	Page 39
7-2-21 email from City Clerk re July 10 Public Hearing for Redistricting and attachments.	Page 41





OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

### CONFIDENTIALITY AGREEMENT

*This agreement must be signed by each Police Accountability Board member, including the alternate member, as soon after appointment as practicable. Until a Board member has signed this agreement, they are prohibited from participating in a hearing or a closed session of the Board involving a complaint, and from receiving confidential materials from the Berkeley Police Department or relating to Berkeley Police Department personnel.*

Board members will have access to confidential data or information from the Berkeley Police Department or related to Berkeley Police Department personnel. The confidentiality of this information is governed by various statutes, including the Public Safety Officers Procedural Bill of Rights Act (Gov't. Code sections 3300-3319), Penal Code sections 832.5 and 832.7, and case law.

Confidential information may be provided in the form of documents, electronic transmissions, audio recordings, video recordings, or live testimony. Regardless of how the confidential information is communicated, it must not be disclosed to any unauthorized person or organization, and must not be reproduced or recorded. It is the responsibility of each Board member to protect confidential information from unauthorized disclosure. Following a hearing or any other closed session involving a complaint, all related materials must be returned to staff of the Office of the Director of Police Accountability, and any electronic copies or transmissions must be permanently deleted from email accounts, computers, and other personal devices.

It is vitally important to the integrity of the Police Accountability Board individual complaint process, including the hearing process, that all parties involved, including Board members, understand and adhere to the confidentiality of the process, and do all in their power to protect the privacy rights of Berkeley Police Department employees as required by law.

I have read and understand the above. I will keep confidential and will not disclose to any unauthorized person or organization, orally or in writing, the nature of any individual complaints against police officers that come before the Police Accountability Board, and all records relating to the complaints, including, but not limited to, the identity of the officers and the substance of any investigative report. I will not reproduce or record any confidential information, and will return or delete all confidential materials provided to me.

\_\_\_\_\_  
*Print name*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

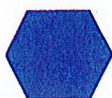




# The 27<sup>th</sup> Annual NACOLE Conference

## 2021 Virtual Annual Conference – Session Schedule

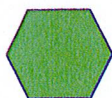
The 27<sup>th</sup> Annual NACOLE Conference will be presented in a virtual format. NACOLE has converted its conference schedule into 32 webinars that will be presented over the course of 8 weeks beginning on August 16, 2021, running through October 7, 2021. The following is information on the tracks that will be provided and the resulting schedule of events.



### Reform and Transformative Change in Policing

The Reform and Transformative Change in Policing Track will present attendees with a range of topics regarding recent reforms and changes in policing and oversight. Many of these topics have their roots in the events of 2020 surrounding the death of George Floyd and cover how policing and oversight continues to evolve.

Session	Date	Title
1	8/16/21	The Movement to Reform Policing
2	8/17/21	Moment or Movement: The Case for Diversity, Equity, and Inclusion in Law Enforcement
3	8/18/21	Recent Legislative Wins and Losses on Officer Decertification
4	8/19/21	The Duty to Intervene After “I Can’t Breathe”
5	8/20/21	Infiltration of White Supremacy in Law Enforcement
29	10/4/21	Money, Money, Money: Where Does All the Police Funding Go?
30	10/5/21	Towards Racial Equity, Part I
31	10/6/21	Towards Racial Equity, Part II
32	10/7/21	Civilian Oversight and Its Role in Reform



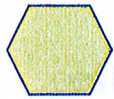
### Innovations in Oversight

Civilian oversight of law enforcement constantly seeks to improve its methods and to seek out techniques used elsewhere to enhance operations. The Innovations in Oversight Track will provide information to attendees on the expanding base of effective practices and new techniques to take back to their agencies.

Session	Date	Title
6	8/23/21	Challenges and Considerations for the Oversight of Transit Police
7	8/24/21	There’s a New Sheriff in Town: Civilian Oversight
8	8/25/21	Clippers & Cops
9	8/26/21	Effective Oversight Through Innovations in Technology
10	8/27/21	Six Durations of a Split Second: The Killing of Harith Augustus

Please note, this schedule is subject to change.

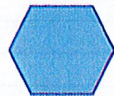




## Strengthening the Work of Civilian Oversight

The Strengthening the Work of Civilian Oversight Track provides attendees opportunities to understand the various principles and components of civilian oversight and to hone the technical skills used every day by those in oversight. Each session will present information that will be useful to those new to oversight and can benefit more experienced practitioners who will be able to use the information presented to build on existing skills.

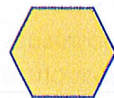
Session	Date	Title
11	8/30/21	Maintaining Enthusiasm for Oversight in the Face of Resistance and Setbacks
12	8/31/21	Oversight Commissions and Boards: How Member Selection Criteria and Processes Can Impact Effectiveness
13	9/1/21	Oversight of Chicago's Police Disciplinary System
14	9/2/21	Proactive Compliance: Ensuring Police Directives Are Aligned with Emerging Legal Standards & Best Practices
24	9/27/21	Lethal Force: Women and Children as Collateral Damage
25	9/28/21	Challenges of Arbitration Within Oversight and Accountability
26	9/29/21	Legal Updates
27	9/30/21	From Data Analysis to Policy Recommendation
28	10/1/21	Civilian Oversight and the LGBTQIA+ Community



## International Oversight

The International Oversight Track will focus on those programs and agencies outside the United States who are conducting oversight using unique models and methods.

Session	Date	Title
15	9/9/21	The Oversight of Jamaica's Correctional Service and Police Detention Facilities by INDECOM
16	9/10/21	The Independent Critical Incident Investigation Agency: A Unique Form of Oversight



## Jail & Prison Oversight

The Jail and Prison Oversight Track will present attendees with a range of topics specific to both the culture of correctional institutions and the oversight of jails, prisons, and lock-ups. Current oversight practitioners and those who are working to create correctional oversight will gain insight into best practices and emerging trends in this expanding field.

Session	Date	Title
17	9/13/21	Care First, Jails Last: The Role of Oversight in the Pursuit of Alternatives to Incarceration
18	9/14/21	Developing a Prison Oversight Body for Arizona
19	9/20/21	Improving Accountability and Safety in Jails and Prisons Using Root Cause Analysis
20	9/21/21	Transparency During COVID: Documenting the Public Health Crisis in Jails and Prisons
21	9/22/21	Applying Human Rights in a Corrections Setting: Making the Workplace Safer and More Humane for Everyone
22	9/23/21	Ombuds Model for State Prisons
23	9/24/21	Mental Health Assistants: Compassion, Opportunities, and Partnerships

Please note, this schedule is subject to change.



## 2021 Virtual Conference – Session Schedule

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	32	10/7/21	Civilian Oversight and Its Role in Reform

Please note, this schedule is subject to change.





# The 27<sup>th</sup> Annual NACOLE Conference

## 2021 In-Person Conference – Session Schedule

### Sunday, December 12, 2021

Session	Time	Track	Event Description/Session Title
---	12:00 p.m. – 5:00 p.m.		Wellness Practices for Civilian Oversight Practitioners
---	11:00 a.m. – 5:00 p.m.		Registration Open
---	5:00 p.m. – 7:30 p.m.		Opening Reception

### Monday, December 13, 2021

Session	Time	Track	Event Description/Session Title
---	8:30 a.m. – 9:30 a.m.		Opening Remarks
---	9:30 a.m. – 10:15 a.m.		Featured Speaker
1	10:30 a.m. – 12:00 p.m.		General Session: Reinventing Law Enforcement, Part I
---	12:00 p.m. – 1:30 p.m.		Lunch on Your Own
2	1:30 p.m. – 3:00 p.m.		General Session: Reinventing Law Enforcement, Part II
3	3:15 p.m. – 4:45 p.m.		General Session: Moving Oversight Forward in a Climate of Change
---	6:00 p.m. – 9:00 p.m.		Annual Scholarship Fund Event – <i>Additional Ticket Required</i>

### Tuesday, December 14, 2021

Session	Time	Track	Description/Session Title
4	8:30 a.m. – 10:00 a.m.		Concurrent Session: Environmental Disaster Planning for Jails and Prisons
5	8:30 a.m. – 10:00 a.m.		Concurrent Session: Creating Effective Civilian Oversight of Law Enforcement
6	10:15 a.m. – 11:45 a.m.		Concurrent Session: A Gender Responsive Approach to Jail and Prison Violence
7	10:15 a.m. – 11:45 a.m.		Concurrent Session: Road to Civilian Oversight in Miami-Dade County
---	12:00 p.m. – 1:30 p.m.		Keynote Speaker and Awards Ceremony
8	1:30 p.m. – 3:00 p.m.		Concurrent Session: Violence in the Jails: Causes, Effects; and Accountability
9	1:30 p.m. – 3:00 p.m.		Concurrent Session: Reforming Existing Oversight Agencies
10	3:15 p.m. – 5:00 p.m.		Concurrent Roundtable Discussion: Next Steps for Jail and Prison Oversight
11	3:15 p.m. – 5:00 p.m.		Concurrent Roundtable Discussion: Effective and Sustainable Growth in Civilian Oversight of Law Enforcement

Track Legend:

**Reform and Innovation**

**Jail & Prison Oversight**

**Strengthening the Work of Oversight**

**Collaboration**

Please note, this schedule is subject to change.



**Wednesday, December 15, 2021**

Session	Time	Track	Description/Session Title
12	8:30 a.m. – 10:00 a.m.	Reform and Innovation	Concurrent Session: Conducting Oversight in a Racially Charged Environment
13	8:30 a.m. – 10:00 a.m.	Jail & Prison Oversight	Concurrent Session: Building Bridges Between Community and Police Through Sentinel Event Review
14	10:15 a.m. – 11:45 a.m.	Reform and Innovation	Concurrent Session: Community Engagement Strategies in Policing: Ethical Implications When Partnering Law Enforcement with Mental Health Social Workers in Community Co-Response
15	10:15 a.m. – 11:45 a.m.	Jail & Prison Oversight	Concurrent Session: Systemic Review – A Case Study of Reviews of Police Response to Protests
---	12:00 p.m. – 1:30 p.m.	Collaboration	Lunch on Your Own
16	1:30 p.m. – 3:00 p.m.	Reform and Innovation	Concurrent Session: Addressing Police Unions, Collective Bargaining, and the Officer Bill of Rights
17	1:30 p.m. – 3:00 p.m.	Jail & Prison Oversight	Concurrent Session: Oversight Resources – A Case Study of the Effects of Major Events on Civilian Oversight Agencies
18	3:15 p.m. – 5:00 p.m.	Reform and Innovation	Roundtable Discussion: Attendee-Driven Roundtable Topics
---	6:30 p.m. – 9:00 p.m.	Collaboration	Sankofa Reception

**Thursday, December 16, 2021**

Session	Time	Track	Event Description/Session Title
19	8:30 a.m. – 10:00 a.m.	Reform and Innovation	General Session: Ethics and Civilian Oversight
20	10:15 a.m. – 11:45 a.m.	Jail & Prison Oversight	General Session: Role of the DOJ in Law Enforcement, Jail and Prison Reform
---	12:00 p.m.	Collaboration	Conference Concludes



**Track Legend:**

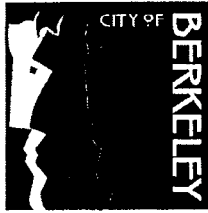
**Reform and Innovation**

**Jail & Prison Oversight**

**Strengthening the Work of Oversight**

**Collaboration**

Please note, this schedule is subject to change.



OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

**Police Accountability Board**  
**Temporary Standing Rules**  
*(Proposed)*

***A. AMENDMENTS AND REVISIONS***

Amendments and revisions to these Standing Rules shall be adopted by a majority vote of the Board, except that the Board may not adopt rules that conflict with the enabling Charter amendment (Measure II) or the Commissioners' Manual.

***B. AGENDA ITEMS – REGULAR MEETINGS***

Individual Board members shall submit agenda items to the Board secretary by 12:00 noon one week before the meeting date

***C. COMMUNICATIONS***

Individual Board members shall submit communications to be included in the agenda packet to the Board secretary by 12:00 noon one week before the meeting date to ensure inclusion in the packet. Communications received after this deadline and before 3:00 p.m. on the meeting day will be distributed via email and/or hard copy at the meeting. If communications are received after 3:00 p.m. on the meeting day, the Board secretary will make every effort, but cannot guarantee, to have hard copies available at the meeting.

***D. MEETING PROCEDURES***

1. Items shall be introduced by the Board member or staff member who proposed the item. The Chair shall then allow an initial period for discussion by recognizing Board members in rotation to ensure that each Board member has the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of two minutes to speak each time they are given the floor.
2. After a motion on the item is made and seconded, the Chair will recognize the maker of the motion, and then the seconder, to speak. After that, the Chair will recognize Board members in rotation, giving each Board member the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of one minute to speak each time they are given the floor, and must confine their remarks to the merits of the motion. The Chair may give the maker of the motion an additional minute to speak before putting the matter to a vote.
3. A pending motion may be modified by a "friendly amendment"; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall repeat, or ask the Board secretary to repeat, the motion before the action.

5. Guest speakers who are not on the agenda may address the Board only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert's Rules of Order.

#### *E. PUBLIC COMMENT*

1. The Chair, subject to the consent of the Board, may determine the time limit for each speaker and the total number of speakers.
2. Before an agenda item is heard, the Chair or Vice-Chair may poll members of the public present to determine if a significant number of them wish to speak on a particular agenda item. If so, the Chair or Vice-Chair may move that public comment on that item can be heard just before the item.

#### *F. ELECTIONS*

1. The election of the Chair will precede the election of the Vice-Chair, and the following nomination and election process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A Board member nominates another Board member or themselves. A Board member must be present in order to be nominated.
  - c) The nomination is seconded (the nomination fails if there is no second)
  - d) The presiding Chair declares the nomination process closed, when there are no further nominations.
  - e) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - f) Board members pose questions to each candidate.
  - g) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.
    - iii. If a clear winner is still not identified after a second round of voting, the presiding Chair will conduct a coin toss to break the tie and determine a winner. The Board secretary will assign "heads" and "tails."
2. The Board secretary will record the maker and the second of the nomination motion as well as the total votes and results per office.
3. The outgoing Chair and Vice-Chair will be given the opportunity to make 2-minute departing statements after the election process takes place. The newly-elected Chair and Vice-Chair will assume their positions at the end of the meeting.

###



# July – December 2021

July							August							September						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3	1	2	3	4	5	6	7	1	2	3	4	5	6	7
4	5	6	7	8	9	10	8	9	10	11	12	13	14	8	9	10	11	12	13	14
11	12	13	14	15	16	17	15	16	17	18	19	20	21	12	13	14	15	16	17	18
18	19	20	21	22	23	24	22	23	24	25	26	27	28	19	20	21	22	23	24	25
25	26	27	28	29	30	31	29	30	31					26	27	28	29	30		

October							November							December						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
					1	2	1	2	3	4	5	6	1	2	3	4	5	6		
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17	18	19	20	21	22	23	21	22	23	24	25	26	27	19	20	21	22	23	24	25
24	25	26	27	28	29	30	28	29	30					26	27	28	29	30	31	
31																				

Council Meetings
  City Holiday
  VTO





**CHARTER OF THE CITY OF BERKELEY**  
**Section 125, Article XVIII**

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**ARTICLE XVIII**  
**POLICE ACCOUNTABILITY BOARD AND DIRECTOR OF POLICE**  
**ACCOUNTABILITY**

**Section 125. Police Accountability Board and Director of Police Accountability**

**(1) Establishment and purpose.**

A Police Accountability Board is hereby established in the City of Berkeley. The purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department.

The Office of the Director of Police Accountability is hereby established. The purpose of the Director of Police Accountability is to investigate complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where warranted. The Director of Police Accountability may also serve as the Secretary to the Police Accountability Board and assist the Board in carrying out the duties prescribed herein.

**(2) Definitions.**

The following definitions apply to this Article:

(a) "Commissioners' Manual" refers to the most current manual adopted by the City Council that consists of the policies and procedures regarding the service of board members and commissioners, board and commission procedures, and conduct of meetings.

(b) "Complainant" shall refer to a member of the public that files a complaint with either the Director of Police Accountability, Police Accountability Board, or the Police Department.

(c) "Director of Police Accountability" or "DPA" refers to an individual fulfilling the police oversight role established pursuant to section 1 of this Article.

(d) "Effective Date" shall be the date that the Secretary of State accepts and files this Article.

(e) "Police Accountability Board" or "Board" refers to the Police Accountability Board established in Section 1 of this Article, which shall be the successor agency to the Berkeley Police Review Commission in accordance with Section 27.

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(f) Except as otherwise specifically provided, all references in this Article to California code sections shall refer to such Code sections as they may be amended or re-codified from time to time.

**(3) Police Accountability Board powers and duties.**

(a) The Police Accountability Board has the following powers and duties:

(1) To advise and make recommendations to the public, City Council, and City Manager regarding the operation of the Berkeley Police Department, including all written policies, practices, and procedures in relation to the Berkeley Police Department;

(2) Review and recommend for City Council approval all agreements, letters, memoranda of understanding, or policies which express terms and conditions of mutual aid, information sharing, cooperation and assistance between the Berkeley Police Department and all other local, state and federal law enforcement, intelligence, and military agencies or private security organizations;

(3) To receive and consider the findings and recommendations of the Director of Police Accountability regarding complaints filed by members of the public against sworn employees of the Police Department and to recommend if discipline is warranted when misconduct is found and, pursuant to Section 18, the level of discipline for sustained findings of misconduct;

(4) To participate in the hiring of the Chief of Police as set forth in Section 22;

(5) To access records of City Departments, compel attendance of sworn employees of the Police Department, and exercise the power of subpoena as necessary to carry out its functions;

(6) To adopt rules and regulations necessary for the conduct of its business; and

(7) Any other powers and duties as the City Council may assign it by Ordinance.

(b) Nothing in this chapter granting powers and duties to the Police Accountability Board shall limit the City Council's, Chief of Police's or City Manager's authority derived from other provisions of this Charter to act on policing matters, unless explicitly stated.

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(c) The Police Accountability Board, Director of Police Accountability and their respective agents, assigns, employees and representatives shall have no authority to restrict, modify, supersede, negate, supplant or contravene the authority granted to the City Manager and/or Chief of Police by way of the City Charter or operation of state or federal law to engage in collective bargaining activities or enter into agreements or understandings with the designated bargaining unit representative or representatives of the sworn employees of the Police Department unless such agreements or understandings contravene this Article.

(d) The Police Accountability Board, Director of Police Accountability and their respective agents, assigns, employees and representatives shall not undertake nor sanction any actions which would:

(1) Restrict, violate, or abridge the collective bargaining rights of the designated bargaining unit representative of the sworn employees of the Police Department or their individual members;

(2) Restrict, violate or abridge the terms and conditions of a collective bargaining agreement, understanding or practice with the designated bargaining unit representative of the sworn employees of the Police Department, except for those provisions provided for in this Article; and

(3) Restrict, violate or abridge any legal rights of individual sworn employees of the Police Department, including but not limited to those set forth in the Public Safety Officers' Procedural Bill of Rights Act ("POBRA"), Government Code section 3300 et seq., and sworn employees' right to maintain the confidentiality of their personnel file information (including, but not limited to Penal Code §§ 832.7, 832.8.), except as required under Section 20 of Article XVIII of the City Charter.

**(4) Independent agency; budget authority and allocation.**

(a) Notwithstanding Article VII of the Charter, and except as provided in section 14(b), 14(i) or 14(k), the Police Accountability Board, its staff and the Director of Police Accountability shall be independent of the City Manager.

(b) The Board is authorized to propose a budget to the City Council for its operations, and the City Council may allocate to the Police Accountability Board and Director of Police Accountability, as the City Council determines resources allow, a budget sufficient to provide for a process that protects the rights of complainants and sworn employees of the Police Department, for the Board and its staff to carry out the investigative and policy responsibilities stated herein, and to ensure the independence of the Board.



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**(5) Composition of Police Accountability Board; eligibility.**

(a) The Police Accountability Board shall be composed of nine (9) Board members selected by the Mayor and City Council. Each member of the Board must:

- (1) Be a resident of the City;
- (2) Be at least 18 years old;
- (3) Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and
- (4) Be fair minded and objective with a demonstrated commitment to community service.

(b) Desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations.

(c) All appointees to the Board shall be subject to background checks before final appointment.

**(6) Board member selection.**

(a) Candidates for the Board must complete and file with the City Clerk an application form and an affidavit of residency required by Berkeley Municipal Code Section 2.04.145. Board vacancies shall be widely advertised and publicly posted. The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council. Each individual nominee must be approved by a majority vote of the City Council.

(b) The City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City. Toward that end, in soliciting applications for the position of Board member, the Director of Police Accountability shall reach out to civic, community, and civil rights organizations, among others.

**(7) Terms; term limits.**

(a) Board member terms end four years after appointment, or upon the expiration of the nominating City Councilmember's term, whichever is earlier. Board members are limited to serving eight consecutive years and may be reappointed following a break in service of at least two years.

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(b) To the extent not in conflict with subsection (a) above, the provisions of Berkeley Municipal Code Section 3.02.040, regarding Board member term limits and the effect of interruption in service, apply.

**(8) Conflicts of interest and Avoiding Bias.**

(a) Board members shall be subject to the requirements of the California Political Reform Act and other state and local conflict of interest codes.

(b) Board members shall maintain basic standards of fair play, impartiality, and avoid bias and the appearance of bias. In instances where the Board acts in a quasi-judicial capacity, as in a confidential personnel hearing, as described below, Board members have the responsibility to hear all viewpoints. To ensure that all parties are afforded an opportunity to be heard, Board members shall observe the following:

(1) Board members recused for a conflict of interest must do so immediately when an item is taken up.

(2) Board members shall verbally disclose all ex parte contacts concerning the subject of the hearing. Board members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Ex parte contacts include, but are not limited to, any contact between a Board member and any party involved in the complaint prior to the public hearing.

(3) Board members shall be recused from taking any action on or participating in a matter before the Police Accountability Board if they are related to a party to, advocate for, or represent a member of the public who has a pending or anticipated claim of any kind arising out of alleged misconduct of a sworn employee of the Police Department. For the purpose of this subsection, "related to" shall include a spouse, child, sibling, parent or other person related to the complainant or the complainant's spouse within the third degree of relationship.

**(9) Expiration of term; termination; leaves of absence; removal.**

(a) A Board member whose term has expired may continue to serve until a successor Board member is appointed, unless the sitting Board member's term expires due to term limits, as provided in Section 7.

(b) The term of a Board member who fails to remain eligible to serve on the Board (e.g., by moving out of the City of Berkeley, or becoming an employee of the City) expires automatically as of the date the reason for ineligibility arises.



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(c) The provisions of Berkeley Municipal Code Section 3.02.020, establishing a termination procedure for absence from meetings, Section 3.02.030, leaves of absence, and Section 3.02.035, regarding alternate Board members, apply to the Police Accountability Board.

(d) A Board member may either be replaced by the City Council if their term has expired or may be removed during their term as provided in Section 12.

**(10) Board Chairperson and Vice-Chairperson.**

(a) The Board shall elect one of its members as chairperson and one as vice-chairperson, whose terms shall be one year each, or until their successor is elected. No chairperson is eligible to serve more than two consecutive terms, or portions thereof.

(b) Following election of the initial chairperson and vice-chairperson, the Board shall elect subsequent officers each January.

**(11) Board member stipends.**

(a) Each Board member is entitled to receive a stipend of \$100.00 for each regular and special Board meeting attended, and \$20.00 per hour for each hour of training attended as provided in Section 12 and each subcommittee meeting attended as a member of a subcommittee. Excluding participation in trainings, the total stipend paid may not exceed \$300.00 per month per Board member.

(b) Board member stipends and the total monthly stipend paid may be adjusted from time to time by the City Council. Adjustments to Board member stipends shall occur no more than once in a fiscal year and in no event shall an increase in Board member stipends exceed the change in the cost of living for the San Francisco Bay Area as measured by official United States economic reports.

**(12) Board member training; At will Status; Oath of Maintaining Confidentiality.**

(a) The Director of Police Accountability shall establish mandatory training requirements for Board members. Within the first six (6) months of appointment, at a minimum, each Board member shall receive forty (40) hours of training on the following:

- (1) Quasi-judicial duties and obligations of the Board;
- (2) Constitutional rights and civil liberties;
- (3) Fundamentals of procedure, evidence and due process;
- (4) The Public Safety Officers Procedural Bill of Rights Act;

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(5) Police Department operations, policies, practices, and procedures;  
and

(6) Duties, responsibilities, procedures and requirements associated with all ranks and assignments.

The Director of Police Accountability shall develop training provided to Board members. The Chief of Police and a representative from the Berkeley Police Association shall have input on training provided to Board members and shall have the opportunity to attend all training provided.

(b) All Board members shall serve at the pleasure of the City Council and may be removed by a two-thirds vote of the City Council for any reason, including but not limited to misconduct or violations of state and federal confidentiality laws.

(c) Board members shall, upon appointment, take an oath to abide by and maintain the confidentiality of the personnel files of sworn employees of the Police Department and all other matters that are confidential pursuant to state and federal law.

**(13) Board meetings; quorum; rules of procedure; subcommittees.**

(a) At the beginning of each calendar year, the Board shall establish a regular meeting schedule consisting of at least eighteen (18) meetings. Special meetings may be called by the chairperson of the Board or by a majority of the Board.

(b) A majority of appointed Board members constitutes a quorum to conduct business and take any action.

(c) The Board shall establish rules of procedure governing the conduct of its business, which shall be subject to ratification by the City Council.

(d) The Board may establish policy subcommittees that it deems necessary to carry out its functions. The Chairperson shall appoint policy subcommittee members at a Board meeting. Policy subcommittees may include non-voting members of the public who express an interest in the business of the subcommittee. Members of the public that are appointed to a policy subcommittee shall serve in an advisory capacity without compensation. The Board may establish further rules and procedures for the appointment and removal of members of the public to policy subcommittees. Policy subcommittee members shall not have access to confidential personnel file information or any other confidential information.

(e) Unless otherwise specified in this Article, rules of procedure governing the conduct of the Board, or Ordinance, the Board shall comply with the Commissioners' Manual.



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**(14). Office of the Director of Police Accountability.**

(a) To the extent possible, the City Manager shall recommend three (3) candidates for consideration by the City Council. The City Council shall appoint the Director of Police Accountability at a noticed public meeting.

(b) The Director of Police Accountability shall carry out the work of the Board as described herein, which may include the day-to-day operations of the Board office and staff, and performance appraisals and discipline of all subordinate employees of the Board. All such individuals, to the extent that they are employees of the City of Berkeley, shall be subject to the personnel rules governing City of Berkeley employees.

(c) Within the first six (6) months of appointment, the Director of Police Accountability shall receive training on the following:

- (1) Quasi-judicial duties and obligations of the Board;
- (2) Constitutional rights and civil liberties;
- (3) Fundamentals of procedure, evidence and due process;
- (4) The Public Safety Officers Procedural Bill of Rights;
- (5) Police Department operations, policies, practices, and procedures;

and

(6) Duties, responsibilities, procedures and requirements associated with all ranks and assignments.

(d) By majority vote, the Police Accountability Board may recommend removal for cause of the Director of Police Accountability to the City Council.

(e) The City Council may remove the Director of Police Accountability by a two-thirds vote either on its own motion or based on the recommendation of the Police Accountability Board.

(f) In addition to the duties prescribed, upon receipt of a complaint by the Police Accountability Board, the Director of Police Accountability shall ensure a timely, thorough, complete, objective and fair investigation into the complaint.

(g) The Director of Police Accountability shall assess the conduct of the sworn employee of the Police Department in light of the facts discovered through the investigation, state and federal law, and the policies, practices, procedures, and personnel rules of the City and Berkeley Police Department.

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(h) The Director of Police Accountability shall present the results of their investigative findings and recommendations to the Police Accountability Board who shall make a recommendation to the Chief of Police regarding the specific complaint.

(i) The Director of Police Accountability may hire a Chief Investigator and, when there is a conflict of interest pursuant to Section 15, outside legal counsel, subject to receiving budgetary authority from the City Council.

(j) Subject to the budgetary authority of the City Council, the provisions of the City's charter related to personnel, the City's personnel rules, state and federal law, the Director of Police Accountability shall have the authority to hire and dismiss consultants and additional investigators. Subject to City Council approval, the Director of Police Accountability may also enter into contracts for investigative services, provided, however, that with respect to the procurement of supplies and services, the Director of Police Accountability shall comply with the Charter and City purchasing policies and procedures

(k) The powers in this Section 14 are conferred notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 119 of this Charter.

(l) The Board and Director of Police Accountability shall use the City's Human Resources Department for all human resource matters including, but not limited to hiring, performance evaluation, discipline, and removal of employees.

(m) The Director of Police Accountability shall meet periodically with stakeholders, including but not limited to employee organizations representing officers, organizations promoting civil rights and liberties, and organizations representing communities of color, and solicit from them input regarding the work of the Police Accountability Board and the Office of the Director of Police Accountability.

**(15) Legal counsel.**

(a) The Board and the Director of Police Accountability shall use the services of the City Attorney's Office for legal advice.

(b) In the event the City Attorney has a prohibited conflict of interest under the California Rules of Professional Conduct with regard to a specified matter, the City Attorney shall provide the Director of Police Accountability with separate legal counsel. Pursuant to Section 14, when the City Attorney has determined that a conflict of interest exists, the Director of Police Accountability may engage legal counsel other than the City Attorney for legal advice regarding a specific case or matter.

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**(16) Board reports.**

(a) All Board reports shall maintain the confidentiality of personnel file information and other confidential information as required by state and federal law.

(b) The Director of Police Accountability shall prepare an annual report to the public, including but not limited to the following:

(1) A description of the Board's activities during the year, including:

- i. A summary of the number, type, and disposition of complaints filed with the Board;
- ii. A summary of the number, type, and disposition of complaints filed with the Police Department by members of the public;
- iii. Policy complaints undertaken; and
- iv. Other such information that the Board or City Council has requested.

(2) The Department's and the Board's processes and procedures for investigating alleged misconduct, and for determining whether or not discipline is warranted and / or the level of discipline, for sustained findings of misconduct.

(3) Training and education, and any early warning system utilized by the Department.

(4) Training and/or policy issues that arise during the investigations of complaints by the Department, Director of Police Accountability, or Police Accountability Board.

(5) Trends and patterns in vehicle and pedestrian stops, citations, arrests, searches and seizures or other patterns by the Berkeley Police Department. Statistical data shall include the demographics of the complainant, reason for the stop, purpose of the stop and disposition, and location of stop, in compliance with policies, practices, and procedures of the City and Police Department, and the Police Department General Order on Fair and Impartial Policing.

(6) Trends and patterns regarding use of force and officer-involved shootings.

(c) This annual report shall be presented to the Board for approval. Upon adoption by the Board, it shall be presented to the Mayor and City Council, City Manager, and the Chief of Police at a City Council meeting, and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

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(d) Prior to being made available to any member of the public, all Board reports shall be subject to the review of the City Attorney to ensure compliance with all applicable state and federal confidentiality laws.

**(17) Policy review and approval.**

(a) The Chief of Police shall submit all newly adopted Departmental policies and revisions to the Board within thirty (30) days of implementation. The Board may review policies, practices, and procedures of the Police Department in its discretion or at the request of a member of the public, due to a policy complaint, or due to a complaint from a member of the public against an officer.

(b) If the Police Department and the Board are unable to reconcile their differences about a policy within sixty (60) days from the date that the Chief of Police submits a policy to the Director of Police Accountability, the policy shall be sent to the City Manager for a final decision which shall be reported to the City Council. Nothing in this section shall limit the authority of the City Council under this Charter to enact legislation within its Charter authority or direct the City Manager to implement adopted City Council policy.

**(18) Complaints filed with the Director of Police Accountability.**

(a) The Director of Police Accountability and Board shall adopt regulations for handling complaints filed with the Director of Police Accountability by any member of the public alleging misconduct by sworn employees of the Police Department and undertake investigations of complaints as they deem warranted. The regulations shall include the following:

- (1) What constitutes a complaint; and
- (2) A provision for voluntary mediation of complaints in lieu of an investigation.

(b) The Police Accountability Board shall hear and decide findings on allegations of misconduct, at which subject sworn employees of the Police Department must appear to testify and answer questions consistent with their rights pursuant to state and federal law.

(c) In determining whether a sworn employee of the Police Department has committed misconduct, the standard of proof for the Board shall be "preponderance of the evidence". The investigation and decision on findings shall be fair, unbiased, and evidence based.



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(d) The time limit for investigations and notification of discipline shall be two hundred and forty (240) days from the date of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(e) Investigation of all complaints filed with the Director of Police Accountability shall begin immediately and proceed as expeditiously as possible. The time limit for completion of an investigation shall be one hundred and twenty (120) days of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(f) No City employee, officer, official or member of the Police Accountability Board shall attempt to interfere or undermine the work of the Director of Police Accountability or any employee of the Office of the Director of Police Accountability in the performance of the duties and responsibilities set forth in this Charter or by Ordinance.

(g) Complaints accepted by the Director of Police Accountability shall be sent in hard copy or electronically to the Chief of Police and Police Department Internal Affairs, members of the Police Accountability Board, and to each identified sworn employee of the Police Department against whom the complaint has been filed.

(h) For complaints being investigated by the Police Department, the Director of Police Accountability shall not participate in the Police Department's Board of Review or any subsequent internal process established by the Police Department to review a complaint filed by any member of the public.

(i) Within sixty (60) days of completing the investigation into allegations of misconduct by sworn employees of the Police Department, the Director of Police Accountability shall submit and present investigative findings to the Police Accountability Board and, if warranted, the Board may agree to hold a personnel hearing which shall be confidential. The Director of Police Accountability shall provide the Board with all evidence and documentation obtained or produced during the course of the investigation to enable its review of the complaint. At said meeting, both the sworn employee of the Police Department who is the subject of the investigation and the complainant shall be present to answer questions from Board members, subject to applicable state and federal law. In addition to submitting and presenting investigative findings to the Police Accountability Board in a confidential personnel hearing, the Director of Police Accountability shall include a recommendation of whether disciplinary action is warranted. For only those cases where an allegation of misconduct, if sustained, would involve any of the classes of conduct described in Penal Code 832.7, as enacted pursuant to Senate Bill 1421 on January 1, 2019, and any other classes of police conduct added in any subsequent amendment to, or successor provision, the Director of Police Accountability shall recommend the level of discipline, if warranted.

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(j) Within fifteen (15) days of the confidential personnel hearing, the Board may affirm, modify or reject the findings and recommendation of the Director of Police Accountability.

(1) Should the Police Accountability Board agree with the findings and recommendation of the Director of Police Accountability, the Director of Police Accountability's findings and recommendations shall be submitted to the Chief of Police.

(2) If the Board modifies or rejects the findings and recommendations of the Director of Police Accountability, it shall issue a written explanation for its decision and shall forward it to the Chief of Police.

(k) Within ten (10) days of receiving the findings and recommendation of the Director of Police Accountability or Police Accountability Board, if the Chief of Police and Director of Police Accountability or Police Accountability Board are in accord, the Chief of Police shall issue a final decision. If the Chief of Police disagrees with the findings and/or recommendation of the Director of Police Accountability or the Police Accountability Board, the Chief of Police shall issue a tentative decision, which shall be forwarded to the Director of Police Accountability and Police Accountability Board. Within ten (10) days of receipt of that tentative determination, the Director of Police Accountability may request that the Chief of Police submit the decision to the City Manager or City Manager's Designee who shall make the final determination along with a written explanation to the Director of Police Accountability, Police Accountability Board, and Chief of Police within twenty-five (25) days.

(l) In any conflict between the provisions of this Article and the disciplinary appeal process in an applicable collective bargaining agreement, the collective bargaining agreement shall prevail; provided, however, that no City official is authorized to enter into a collective bargaining agreement or an extension of a collective bargaining agreement that contains provisions contrary to this Article after its Effective Date. Except as expressly provided herein, nothing shall limit the authority of the Chief of Police or City Manager to conduct investigations, make findings, and impose discipline or corrective action, or of an arbitrator charged with adjudicating disciplinary appeals, based upon such standards as each may apply consistent with and subject to the Charter, Ordinance, and personnel rules, the collective bargaining agreement, due process requirements, state labor laws, and Police Department policies and procedures.

(m) Except for the time limit set forth in Section 18(d), the timelines set forth in this section are advisory, and may be adjusted by the Director of Police Accountability after consulting with the City Manager and Chief of Police, to ensure that all investigations and notifications are completed in accordance with the limits of Section 18(d). In the event that the timeline set forth in Section 18(e) is extended, it shall not exceed 195 days.



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**(19) Review of complaints filed with the Berkeley Police Department.**

(a) The Police Department shall ensure that any member of the public that files a complaint with the Police Department shall be provided written information and instructions on how to file a complaint with the Director of Police Accountability and Board.

(b) For all complaints filed with the Police Department by any member of the public, the time limit for investigations and notification of discipline shall be two hundred and forty (240) days from the date of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(c) Investigation of all complaints filed with the Police Department shall begin immediately and proceed as expeditiously as possible. The time limit for completion of the initial investigation shall be one hundred and twenty (120) days of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(d) Upon completion of the Chief of Police's investigation, the Chief of Police shall issue a letter of disposition to the sworn employee of the Police Department. On all complaints initiated by a member of the public, at the conclusion of the Department's internal affairs investigation, the Chief of Police shall also notify the Director of Police Accountability in writing of the disposition. In addition, the Chief of Police shall notify the complainant of the disposition of the complaint in accordance with the Penal Code.

(e) In cases where the finding is "not sustained", "unfounded" or "exonerated", within twenty (20) days after notification to the complainant is mailed or provided by other reasonable means as specified by complainant, the complainant shall have the option to contest the Chief of Police's determination to the Director of Police Accountability.

(1) If a complainant contests the Chief of Police's determination, the Director of Police Accountability, if appropriate, may request to review all files, transcripts and records related to the complaint. Within fifteen (15) days of either receiving an objection from a complainant or notice from the Chief of Police that a complainant has filed an objection, the Director of Police Accountability may, in the exercise of the Director of Police Accountability's discretion:

i. Notify the complainant that the objection has been accepted and that the Police Accountability Board will convene to conduct a review based upon the investigative record provided by the Department; or



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ii. Notify the complainant that the objection has been dismissed. If the Director of Police Accountability dismisses an objection filed by a complainant, the Director of Police Accountability must provide written notice to the Board within thirty (30) days following the Director of Police Accountability's notification to complainant that the objection was dismissed.

(f) Within forty five (45) days of when the Director of Police Accountability notifies the complainant that the objection has been accepted, the Board may dismiss the complainant's objection, issue a report agreeing with the Chief of Police's determination or issue a report disagreeing with the Chief of Police's determination if (1) the Department failed to proceed in a manner required by state and federal law, or (2) the Chief of Police's decision is not supported by the evidence in the record.

(g) If the Police Accountability Board disagrees with the Chief of Police's determination, it shall submit its report to the Chief of Police and the City Manager. The Chief of Police may prepare a report for the City Manager within fifteen (15) days of receiving the Police Accountability Board's recommendation addressing any concerns or objections. Within twenty five (25) days of receiving the report from the Chief of Police, the City Manager or City Manager's Designee, considering the reports of both the Board and Chief of Police, shall make a final determination along with a written explanation to the Director of Police Accountability, Police Accountability Board, and Chief of Police.

(h) The Chief of Police's determination shall not become final, and no discipline shall be administered in any case in which the complainant has contested the Chief of Police's determination until the objection is dismissed or otherwise concluded; provided, however, that a final determination in all cases shall be rendered by the Chief of Police or City Manager not later than two hundred and forty days (240) days, unless a Government Code section 3304(d) exception applies.

(i) Except for the time limit set forth in Sections 19(b) and 19(c), the timelines set forth in this section are advisory, and may be adjusted to ensure that all investigations are completed in accordance with the limits of Section 19(b) and 19(c), and by mutual agreement between the City Manager, Director of Police Accountability, and the Chief of Police, as applicable.

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#### **(20) Access to records of City departments; compelling testimony and attendance.**

(a) Notwithstanding Article VII, Section 28 of this Charter, all departments, officers, and employees of the City shall cooperate with and assist the Director of Police Accountability, Police Accountability Board and its staff and, unless prohibited by state or federal law, produce all records and written and unwritten information, documents, materials and evidence the Board or its staff requests for the purpose of carrying out its duties and functions. Unless otherwise required by state and federal law, the records and information include without redaction or limitation:

- (1) Records relevant to Police Department policies, practices, or procedures;
- (2) Personnel and disciplinary records of sworn employees of the Police Department; and
- (3) Police Department investigative records.

Responding departments or employees of the City shall maintain the confidentiality of any records and information provided consistent with state or federal law governing such records or information and comply promptly, but in no event later than ten (10) business days from the date of request, unless additional time is needed to locate or review records. If additional time is needed to comply, the responding departments, officers or employees shall specify how much time up to thirty (30) additional business days is needed and explain the reasons for delay in producing the necessary records and information.

(b) The Director of Police Accountability, Police Accountability Board and its staff, and their agents and representatives shall maintain the confidentiality of any records and information it receives consistent with state or federal law governing such records or information.

(c) The Director of Police Accountability and Police Accountability Board may issue subpoenas to compel the production of books, papers, and documents, and the attendance of persons to take testimony, as needed to carry out its duties and functions. The testimony of any sworn employee of the Police Department is subject to the due process and confidentiality provisions of applicable state and federal law.

#### **(21) Advice regarding Police Department budget.**

The Board is empowered to review and make recommendations to the City Council regarding the Police Department budget. The Chief of Police shall submit a final budget proposal to the Board for review and recommendations, but the Board's failure to complete that review and make recommendations in a timely manner shall not delay the budget process.

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**(22) Hiring of Chief of Police.**

Notwithstanding Article VII, Section 28 of this Charter, upon the notice of vacancy of the position of Chief of Police, the City Manager shall consult with the Police Accountability Board (or subcommittee of the Board) on the job requirements, application process, and evaluation of candidates for the Chief of Police.

**(23) Chief of Police or command staff to attend Board meetings.**

To the maximum extent possible, the Chief of Police shall attend at least one regular Board meeting per month, for each month a regular meeting is held and attend a minimum of twelve (12) meetings per year. The Chief of Police shall send a member of the Police Department's command staff to any regular Board meeting that the Chief of Police does not attend.

**(24) Berkeley Police Department written reports to the Board.**

The Chief of Police shall submit reports to the Board on such subjects and at such intervals as the Board, in consultation with the Chief of Police, may prescribe. At least one report per year shall provide information on all use of force statistics, and the number of complaints filed with Internal Affairs, the allegations in each complaint, and the disposition of closed complaints, including any discipline imposed.

**(25) Contract negotiations.**

The City Manager shall inform the Police Accountability Board of any changes agreed in contract negotiations and adopted by City Council that may directly affect the work, duties, or responsibilities of the Board.

**(26) Commendation program.**

The Board shall establish a regular means of recognizing sworn employees of the Police Department for instances of outstanding service to members of the public, the community at large, or the Department.

**(27) Transition from Police Review Commission to Police Accountability Board.**

(a) The Police Review Commission established by Ordinance No. 4,644-N.S., as amended, shall continue in existence until its functions are transferred to the Police Accountability Board, but no later than January 3, 2022



**CHARTER OF THE CITY OF BERKELEY**  
**Section 125, Article XVIII**

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(b) To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

(c) The Police Review Commission staff shall transfer all Police Review Commission files, records, books, publications, and documents of whatever kind to, and for the use and benefit of, the newly created Police Accountability Board.

**(28) Review of processes.**

The Board shall conduct a review of its processes every two years after the Effective Date in order to ascertain the efficacy of its processes.

**(29) Enabling Legislation.**

The Board may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of Article XVIII of this Charter. The City Council may, based on such recommendations or on its own initiative, enact ordinances that will further the goals and purpose of this Article.

The Board shall have forty-five (45) business days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

**(30) Repeal of Ordinance No. 4,644-N.S., as amended.**

Ordinance No. 4,644-N.S., all amendments thereto, and all rules and regulations promulgated pursuant thereto, shall cease to be operative and are repealed as of the date of the first meeting of the Police Accountability Board established by this Article.

**(31) Severability.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Article, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley declare that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Article, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

RESOLUTION NO. 69,531 N.S.

ADOPT A RESOLUTION IMPLEMENTING CORE POLICE ACCOUNTABILITY BOARD AND DIRECTOR OF POLICE ACCOUNTABILITY FUNCTIONS BY JULY 1, 2021

WHEREAS, on April 14, 2020 the Council unanimously adopted Resolution 69,363-N.S. submitting Police Accountability Board and Director of Police Accountability Charter Amendment initiative to the November 2020 ballot; and

WHEREAS, the purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department; and

WHEREAS, the purpose of the Director of Police Accountability is to investigate complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where warranted, and the Director of Police Accountability may also serve as the Secretary to the Police Accountability Board to assist the Board in carrying out their duties; and

WHEREAS, Section 27 of the Charter Amendment states that the Police Review Commission established by Ordinance No. 4,644-N.S., as amended, shall continue in existence until its functions are transferred to the Police Accountability Board, but no later than January 3, 2022; and

WHEREAS, it is in the public interest to establish the Police Accountability Board and Director of Police Accountability as soon as possible to facilitate modern police accountability functions, especially in light of ongoing efforts to transform public safety; and

WHEREAS, the City is positioned to establish the functions and policy changes of the Police Accountability Board and appoint an interim Director no later than July 1, 2021.

NOW THEREFORE BE IT RESOLVED that the City Council, contingent upon voter approval of the Charter Amendment contained in Resolution No. 69,363-N.S., establishes the following core Police Accountability Board and Director of Police Accountability functions and policy changes for implementation by July 1, 2021:


- a. Establish and convene the Police Accountability Board with all investigatory, policy and other authorities, and;
- b. To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

The foregoing Resolution was adopted by the Berkeley City Council on July 28, 2020 by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

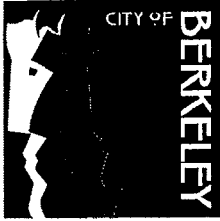
Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor


Attest:   
\_\_\_\_\_  
Mark Numainville, City Clerk





City Clerk Department

July 1, 2021

To: Commission Secretaries  
 From:  Mark Numainville, City Clerk  
 Subject: Commission Reorganization Update

On June 15, 2021 the City Council took action to direct staff to implement the following reorganization of Berkeley Commissions. Please see the links at the end of this memo for the Council report and the record of the final action taken by the Council.

New Commission Name	Former Commissions to be Reorganized
Commission on Climate and the Environment	Energy, Community Environmental Advisory, and Zero Waste (policy issues)
Parks, Recreation, Waterfront (special Marina subcommittee)	Children, Youth, and Recreation, Parks and Waterfront, Animal Care
Peace, Justice, and Human Welfare*	Peace and Justice and Human Welfare, Community Action Commissions
Public Health Commission & Sugar Sweetened Beverage Panel of Experts**	Community Health Commission and Sugar Sweetened Beverage Panel of Experts
Housing Advisory Commission	Measure O and Housing Advisory Commission
Homeless Services Panel of Experts	Homeless Commission and Measure P Homeless Services Panel of Experts
Public Works and Transportation	Public Works, Transportation, and Zero Waste (facilities issues)
Planning	Planning and Cannabis
<b>All other commissions will maintain their current structure:</b> Aging, Civic Arts, Disability, Commission on the Status of Women, Design Review Committee, Disaster and Fire Safety, BIDs, Fair Campaign Practices and Open Government, Redistricting, Landmarks Preservation, Labor, Loan Adjustments Board, Personnel, Police Accountability, Reimagining Public Safety, Mental Health, Zoning Adjustments Board, and Youth	

\* Members will be appointed by Council and membership should adhere to Government Code Section 12736(e); 12750(a)(2) and 12751. Membership will not include appointments from Berkeley Unified School District

\*\* New commission designated as 18-member commission

As part of the action, the City Council also referred to the City Manager and the affected commissions to explore the possible consolidation of the Commission on Disability and the Commission on Aging.

The City Council referral requested that staff bring back changes to the enabling legislation to reorganize existing commissions as proposed below in a phased approach.

Phase 1: Prioritize merging the Homeless Commission/Homeless Services Panel of Experts and Housing Advisory Commission/Measure O Bond Oversight Committee first, and request that the City Manager bring back changes to the enabling legislation to implement these consolidated commissions.

Phase 2: All other Commissions as proposed in the report discussed at the June 15, 2021 City Council meeting. As staff is able to make recommendations on consolidation, they can bring those recommendations forward one by one.

Existing commissions impacted by the reorganization will have an opportunity to weigh in on the revisions to the enabling legislation for the new commissions and the charge/responsibilities of merged commissions. Staff will provide direction and support to the existing commissions on the transition process to new consolidated commissions and the effective date of the changes.

Work on Phase 1 will begin in Summer 2021. Staff will coordinate with commission secretaries to schedule any relevant discussions with the commissions for Phase 1 and Phase 2 in the fall of 2021.

Please relay any questions regarding the consolidation process through the commission secretary.

[Link to Council Report](#)

[Link to Annotated Agenda for Final Action](#)

## Lee, Katherine

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**From:** Lee, Katherine  
**Sent:** Friday, July 2, 2021 2:13 PM  
**To:** Lee, Katherine  
**Subject:** FW: July 10 Public Hearing for Redistricting  
**Attachments:** Berkeley COI Outreach Worksheet (Spanish).pdf; Berkeley COI Outreach Worksheet.pdf

Dear Board members,

Please see below and attached.

-Kathy

**Katherine J. Lee**  
**Interim Director of Police Accountability**  
**City of Berkeley**  
**510.981.4960**

*The Police Accountability Board and the Director of Police Accountability replaced the Police Review Commission as of July 1, 2021*

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**From:** PRC (Police Review Commission)  
**Sent:** Friday, July 2, 2021 2:07 PM  
**To:** Lee, Katherine <KLee@cityofberkeley.info>  
**Subject:** July 10 Public Hearing for Redistricting

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**From:** Numainville, Mark L.  
**Sent:** Friday, July 02, 2021 11:12 AM  
**To:**

**Cc:** Independent Redistricting Commission <[redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info)>  
**Subject:** July 10 Public Hearing for Redistricting

Commission Secretaries,

Please share this information with your commissioners (using bcc: of course), and ask them to share widely in the community.

**HELP SHAPE THE FUTURE OF BERKELEY'S COUNCIL DISTRICTS**  
***Learn about the redistricting process and give input at a public hearing***

Join us July 10 as we kick off the once-a-decade process of redrawing Berkeley's City Council district boundaries at the first public hearing of the Independent Redistricting Commission - a body charged with creating a new district map that ensures fair and equal representation for all using factors such as population data, geography, demographics, and direct testimony from community members.



**Saturday, July 10, 10:00 am**

Join on Zoom: <https://us02web.zoom.us/j/82055634140>

Participate by phone: (669) 900-9128; Meeting ID: 820 5563 4140

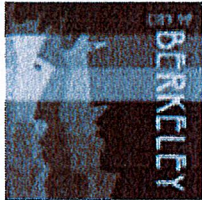
After a presentation covering the redistricting process and timeline, history of Council districts in Berkeley, and the laws and regulations that govern the redistricting process, community members will have an opportunity to give testimony to the Commission directly.

Even if you can't join this meeting, we hope you will participate in future redistricting meetings in the coming months. For questions or requests for accommodation, contact the City Clerk Department at [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info) or (510) 981-6908.

Please share this event widely. We ensure better representation for all of Berkeley when more voices are heard in the redistricting process.

[Independent Redistricting Commission webpage](#)

Mark Numainville, City Clerk  
City of Berkeley  
2180 Milvia Street, 1st Floor  
Berkeley, CA 94704  
(510) 981-6909 direct  
[mnumainville@cityofberkeley.info](mailto:mnumainville@cityofberkeley.info)





# Tell us about your community!



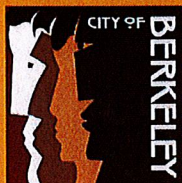
## Help shape the future of Berkeley's Council districts

Every ten years, U.S. Census data is used to redraw Berkeley's Council district boundaries. This ensures the districts are balanced for changes in population. Berkeley's Independent Redistricting Commission (composed of 13 volunteers) wants to hear from you on how the boundaries should be drawn. Complete this form to tell the Commission about your **community of interest** so it can be considered in the redistricting process.

## What is a "community of interest"?

A community of interest is a group of people in the same geographic area who share common social and economic interests.

Are there things that make your community unique when compared to surrounding areas? What characteristics do you share with your neighbors? How would you describe the area to a friend?



For example, some characteristics a community can share are:

- Resources
- Identity
- Business districts
- Education
- Ancestry
- Shared transportation
- Cultural centers
- History
- Economic interests
- Language
- Common neighborhood activities
- Neighborhoods

Redistricting laws also prohibit a few things from being included when drawing district boundaries – such as political parties and candidates, or where current councilmembers live.

Use our "Community of Interest Form" on the next page to describe your community. You can add more pages if needed. Your input is essential and we welcome your comments.

You can attend public meetings to give more input on this topic. Visit our webpage for dates and times: [cityofberkeley.info/redistricting](http://cityofberkeley.info/redistricting). You can also email the Commission at [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info).





# Community of Interest Form

Optional – Name / Email:

Which district do you live in? If you're not sure, write your address and we'll look it up:

- |                                     |                                     |                                     |                                     |
|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> District 1 | <input type="checkbox"/> District 2 | <input type="checkbox"/> District 3 | <input type="checkbox"/> District 4 |
| <input type="checkbox"/> District 5 | <input type="checkbox"/> District 6 | <input type="checkbox"/> District 7 | <input type="checkbox"/> District 8 |

What are the common interests in your community? Describe how they are important:

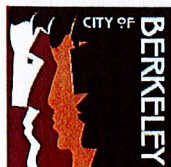
Explain the geographical location of your community of interest. What are the boundaries?

How is your community impacted by the City and the actions of the City Council?

What else would you like to tell us about your community? Add more pages if you need to.

## Questions or comments?

We want to hear from you. Email the Berkeley Independent Redistricting Commission at [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info) or visit our webpage at [www.cityofberkeley.info/redistricting/](http://www.cityofberkeley.info/redistricting/).



**INDEPENDENT  
REDISTRICTING  
COMMISSION** BERKELEY

## Submit this form by:



Email: [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info)



In person: Call (510) 981-6908 to make an appointment.



Mail: City Clerk Department, 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley, CA 94704



# ¡Cuéntenos de su comunidad!



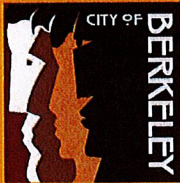
## Ayúdenos a definir el futuro de los distritos del Concejo de Berkeley

Cada diez años, los datos del Censo Estadounidense se utilizan para volver a trazar los límites distritales. Esto asegura un equilibrio debido al efectuarse cambios en la población. La Comisión Independiente de Redistribución de Distritos de Berkeley [Berkeley's Independent Redistricting Commission] (la cual está compuesta de 13 voluntarios) desea sus aportes de ideas y comentarios referentes a cómo se han de trazar los límites distritales. Se le invita a llenar este formulario para informarle a la Comisión sobre su **comunidad de interés** con el fin de ser considerada en el proceso de redistribución de distritos.

### ¿Qué es una "comunidad de interés"?

Una comunidad de interés se refiere a un grupo de individuos que compartan una región geográfica al igual que intereses comunes sociales y económicos.

¿Hay elementos que determinen una singularidad en su comunidad al compararse con regiones cercanas? ¿Qué características comparte usted con sus vecinos? ¿Cómo le describiría la región a un amigo?



Por ejemplo, algunas características que podría compartir una comunidad son:

- Recursos
- Centros culturales
- Identidad
- Historia
- Distritos comerciales
- Intereses económicos
- Educación
- Idioma
- Ascendencia
- Actividades comunes en el vecindario
- Transporte compartido
- Vecindarios

Las leyes referentes a la redistribución de distritos prohíben que se incluyan ciertas cosas al trazar los límites distritales – tales como partidos políticos y candidatos o donde viven los concejales actuales.

Use nuestro "Formulario de Comunidad de Interés" en la página siguiente para describir a su comunidad. Puede agregar más paginas si fuera necesario. Sus aportes son imprescindibles y aguardamos sus comentarios.



Si desea aportar más al respecto, se le invita asistir a las reuniones públicas. Para información referente a fechas y horarios, favor de visitar nuestra página web: [cityofberkeley.info/redistricting](http://cityofberkeley.info/redistricting). También puede comunicarse con la Comisión por correo electrónico [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info).



# Formulario de Comunidad de Interés

Opcional – Nombre / Correo electrónico:

¿En qué distrito vive usted? Si no está seguro, indíquenos su dirección y nosotros lo averiguaremos:

- Distrito 1     Distrito 2     Distrito 3     Distrito 4  
 Distrito 5     Distrito 6     Distrito 7     Distrito 8

¿Cuáles son los intereses comunes de su comunidad? Describa cómo es que son importantes:

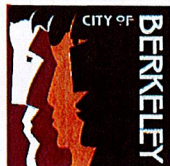
Explique la ubicación geográfica de su comunidad de interés. ¿Cuáles son sus límites o confines?

¿Como le afectan las medidas del Concejo Municipal y la Ciudad en sí a su comunidad?

¿Que más le gustaría comentarnos con respecto a su comunidad? Agregue más paginas si fuera necesario.

¿Tiene preguntas o comentarios?

Nos gustaría saber qué piensa. Comuníquese a la Comisión Independiente de Redistribución de Distritos por correo electrónico al: [redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info) o visite nuestra página web a [www.cityofberkeley.info/redistricting/](http://www.cityofberkeley.info/redistricting/).



INDEPENDENT  
REDISTRICTING  
COMMISSION BERKELEY

Entregar este formulario:



Correo electrónico:  
[redistricting@cityofberkeley.info](mailto:redistricting@cityofberkeley.info)



En persona: Llame (510) 981-6908 para programar una cita



Por correo: City Clerk Department, 2180 Milvia Street, 1<sup>st</sup> Floor, Berkeley, CA 94704