

OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

POLICE ACCOUNTABILITY BOARD REGULAR MEETING

Wednesday, July 27, 2022
7:00 P.M.

Board Members:

MICHAEL CHANG, CHAIR
NATHAN MIZELL, VICE-CHAIR
KITTY CALAVITA

REGINA HARRIS
JULIE LEFTWICH
DEBORAH LEVINE

JOHN MOORE III
CHERYL OWENS
ISMAIL RAMSEY

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

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82237902987>. 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 **822 3790 2987**. 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 minutes)
2. **APPROVAL OF AGENDA** (5 minutes)
3. **PUBLIC COMMENT** (TBD)

(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.)

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. They review and make recommendations on police department policies, and investigate complaints made by members of the public against police officers. For more information, contact the ODPA.

1947 Center Street, 5th Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info

4. **APPROVAL OF MINUTES** (5 minutes)
 - a. Regular meeting of July 13, 2022.
 - b. Special meeting of July 20, 2022.
(*To be delivered*)
5. **CHAIR AND BOARD MEMBERS' REPORTS** (5 minutes)
6. **DIRECTOR OF POLICE ACCOUNTABILITY'S REPORT** (5 minutes)
Status of complaints; National Night Out; other items.
7. **CHIEF OF POLICE'S REPORT** (10 minutes)
Crime/cases of interest, community engagement/departments events, staffing, training, and other items of interest.
8. **SUBCOMMITTEE REPORTS (discussion and action)** (5 minutes)
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
 - a. Fair & Impartial Policing Implementation – meeting to be scheduled.
 - b. Director Search – consider dissolving
 - c. Regulations Subcommittee – see Item #9.a. below.
 - d. Controlled Equipment Subcommittee – consider dissolving.
9. **OLD BUSINESS (discussion and action)**
 - a. Finalize review of draft proposed permanent Regulations for Handling Investigations and Complaints. (1 hour)
(*See materials in July 13, 2022 packet.*)
10. **NEW BUSINESS (discussion and action)**
 - a. Discuss process and timing for reviewing BPD's Annual Equipment Use Report, submitted under the Controlled Equipment & Community Safety Ordinance. (10 minutes)
From: Interim Director
(*See Annual Report published in June 8, 2022 packet, starting at p. 135.*)
 - b. Consider scheduling a special meeting for September 7, 2022, and canceling September 13, 2022 meeting. (10 minutes)
From: Interim Director
 - c. Update on the status of: pending complaint investigations by ODPA; policy work by PAB and ODPA (ongoing and to be started); other projects, such as outreach, by PAB and ODPA; and ODPA staffing, including transition to new Director. (20 minutes)
From: Interim Director

(To be delivered.)

- d. i) Consider opening a policy review on the discharge of inebriated individuals from BPD custody
 - ii) Receive update from BPD on its review of policies related to the June 9, 2022, death of an inebriated man released by BPD. (15 minutes)
- From: Board member Ramsey

11. REMARKS BY OUTGOING INTERIM DIRECTOR OF POLICE ACCOUNTABILITY (10 minutes)

12. PUBLIC COMMENT (TBD)

(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.)

13. ADJOURNMENT (1 minute)

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.

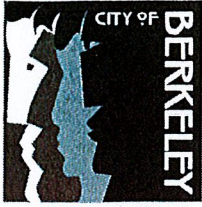
SB 343 Disclaimer

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 the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

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

**POLICE ACCOUNTABILITY BOARD (PAB)
REGULAR MEETING ATTACHMENTS
JULY 27, 2022**

<u>MINUTES</u>	
July 13, 2022 Regular Meeting Draft Minutes	Page 7
July 20, 2022 Special Meeting Draft Minutes (<i>to be delivered</i>)	n/a
<u>AGENDA-RELATED</u>	
Item 6. – 7-15-2022 News from the City of Berkeley: Register your National Night Out neighborhood event.	Page 11
Item 8. – 7-14-2022 PAB Subcommittee List.	Page 13
Item 10.b. – PAB 2022 Regular Meeting Schedule.	Page 15
Item 10.d. – 1-13-2022 Berkeleyside newsletter: BPD to review inebriated man’s death after release from police custody.	Page 17
<u>COMMUNICATIONS</u>	
None.	



OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

DRAFT

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING
MINUTES
(draft)

Wednesday, July 13, 2022, 7:00 P.M.

No physical location; meeting held exclusively through videoconference and teleconference

1. CALL TO ORDER & ROLL CALL BY CHAIR CHANG AT 7:00 P.M.

Present: Board Member Michael Chang (Chair)
Board Member Nathan Mizell (Vice-Chair)
Board Member Regina Harris
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member John Moore
Board Member Cheryl Owens
Board Member Ismail Ramsey

Absent: Board Member Kitty Calavita

ODPA Staff: Katherine J. Lee, Interim Director of Police Accountability,
Beneba Thomas, DPA Investigator

BPD Staff: Lt. Dan Montgomery

2. APPROVAL OF AGENDA

Motion to approve the agenda.
Moved/Second (Leftwich/Moore) **Motion Carried by general consent**

3. PUBLIC COMMENT

5 speakers

4. APPROVAL OF MINUTES

a. Regular meeting of June 22, 2022.

Motion to approve Regular Meeting Minutes of June 22, 2022
Moved/Second (Levine/Leftwich) **Motion Carried by general consent.**

b. Special meeting of June 29, 2022.

Motion to approve Special Meeting Minutes of June 29, 2022

Moved/Second (Moore/Leftwich) **Motion Carried by general consent.**

5. CHAIR AND BOARD MEMBERS' REPORTS

Chair Chang reported: Thanks to DPA Lee for her service.

Vice Chair Mizell elaborated on his comments to Council last night regarding their revisions to Policy 311.6, warrantless searches of probationers and parolees.

6. DIRECTOR OF POLICE ACCOUNTABILITY'S REPORT

The Interim Director reported:

-- Supplemental materials from Councilmembers on Policy 311.6 were posted as supplemental materials for today's PAB agenda.

-- One new complaint filed since the last meeting. Planning to bring findings & recommendations on 2 cases to the Board on July 27.

-- On Friday, the DPA and Chair Chang will be participating in an oversight and public safety round table, convened by the Mayor; other attendees are the City Manager, Police Chief, City Attorney, and BPA president.

-- Other than the round table, DPA will be on vacation afternoon of July 14 and all of July 15.

-- National Night Out is on August 2nd; Board members should consider going out to various neighborhood gatherings to publicize the PAB.

-- Think about having a special meeting Sept. 7 in lieu of your regular meeting Sept. 13, due to NACOLE Conference Sept. 11 – 15.

-- Stray announcement in today's packet (p. 61) in midst of controlled equipment items, regarding a NACOLE seminar on analyzing body-worn camera video that two Board members and an investigator attended.

7. CHIEF OF POLICE'S REPORT

Lt. Montgomery reported on behalf of Interim Chief Louis:

-- BPD had its first meeting today with Councilmember Taplin about a ceasefire program.

8. SUBCOMMITTEE REPORTS (discussion and action)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

a. Fair & Impartial Policing Implementation – meeting to be scheduled. (Chair Calavita absent today.)

b. Director Search – consider dissolving subcommittee. Chair Levine expressed concern about the process, particularly what information is being provided to

the subcommittee, the subcommittee's involvement, and whether the Charter is being adhered to. Subcommittee should not be dissolved at this time.

- c. Regulations Subcommittee – see Item #9.a. below.
- d. Controlled Equipment Subcommittee – see Item #10.b. below.
- e. PAB Budget Subcommittee – consider dissolving subcommittee. DPA reported that the final budget Council approved includes one new position (analyst), but not the second position (a second investigator) that the DPA and PAB requested.

Motion to dissolve the PAB Budget Subcommittee

Moved/Second (Levine/Harris) **Motion Carried by general consent.**

Motion to move Item #9.a. to after Item #10.c.

Moved/Second (Ramsey/Levine) **Motion Carried by general consent.**

9. OLD BUSINESS (discussion and action)

- a. Continue reviewing draft of proposed permanent Regulations for Handling Investigations and Complaints.

Discussion postponed to a special meeting July 20.

10. NEW BUSINESS (discussion and action)

- a. Transition to permanent Director of Police Accountability; Interim Director's schedule until retirement.

Discussed; no action.

- b. Attendance at NACOLE Annual Conference (in-person) Sept. 11 – 15 in Ft. Worth, TX.

Chair Chang and Vice-chair Mizell indicated their desire and availability to attend the conference.

- c. Consider recommendations of Controlled Equipment Subcommittee regarding Policy 709, Military Equipment for transmittal to City Council.

Motion to elevate John Lindsay-Poland to panelist

Moved/Second (Mizell/Levine) **Motion Carried by general consent**

Motion to add language to 709.2, "Those uses of military equipment that are not authorized under this policy are prohibited."

Moved by Levine. Motion failed for lack of a second.

Motion to use the following language for all sections relating to pepper spray or tear gas: "Use must comply with local, state, federal laws, and BPD Special Order 2020-0007."

Moved/Second (Ramsey/Owens) **Motion Carried**

Ayes: Harris, Moore, Owens, and Ramsey.

Noes: Chang, Leftwich, Levine

Abstain: Mizell

Absent: Calavita

11. PUBLIC COMMENT

4 speakers.

12. ADJOURNMENT

Motion to adjourn the meeting.

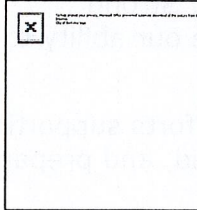
Moved/Second (Leftwich/Moore) **By general consent, the meeting was adjourned at 10:50 p.m.**

Lee, Katherine

From: City of Berkeley <news@news.berkeleyca.gov>
Sent: Friday, July 15, 2022 1:15 PM
To: Lee, Katherine
Subject: Register your National Night Out neighborhood event

July 15, 2022

[View this message as a webpage](#)



SERVICES. RESOURCES. COMMUNITY.

News from the City of Berkeley

Register your National Night Out neighborhood event

Plan your annual neighborhood gathering on August 2, 2022. Sizes may vary from just a few neighbors to events with 100 people or more. Street closures require a permit.

Help strengthen our community by organizing your neighborhood's National Night Out event Tuesday, August 2.

Each August, Berkeley neighbors come together for an evening of block parties, cookouts, and ice cream socials. Organize or attend an event, gather and get to know one another.

Staff from Police, Fire, and other departments visit events throughout the city to say hello, as well as Berkeley's elected officials.

Register your event by July 30

To host a National Night Out party in your neighborhood, register online.

Register your event online

Plan your gathering for anytime between 5:00 pm and 9:00 pm on Tuesday, August 2. No event is too small. Event sizes may range from just a few neighbors to 100 people or more. Gather for a potluck, cookout, or just a meet and greet.

Block party permits required for street closures

If you want to close your street for a National Night Out gathering, you'll need to get a [block party permit](#) from the City's Transportation Division. There is no fee for National Night Out block parties. The deadline for submitting Block Party permit applications for National Night Out is Wednesday, July 27.

[Download the application](#) and submit it by email to transportation@cityofberkeley.info.

About National Night Out

National Night Out is a nationwide effort to make communities safer by building and strengthening relationships among neighbors. Strong neighborhoods help us become more resilient and improve our ability to recover after a disaster.

National Night Out gatherings are just one of many City efforts supporting our Strategic Plan goal to create a resilient, safe, connected, and prepared city. Other steps you can take to get prepared include:

- Sign up to receive [AC Alert emergency notifications](#)
- Sign up for [local public safety alerts](#)
- Create a [household disaster plan](#)
- Subscribe to the [Community Emergency Response Team \(CERT\) email list](#) to be notified of free disaster preparedness trainings

Berkeley's National Night Out program is organized by the Berkeley Police Department Community Services Bureau.

Join or create an event to support a nationwide effort to strengthen relationships with neighbors make communities safer.

Links

- [National Night Out event registration](#)
- [Block party permit](#)
- [Block Party Activity Permit form](#)
- [2021 National Night Out Video](#)

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[Click here to subscribe](#)

[Bikeway connects north and south, protecting riders through downtown](#)

**POLICE ACCOUNTABILITY BOARD
SUBCOMMITTEES LIST
7-14-2022**

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21 Renewed 6-22-22	Calavita Chang Leftwich Owens <u>Public:</u> Kitt Saginor	Chang	Lt. Dan Montgomery
Director Search Formed 8-4-21	Levine Mizell Moore <u>Public:</u> Rivka Polatnick Marc Staton	<u>Co-chairs</u> Levine Moore	
Fair & Impartial Policing Implementation Formed 8-4-21	Calavita Moore Owens Ramsey <u>Public:</u> George Lippman Elliot Halpern	Calavita	Sgt. Peter Lee
Mental Health Response Formed 11-10-21 Scope expanded 3-9-22	Harris Levine <u>Public:</u> Elena Auerbach		Sgt. Joe LeDoux
Fixed Surveillance Cameras (Policy 351) Formed 2-9-22	Mizell Ramsey		
Controlled Equipment Use & Reporting Formed 5-11-22	Moore Ramsey	Moore	Capt. Rico Rolleri Sgt. Peter Lee Sgt. Joe LeDoux

Police Accountability Board 2022 Regular Meeting Schedule

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PAB Meeting

Note Tuesday meetings on April 26 and Oct. 25 to avoid religious holiday conflict. City Council also meets on those dates.

City Council Meeting

City Holiday

Berkeleyside

CRIME & SAFETY

BPD to review inebriated man's death after release from police custody

The Police Accountability Board has indicated plans to launch its own independent investigation.

By Emilie Raguso, Jan. 13, 2022, 4:58 p.m.

A man in his 70s died over the weekend at Alta Bates Hospital the morning after being detained by police — then released — for drinking in a restaurant's outdoor dining area and refusing to leave. The death has sparked internal and external questions about whether it might have been avoided.

The Berkeley Police Department has launched an internal review of policies that may have contributed to the man's release from custody Saturday night, less than three hours after he was detained in the outside seating area for Saul's Restaurant & Delicatessen at 1475 Shattuck Ave. (near Vine Street). The man, who was not a patron, was drinking a bottle of wine and refused to leave, BPD said.

On Wednesday night, the city's Police Accountability Board indicated plans to launch its own independent investigation into the man's death. A dozen or so members of the public addressed the board at the beginning of the meeting to urge a full review.

"If this is acceptable police policy, then this definitely needs to be changed," Kitt Saginor told the board.

Details about the incident remain limited due to the ongoing investigation, BPD said Thursday. But the department did provide a statement about what happened. Police also shared similar information during Wednesday night's Police Accountability Board meeting.

After publication, Saul's also provided information to Berkeleyside about what took place; this story has now been updated to include it.

Saul's owner Peter Levitt said the man had come into the restaurant Jan. 7, the prior night. He was unmasked and had a bottle of alcohol. The man walked past staff members who are tasked with checking vaccination status, then locked himself in the bathroom for nearly an hour. At that point, Saul's had closed for the day and staff knocked on the door to ask the man to leave, which he did, Levitt said.

On Saturday, shortly before 8:40 p.m., the man — who appeared to be inebriated — sat down at a Saul's table outside, Levitt said. He was "drinking from a bottle and hunched over."

"The manager on duty asked him to move on and he asked that we 'just call the police,'" said Levitt. "We called the non-emergency number for service."

Police arrived and spoke to the man for approximately 10 minutes, Levitt said: "Then two officers gently and slowly assisted him towards their patrol car. One officer returned with his bottle to fill it with water from the restaurant. The man sat on the curb next to the laundromat for another 10 minutes or so with the officers attending."

According to BPD, "officers considered options other than incarceration." But "they ultimately transported the man so that he could stay in a Berkeley Jail sobering cell, which allows individuals to stay a few hours" and later be released without charges.

When the man got to jail, however, authorities realized he was ineligible for entry due to what appeared to be a potentially contagious skin condition. Two or so hours later, the man was released from custody without any charges around 11 p.m.

Sunday morning, just after 5:20, officers found the man outside the back of the police station “lying near a curb on Addison Street near McKinley Street. They called the Berkeley Fire Department to check on his welfare,” BPD said.

When firefighters arrived, the man was unresponsive, BFD told Berkeleyside. He was cold to the touch but moaning, and he smelled of alcohol. Firefighters took the man to Alta Bates for treatment.

Later that day, BPD said, the Alameda County coroner’s office notified BPD that the man had died at Alta Bates.

According to the coroner’s office, the man’s body is now pending examination by pathologists. As of Thursday, that exam “has not been done yet,” the coroner’s office told Berkeleyside.

The man’s name has not been released pending family notification, the coroner’s office also said.

“This outcome is awful for all of us and for our community and no doubt for the officers involved,” Levitt told Berkeleyside.

On Wednesday night, Capt. Joe Okies, who oversees BPD patrol operations, told the Police Accountability Board that the autopsy is expected to happen within 1-2 weeks.

Okies said BPD will now review any policies related to its handling of the detention, including General Order I-15, regarding procedures related to intoxicated persons, and policy 900, related to the temporary custody of adults.

Okies told the board BPD would determine whether existing policies are adequate and also whether they were followed by those involved in Saturday night’s detention.

BPD said it would also look into “what other community resources may be helpful in similar situations.”

Members of the public told the board the man should not have been released into the cold night if he was unable to care for himself. One woman called for an independent autopsy to ensure objectivity. Others asked why BPD did not call BFD for a medical response Saturday night.

Board member Kitty Calavita asked Okies whether this appeared to be a situation where a sobering center or alternative crisis response might have been preferable to police involvement.

“This seems like a prime example of the need for that,” she said. “Would you agree?”

“I think it’s too early to tell if that’s the case or not,” Okies said. “We need to evaluate the circumstances, get all the facts of what happened — through interviews and review of body cameras and review of policy — before drawing conclusions about the right steps to move forward.”

Note: On Friday, Jan. 14, Berkeleyside added information from Saul’s to this story. According to Saul’s, the man was in their outdoor dining area, not a public parklet, when police were called. This story has been updated to remove the parklet references and include additional details from Saul’s.

Featured photo: Kaia Diringer

*Emilie Raguso is Berkeleyside’s senior editor of news.
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Phone: 510-459-8325.*