



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, September 25, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
 Kitty Calavita
 Brent Blackaby
 Alexander Mozes

Leah Wilson (Vice-Chair)
 Juliet Leftwich
 Joshua Cayetano
 David Williams

MEETING LOCATION

2020 Milvia Street, Suite 250
 Berkeley, CA 94704

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	No communications to the PAB were received.	-

HEALTH AND SAFETY PROTOCOLS FOR IN-PERSON MEETINGS OF
BERKELEY BOARDS AND COMMISSIONS

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

I. Vaccination Status

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. Health Status Precautions

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

III. Face Coverings/Mask

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. Physical Distancing

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. Protocols for Teleconference Participation by Commissioners

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

VI. Hand Washing/Sanitizing

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. Air Flow/Circulation/Sanitizing

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.

ITEM 2

SEPTEMBER 25, 2024 PAB REGULAR MEETING AGENDA



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, SEPTEMBER 25, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano
David Williams

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

PUBLIC NOTICE

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82653396072>. 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 **826 5339 6072**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGMENT

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

AGENDA

1. **CALL TO ORDER AND ROLL CALL** (2 MINUTES)
2. **APPROVAL OF AGENDA** (2 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, except confidential personnel matters.

4. **APPROVAL OF MINUTES** (5 MINUTES)
 - a. Minutes for the Regular Meeting of September 11, 2024
5. **ODPA STAFF REPORT** (10 MINUTES)

Announcements, updates, and other items.

- NACOLE election Information & Resources¹

6. **CHAIR AND BOARD MEMBERS' REPORTS** (10 MINUTES)

Announcements, updates, and other items.

7. **CHIEF OF POLICE'S REPORT** (10 MINUTES)

¹ https://www.nacole.org/nacole_election_information

Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

8. SUBCOMMITTEE REPORTS (10 MINUTES)

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

9. NEW BUSINESS (1 HOUR 22 MINUTES)

- a. BPD Presentation on ABLE Training (ODPA) – (10 Minutes)
- b. Discussion and action regarding the presentation of ODPAs Police Reviews (ODPA) – (30 Minutes)
 - i. 2023-PR-0001 (15 Minutes)
 - ii. 2023-PR-0002 (15 Minutes)
- c. Discussion and action regarding the Citygate Associates, LLC Workload Organizational Study of the Berkeley Police Department and the PAB's potential response to the report (ODPA) – (15 Minutes)
- d. Discussion and action on the Budget & Metrics Subcommittee's proposed PAB metrics (15 Minutes) – (Blackaby & Wilson)
- e. Discussion and action regarding the appointment of Board Members to present PAB reports to the City Council (ODPA) - (5 Minutes)
 - i. "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board" set for October 1, 2024
 - ii. "Police Accountability Board Report: Fair and Impartial Implementation" set for October 15, 2024
- f. Discussion and action on the proposal to relocate the PAB's regular meetings back to the North Berkeley Senior Center (Leftwich) – (5 Minutes)
- g. Assign a delegate for NACOLE 2024 Conference Elections (ODPA) - (2 Minutes)

10. 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, except confidential personnel matters.

11. CLOSED SESSION

CLOSED SESSION ITEMS

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPa:
 - i. 2023-CI-0016
 - ii. 2024-CI-0003
 - iii. 2024-CI-0004
 - iv. 2024-CI-0010
 - v. 2024-CI-0012
 - vi. 2024-CI-0025

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

13. ADJOURNMENT (1 MINUTE)

Off Agenda Reports

- 1. Legislative Updates Relevant to the PAB's Work

Communications Disclaimer

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records 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:

1947 Center Street, 5th Floor, Berkeley, CA 94704

TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

Website: <https://berkeleyca.gov/safety-health/police-accountability>

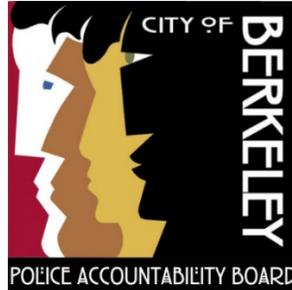
Email: dpa@berkeleyca.gov

NOTICE OF TEMPORARY LOCATION

Please note that the ODPa is currently operating from a temporary location at **2020 Milvia Street, Suite 250, Berkeley, CA**. For in-person visits, appointments are strongly encouraged and can be made by calling our main line. Mail can still be received at 1947 Center Street.

ITEM 4

MINUTES FOR THE REGULAR MEETING OF SEPTEMBER 11, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
WEDNESDAY, SEPTEMBER 11, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano
David Williams

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

Meeting Recording: <https://youtu.be/NvJujekyLw?si=H5pKLTm3sDXqwzdo>

MINUTES

1. CALL TO ORDER AND ROLL CALL

Present: Board Member John Moore (Chair)
Board Member Leah Wilson (Vice-Chair)
Board Member Brent Blackaby
Board Member Kitty Calavita
Board Member Joshua Cayetano
Board Member Juliet Leftwich
Board Member Alexander Mozes
Board Member David Williams

Absent: None.

ODPA Staff: Hansel Aguilar, Director of Police Accountability
Jose Murillo, Policy Analyst
Jayson Wechter, Investigator
Keegan Horton, Investigator
Dr. Dela Morris, Administrative Analyst

BPD Staff: Deputy Chief Tate
Lt. Montgomery
CAO Staff: DCA Hylas
CMO Staff: Dr. Carianna Arredondo, Assistant to the City Manager
Rex Brown, DEI Officer

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Calavita/Blackaby) Motion carried.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Mozes, Moore, Wilson, and Williams

Noes: None. Abstain: None. Absent: None.

3. PUBLIC COMMENT

0 Physical Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES

- a. Minutes for the Regular Meeting of July 24, 2024

Motion to approve the Regular Meeting of July 24, 2024

Moved/Second (Leftwich/Calavita) Motion carried.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Mozes, Moore, Wilson, and Williams

Noes: None. Abstain: None. Absent: None.

5. ODPa STAFF REPORT

Director Aguilar provided updates on staffing, the ODPa's new office location, Use of Force Community input sessions, participation at the NOBLE conference, and upcoming reports to the City Council. He also brings to the PAB's attention the BART Office of the Independent Police Auditor's (OIPA) efforts for greater independence and their call for community support.¹

Dr. Arredondo updated the PAB on the Fall 2024 Reimagine Safety Report, set for October 29 at a special meeting. She also noted the SCU assessment won't be complete until Spring 2025. Community members can now review Task Force archives².

¹ Sample letter provided by BART OIPA: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/Support%20of%20OIPA%20Motion%20Letter%20Final.pdf>

² Reimagining Public Safety Task Force Reports: <https://berkeleyca.gov/your-government/boards-commissions/reimagining-public-safety-task-force>

DEI Officer Brown will meet with the new city manager next week, and the DEI webpage is being updated with liaison contacts.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore informed the Board that he and Director Aguilar attended the NOBLE Conference, gaining valuable insights and meeting the creators of ABLE. He committed to keeping the Board informed about ABLE and ensuring Berkeley's representation at future conferences.

7. CHIEF OF POLICE'S REPORT

Deputy Chief Tate reports on notable crimes, cases, and other items of interest to the PAB, and addresses their questions.

8. SUBCOMMITTEE REPORTS

Subcommittees report on their activities, including updates from the Fair and Impartial Policing, Policies and Practices, Policy Review, and Budget and Metrics subcommittees.

9. NEW BUSINESS

- a. Discussion and action on the status of the PAB and ODPa Regulations for Handling Investigations and Complaints (Calavita)

Motion to consider alternates for conflict of interest complaints during a hearing or immediately following a hearing for Board members that may have financial or personal connections to a complainant.

Moved/Second (Calavita/Blackaby) **Motion Withdrawn after deliberation.**

- b. Discussion and action on the Operation and Processes Subcommittee's recommendations for changes in the PAB's Policy Review Process (Wilson)

No action taken.

- c. Discussion and action regarding the 2025 PAB Strategic Planning Session (ODPA)

No action taken.

- d. Discussion and action regarding Citygate Associates, LLC Workload Organizational Study of the Berkeley Police Department³ (ODPA)

No action taken. ODPAs staff to provide additional analysis.

- e. Discussion and action regarding the City Manager’s Off-Agenda Reports to City Council⁴:

- i. City Manager Report: Specialized Care Unit (SCU) Program Update (ODPA)

No action taken.

- ii. City Manager Report: Fixed Automated License Plate Reader Deployment Plan (ODPA)

No action taken.

10. PUBLIC COMMENT

0 Physical Present Speaker(s)

0 Virtually Present Speaker(s)

11. CLOSED SESSION

CLOSED SESSION ITEMS

Pursuant to the Court’s order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002-057569, the Board will recess into closed session to discuss and act on the following matter(s):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPAs:

i. 2023-CI-0012	v. 2024-CI-0004
ii. 2023-CI-0014	vi. 2024-CI-0009
iii. 2023-CI-0016	vii. 2024-CI-0011
iv. 2024-CI-0003	viii. 2024-CI-0012

³ To read the full report, please visit:
<https://berkeleyca.gov/sites/default/files/documents/Berkeley%20Workload%20Organizational%20Study%20of%20the%20Police%20Department%20%2809-04-24%29.pdf>

⁴ This item is submitted for the full Board's consideration, should they decide to convey their position to the Council via a letter, in accordance with [Section VI.C.1. of the Berkeley Commissioner’s Manual](#). These reports discuss matters that are relevant to the Board and directly connected to ongoing discussions or previous recommendations.

Motion to accept staff recommendations in ODPa Case 2024-CI-0011.

Moved/Second (Wilson/Mozes) Motion carried.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Mozes, Moore, Wilson, and Williams

Noes: None. Abstain: None. Absent: None.

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announces the closed session actions.

13. ADJOURNMENT

Motion to adjourn. Moved/Second (Wilson/Leftwich) The meeting was adjourned at 9:16 PM by unanimous consent.

-

ITEM 8

LIST OF PAB SUBCOMMITTEES



SUBCOMMITTEES LIST

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21 Renewed 6-7-2023	Calavita Leftwich <u>Public members:</u> Kitt Saginor	N/A	Lt. Dan Montgomery
Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 6-7-2023	Calavita Wilson <u>Public members:</u> George Lippman	Calavita	Sgt. Peter Lee
Surveillance Technology Policy Formed 6-7-2023	Calavita Moore	N/A	N/A
Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22	Calavita Moore	Calavita	N/A
Body-Worn Camera Policy Formed 03-15-23	Leftwich Cayetano	Leftwich	Cpt. Okies Lt. Cummings
Conflict of Interest Formed 03-29-23	Leftwich Wilson	Leftwich	N/A
Unnamed – Policy Complaint 2023-PR-0003 Formed June 21, 2023	Wilson [Vacant]	Wilson	N/A

Updated on 9/5/2024

Policy Reviews Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Lexipol Review"	Leftwich Cayetano Mozes <u>Public members:</u> Kitt Saginor	Leftwich	Deputy Chief Tate Sgt. Speelman
Budget & Metrics Formed 11-08-2023 Scope Expanded 03-02-2024	Wilson Blackaby	N/A	N/A
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Moore Blackaby	N/A	N/A
Off-Duty Conduct	Cayetano Leftwich	N/A	Lt. Rittenhouse
Operations & Processes Formed 03-02-2024	Wilson Mozes	TBD	TBD

LIAISON LIST¹

Liaison Name	Assignment
Cayetano	Represent the PAB in the EIS Request for Proposal Process

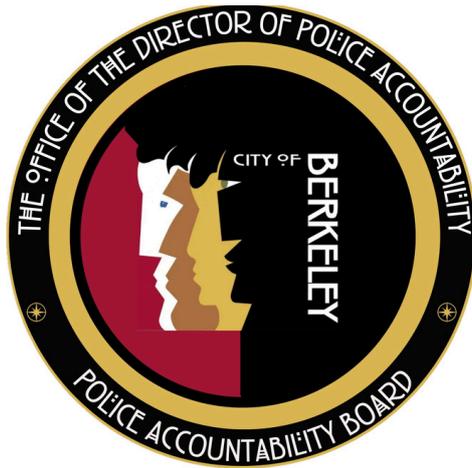
POLICY COMPLAINTS ASSIGNED TO INDIVIDUAL BOARD MEMBERS²

Policy Review Number	Assigned Board Member
2023-PR-0006	Chair Moore
2024-PR-0003	Chair Moore

¹ Liaison list does not include topics that were originally assigned to a Board Member but later assigned to a subcommittee.
² This list does not include policy complaints that were originally assigned to an individual Board Member but later assigned to a subcommittee.

Item 9.b.i

Policy Review Report 2023-PR-0001



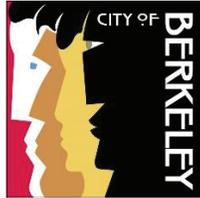
POLICY REVIEW REPORT

ODPA No. 2023-PR-0001

Prepared by:

Office of the Director of
Police Accountability

Presented to the PAB on
September 25, 2024



MAYOR

Jesse Arreguín

CITY COUNCIL

Rashi Kesarwani, District 1
Terry Taplin, District 2
Ben Bartlett, District 3
Igor Tregub, District 4

Sophie Hahn, District 5
Susan Wengraf, District 6
Cecilia Lunaparra, District 7
Mark Humbert, District 8

City Manager

Paul Buddenhagen, City Manager

Berkeley Police Department

Jennifer Louis, Chief of Police

POLICE ACCOUNTABILITY BOARD (PAB) MEMBERS

John "Chip" Moore, Chair
Leah Wilson, Vice-Chair
Brent Blackaby
Kitty Calavita
Joshua Cayetano
Juliet Leftwich
Alexander Mozes
David Williams

OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY (ODPA) STAFF

Hansel Alejandro Aguilar, Director of Police Accountability
Jose De Jesus Murillo, Policy Analyst
Jayson Wechter, Investigator
Keegan Horton, Investigator
Melanie E. Beasley, Administrative Analyst
Lucky, Therapy Animal

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Executive Summary:

This report provides an assessment of the Complainant's request for a policy review regarding officer unavailability during scheduled Police Accountability Board (PAB) hearings. The evaluation includes a thorough review of the Berkeley City Charter, Berkeley Police Department (BPD) Policies 1010 and 1034, PAB Interim Regulations, and the Berkeley Workload Organizational Study, as well as relevant civilian oversight literature, to ensure that the assessment is consistent with established policy and procedural guidelines.

The findings indicate that the delays in Complainant's case were primarily due to operational challenges rather than policy deficiencies. However, this report notes that BPD Policy 1010 lacks provisions requiring officers to prioritize participation in PAB hearings, which could potentially contribute to scheduling conflicts and delays in the complaint resolution process. Additionally, BPD Policy 1034, which governs internal review mechanisms, is not fully aligned with external oversight procedures, further complicating the coordination between the internal Complaint Review Board and the PAB.

The report also highlights the resource constraints faced by both the Office of the Director of Police Accountability (ODPA) and the PAB, which have been exacerbated by the transition from the Police Review Commission (PRC) to the current civilian oversight structure under Measure II. While some progress has been made, such as securing funding for an additional investigator, the workload continues to strain available resources, leading to delays in scheduling hearings and processing complaints.

To address these challenges, the report recommends amending the Berkeley City Charter to extend the investigation and discipline timeframe to 365 days, consistent with the California Government Code and other oversight agencies. This would require a Charter amendment and a meet and confer process with the Berkeley Police Association (BPA) to update the existing Memorandum of Understanding (MOU). Additionally, improving scheduling protocols, enhancing communication tools, and increasing resource allocation for the ODPA and PAB are critical steps to streamline operations and ensure timely resolutions of complaints.

By implementing these recommendations, the City of Berkeley can strengthen its police oversight mechanisms, ensuring that both officers and complainants receive fair and timely outcomes, while restoring public confidence in the accountability process.

Introduction

Background

Complainant's original complaint stems from an incident where she alleged mistreatment by Berkeley Police Department (BPD) officers, which led her to seek recourse through ODPA and the Police Accountability Board (PAB). However, due to a series of delays—both within the PAB and BPD—the case was not heard in time, and the statutory deadline expired.

On February 14, 2023ⁱ, Complainant filed a policy complaint (see Appendix A- Amended Policy Complaint) after the PAB failed to schedule a hearing within the statutory limits due to officer unavailability and staffing changes. This report evaluates the complaint within the framework of BPD Policies 1010 and 1034, the PAB's interim regulations, and relevant Berkeley Charter sections.

Objectives

Section 125(17)(A) of the Berkeley City Charter states that the PAB “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 a police officer.”¹

The objectives of this policy review are:

1. To assess the procedural inefficiencies in Complainant’s case.
2. To evaluate BPD policies and PAB procedures.
3. To recommend amendments that enhance officer availability and prevent future delays.

Methodology

This report included a content review of the following regulations:

- Review of BPD Policies 1010 and 1034
- Review of the Police Accountability Board's Interim Regulations.
- Evaluation of relevant documents including the Berkeley Charter, Berkeley Police Workload Organizational Study, NACOLE civilian oversight reports, and California Government Code Section 3304.
- Analysis of policy gaps related to officer availability and complaint resolution timelines.

Additionally, it was complemented by literature review on topics of relevance to include:

- Police accountability,
- BPD workload study report, and
- National standards and guidelines on effective police practices

Literature Review: from local to national

Berkeley experience

Since the restructuring of the civilian oversight system from the Police Review Commission (PRC) to the PAB and the ODPa through Measure II, the workload and complexity of oversight tasks have increased significantly. The new structure aims to strengthen accountability mechanisms, but it has also created substantial operational challenges. The expanded scope of responsibilities for both the ODPa and the PAB necessitates more resources to effectively manage complaints, conduct investigations, and schedule oversight hearings in a timely manner.

Over the past two years, the ODPa has consistently requested to the Berkeley City Council additional resources to support its work, and while some requests have been met, more is still required. For example, since the filing of the current complaint, the ODPa has secured additional funding to hire an investigator, which has alleviated some of the pressure on the investigative unit. This additional capacity allows for a more manageable workload, ensuring that investigations

¹ Berkeley City Charter Section 125(17)(A): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

proceed without undue delay. However, despite this progress, the increased volume of complaints and the complexity of the cases that the PAB must address continue to strain the available resources (ODPA Memo- Budget Requests for ODPAPAB Operations for FY 2025-2026).

One logistical challenge that has exacerbated delays is the lack of tolling provisions during the transition from the previous oversight model to the current one. There was no pause or freeze on the cases during the organizational restructuring, which led to backlogs and delays in case processing. Furthermore, during the pendency of some investigations, the ODPAPAB investigator was on leave, and without applicable tolling provisions, investigations were further delayed. These gaps in the oversight framework highlight the need for additional administrative and operational support to ensure that complaints and investigations are handled efficiently and fairly (ODPA Memo- Budget Requests for ODPAPAB Operations for FY 2025-2026).

To address these ongoing challenges, the ODPAPAB has submitted a request for additional resources to the Berkeley City Council, including increased personnel and operational support. This includes funding for more administrative staff to handle the workload and streamline the investigative processes, as well as technology enhancements to support case management and scheduling. These measures are essential to improving the responsiveness of the PAB and ODPAPAB, ensuring that they can meet their mandate to provide timely oversight of the BPD while maintaining public trust in the process (ODPA Memo- Budget Requests for ODPAPAB Operations for FY 2025-2026).

The Citygate Berkeley Police Department Workload Organizational Study (2024) primarily analyzes resource allocation and workload distribution within the BPD. The report underscores the need for more administrative support, particularly for handling the department's workload related to coordination with oversight bodies like the PAB and the ODPAPAB. While the report does not mention oversight hearings specifically, it points out the strain on administrative resources when managing complex external engagements and the general workload of the department (Citygate Associates, 2024).

The Citygate report emphasizes the need to streamline administrative tasks to allow officers to focus on operational responsibilities. By alleviating some of the administrative burdens related to external oversight and complaint processes, the department can ensure more timely responses to civilian complaints. This is particularly relevant in contexts where officer availability is crucial, as delays in internal processes may impact the speed at which investigations and responses are coordinated between BPD and oversight bodies.

Additionally, Citygate recommends the use of technology-based solutions, such as automated systems, to improve coordination across BPD's various functions. This recommendation, although focused on internal efficiency, could also help with the logistical coordination between officers and oversight bodies, reducing delays in processes where officer participation is required (Citygate Associates, 2024).

California experience

Across California, civilian oversight agencies operate with diverse policies regarding investigation timeframes, many of which adhere to the California Government Code Section 3304, part of the Public Safety Officers Procedural Bill of Rights (POBR). This law mandates a 365-day investigation period for resolving complaints against law enforcement officers, providing sufficient time for thorough investigations while balancing officers' procedural rights.

Several major oversight bodies in California, including the Los Angeles Board of Police Commissioners and San Francisco Department of Police Accountability, follow the 365-day

timeframe established in the Government Code. These agencies have structured their procedures to comply with state standards, ensuring consistency in how investigations and discipline are administered across jurisdictions. The alignment with this one-year period facilitates effective oversight while also safeguarding public trust by preventing prolonged delays in the investigative process. However, investigation timeframes across the state can vary, with some oversight bodies adopting unique timelines. For example, Oakland’s Community Police Review Agency (CPRA) generally follows the 365-day standard but incorporates tolling provisions for complex cases where delays are unavoidable due to external factors, such as officer unavailability.

In addition to these varied timeframes, access to police department records significantly impacts the investigative process. Some jurisdictions, such as Los Angeles, Oakland and San Francisco, have more direct access to police department records, including body-worn camera footage and internal reports, which facilitates timely investigations. On the other hand, agencies like ODPa may encounter delays due to limited access to such records. The complexity of obtaining essential information, combined with resource constraints and procedural bottlenecks, can hinder the ability to meet investigation deadlines, even when a 365-day standard is in place.

National landscape

National Association for Civilian Oversight of Law Enforcement (NACOLE)

The NACOLE Report on Civilian Oversight (2020) focuses on how civilian oversight agencies function and the challenges they face in maintaining transparency and fairness. One key finding is the effect of workload imbalances on the efficiency of oversight bodies. NACOLE points out that when oversight agencies are understaffed or overloaded, the timely processing of complaints and investigations is compromised. Although this report does not explicitly discuss officer unavailability, it suggests that issues such as delayed hearings or investigations stem from a lack of administrative capacity and resources within oversight agencies (De Angelis, Rosenthal, & Buchner, 2020).

The report also emphasizes the importance of having dedicated administrative liaisons who can facilitate communication between oversight bodies and police departments, ensuring smoother collaboration and reducing delays in officer participation during investigations. NACOLE advocates for flexible scheduling options, including virtual hearings, to address conflicts arising from officer workloads and operational duties. This flexibility, the report argues, is essential to maintaining the integrity of the oversight process without overwhelming police departments or delaying investigations unnecessarily (De Angelis et al., 2020).

Moreover, NACOLE stresses the critical role of public transparency in oversight processes. Agencies like the PAB must ensure that their complaint processes are not only efficient but also open to public scrutiny. The report warns that excessive delays in the resolution of complaints can damage public trust and undermine the purpose of civilian oversight. As such, the report advocates for improved procedural efficiency to prevent delays, including administrative reforms that allow oversight agencies to process complaints more swiftly and ensure officers are available to participate in the required procedures (De Angelis et al., 2020).

International Association of Chiefs of Police (IACP)

The International Association of Chiefs of Police (IACP) document on internal affairs emphasizes the importance of accountability and transparency in handling internal investigations. The document does not discuss oversight hearings directly but focuses on ensuring that internal

affairs investigations are conducted efficiently, with an emphasis on reducing delays that can undermine the effectiveness of the process (IACP, 2019).

According to the IACP, police departments must establish clear internal policies that prioritize timely investigations. These policies should ensure that officers are available for internal investigations and that any delays are properly managed. The report suggests that adopting automated case management systems could help police departments track investigations more effectively, preventing administrative bottlenecks and ensuring that cases are completed in a timely manner.

Furthermore, the IACP stresses the importance of procedural fairness in internal investigations. By maintaining transparency and ensuring that investigations are resolved within reasonable timeframes, police departments can build public trust and enhance their internal accountability systems. Although the IACP does not specifically address officer unavailability, its emphasis on clear timelines and the use of technology to streamline investigations is relevant to improving the efficiency of police departments when responding to oversight processes (IACP, 2019).

U.S. Department of Justice (DOJ)

The Department of Justice (DOJ) Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice (2009) primarily addresses the internal investigative processes within law enforcement agencies. The report emphasizes the importance of timeliness and thoroughness in conducting internal investigations to maintain public trust and the credibility of the accountability process. Although the document does not discuss external oversight or civilian oversight boards like the PAB, its recommendations on ensuring effective internal affairs processes are relevant to managing officer accountability (DOJ, 2009).

The DOJ stresses the need for law enforcement agencies to establish clear timelines for completing internal investigations and to ensure timely officer participation in these processes. It recommends the use of technology solutions, such as automated tracking systems, to prevent delays and manage complex investigative timelines efficiently. While this guidance is tailored to internal affairs, the emphasis on timeliness and the use of technology to avoid delays can be applied to external oversight processes as well.

The report also underscores the importance of proactive communication throughout the investigation. Departments must keep all involved parties informed of key dates and procedural requirements to minimize delays caused by miscommunication or scheduling conflicts. Although focused on internal investigations, these best practices could help improve the efficiency of external oversight processes by ensuring that officers and other parties remain informed and engaged throughout the investigation (DOJ, 2009).

Policy Overview

California Government Code

The California Government Code Section 3304 outlines the procedural rights afforded to law enforcement officers during administrative investigations, commonly referred to as part of the Public Safety Officers Procedural Bill of Rights. This statute requires compliance with specific procedural safeguards, such as providing notice of investigations and granting officers the right to representation. While these protections are essential for ensuring officers' due process, they can

also lead to delays in the oversight process when hearings must be rescheduled to accommodate officer requests (California Government Code, 2023).

The statute underscores the need for oversight bodies to develop procedural flexibility in handling officer availability while still meeting the statutory timelines for resolving civilian complaints. By creating a system that respects the rights of officers while ensuring that investigations proceed in a timely manner, the potential for delays caused by Section 3304's provisions can be minimized.

Berkeley Charter Section 125:

Berkeley Charter Section 125 establishes the authority of the PAB to investigate complaints and conduct hearings. However, while it outlines the PAB's powers, this section does not provide specific procedures for managing officer unavailability during investigations or hearings. The lack of clear directives here mirrors the gaps seen in other procedural documents governing oversight and accountability.

This section confers broad investigative powers to the PAB, but the absence of procedures for handling officer unavailability can result in delayed hearings and unresolved complaints. Since the charter grants the PAB investigative authority, it must also address the practical challenges of coordinating officer participation. Without such guidelines, the effectiveness of the PAB's mandate is compromised.

The inclusion of specific provisions within Section 125 to manage scheduling conflicts could significantly improve the efficiency of the PAB's investigations. By providing clear expectations for officer participation and outlining the steps to be taken when officers are unavailable, the PAB can better fulfill its mandate of holding officers accountable in a timely manner.

PAB and ODPa Interim Regulations:

The PAB Interim Regulations establish a 240-day timeline for investigating complaints and conducting oversight hearings, emphasizing the importance of maintaining procedural efficiency and fairness. Section F.2 of the regulations governs the scheduling of hearings, ensuring that all parties are given the opportunity to participate within the set timeframe. While the regulations themselves do not explicitly address how to manage officer unavailability, they are designed to allow flexibility in scheduling without extending the investigation period unnecessarily.

Additionally, under the California Government Code, certain tolling provisions apply when officers are unavailable for specific reasons, such as being on medical leave or under criminal investigation. These tolling provisions allow for the temporary suspension of the investigation timeline in certain situations, thus preventing the 240-day window from closing prematurely. The PAB Interim Regulations do not explicitly incorporate these provisions, but they are relevant in cases where officer unavailability may impact the investigation or hearing schedule.

Since the filing of this complaint, the ODPa has taken steps to systematize its screening for applicable tolling provisions under the Government Code. This ensures that when such provisions apply—whether due to officer unavailability, medical leave, or other legal scenarios—the investigation timeline can be adjusted appropriately. This recent improvement allows the ODPa to more effectively manage its caseload while ensuring that all investigations and hearings are completed within statutory guidelines, with appropriate adjustments made for extenuating

circumstances. This systematization further supports procedural fairness and the timely resolution of complaints.

Berkeley Police Association (BPA) Memorandum of Understanding (MOU):

The Memorandum of Understanding (MOU) between the City of Berkeley and the Berkeley Police Association (BPA) (2023-2026) outlines key provisions related to officers' work conditions, compensation, and procedural rights. The MOU contains detailed agreements regarding time off, overtime, and shift trade allowances, which are aimed at ensuring officers' operational readiness and work-life balance. However, it does not specifically address officers' participation in PAB hearings or other civilian oversight processes.

The MOU provides flexibility for officers to swap shifts and utilize overtime or compensatory time off, but these provisions are focused on managing general work schedules and duties within the BPD. There are no explicit references in the MOU regarding officer unavailability for oversight hearings or other external review mechanisms. As such, while these provisions ensure officers have avenues for managing their workloads, they do not provide guidance on how these benefits may intersect with the scheduling needs of oversight processes.

The absence of language addressing PAB hearings highlights the potential need for further collaboration between the BPD, the BPA, and oversight bodies like the PAB to establish protocols for officer participation in external hearings. These protocols would ensure that the rights and responsibilities outlined in the MOU are balanced with the requirements for timely and transparent participation in civilian oversight processes.

BPD Policies

1010 "Personnel Complaints":

BPD Policy 1010 addresses the handling of personnel complaints, but its provisions are focused largely on internal procedures rather than external civilian oversight hearings such as those conducted by the PAB. While the policy mentions the role of the Internal Affairs Bureau (IAB) in investigating both internal and external complaints, it does not provide explicit guidelines or requirements for officer availability in PAB hearings. This creates a potential gap in ensuring timely officer participation in external oversight processes.

Furthermore, Policy 1010 includes procedures related to the Board of Review, which handles internal complaints following investigations by IAB. This internal mechanism, however, is separate from the PAB's public hearings, which are intended to provide external civilian oversight. The absence of a policy mandate for officers to prioritize attendance at PAB hearings can lead to delays, particularly when officers invoke operational duties or scheduling conflicts to postpone their participation.

To address this gap, Policy 1010 should be updated to specifically require officers to make themselves available for PAB hearings. This would align the department's internal procedures with the external oversight process, ensuring that complaints brought before the PAB are resolved efficiently without unnecessary delays caused by officer unavailability.

1034 "Complaint Review Board":

BPD Policy 10134 establishes the Complaint Review Board, also referred to as the Board of Review, which is responsible for examining investigations conducted by IAB. This Board handles internal reviews of personnel complaints, including those initiated by external sources

such as the PAB. However, the Complaint Review Board focuses on internal accountability processes, distinct from the public-facing hearings conducted by the PAB.

The Complaint Review Board includes several key figures from within the department, such as the Deputy Chief, an IAB Sergeant, and representatives from the subject officer's labor group. This internal composition contrasts with the more public and independent nature of PAB hearings. The Board of Review has the authority to make findings and recommendations to the Chief of Police, but these recommendations remain within the internal review structure of the department.

While Policy 1034 governs internal complaint resolution, it does not address the coordination or alignment with PAB hearings. This presents a gap in ensuring that officers are equally accountable in both internal and external processes. Updating Policy 1034 to clarify the relationship between the Board of Review and the PAB could improve the department's overall approach to complaint resolution, ensuring that officers are available for both internal and external reviews in a timely manner.

Findings

Officer Unavailability:

One critical issue identified in this review is the absence of provisions in BPD Policy 1010.7.3 ensuring that officers make themselves available for PAB hearings. The policy outlines general responsibilities for officers during investigations but does not specifically address their participation in external oversight processes like PAB hearings. This lack of clear guidelines contributed to significant delays in Complainant's case, as officers were not required to prioritize availability for PAB-related proceedings. The gap in Policy 1010 creates procedural inefficiencies, impacting the timely resolution of complaints.

Board of Review and BPD Policy 1034:

BPD Policy 1034, which governs the Complaint Review Board (also referred to as the Board of Review), is another key policy that lacks integration with PAB procedures. While Policy 1034 details internal procedures for reviewing complaints after investigations, it does not address the coordination between internal review processes and external civilian oversight through the PAB. This has created a disconnect between the Complaint Review Board's internal reviews and the PAB's external hearings. Revising Policy 1034 to ensure alignment between internal and external accountability processes could address inefficiencies, ensuring that officers are available for both internal and external hearings as required.

Workload and Resource Constraints (BPD, ODP, and PAB):

The Berkeley Workload Organizational Study (2024) highlights the workload challenges within the BPD, but these issues extend to the ODP and the PAB as well. The transition from the PRC to the PAB and ODP, prompted by Measure II, has increased the complexity and volume of work required from these oversight bodies. The ODP has requested additional resources to meet the growing demands of its work, and while some support has been granted, such as the addition of a new investigator, the office remains under-resourced.

The ODP and the PAB face ongoing resource constraints that can affect their ability to conduct timely investigations and hearings. The complexity of cases, coupled with the lack of

sufficient staffing and administrative support, has led to delays in the complaint resolution process. Since the filing of Complainant's complaint, the ODPa has secured funding for an additional investigator, which has alleviated some of the strain on the investigative unit, but this is not enough to address the broader workload issues facing the office and the board. Additional administrative and operational support is needed to ensure that investigations can be handled more efficiently, and to allow the PAB to function effectively without overburdening its limited resources.

Procedural Timelines:

The PAB Interim Regulations establish a 240-day timeline for the completion of investigations and the scheduling of hearings. However, meeting this timeline has proven challenging due to scheduling conflicts and officer availability. According to the regulations, the timeline is only tolled if officers are on leave for more than 14 days, which does not account for other valid reasons for officer unavailability during the investigation process. The limited flexibility of the tolling provisions can result in delays when officers are unavailable for shorter periods, further complicating the ability of the PAB to complete investigations within the required timeframe.

Government Code and Tolling Provisions:

The California Government Code provides tolling provisions for officer unavailability in specific scenarios, such as medical leave or criminal investigations. Since the filing of this complaint, the ODPa has improved its internal processes to screen for applicable tolling provisions more systematically. These tolling provisions help ensure that investigations and hearings are not unfairly delayed when certain extenuating circumstances apply. However, these measures were not in place at the time of Complainant's case, contributing to the delays experienced. Systematizing these tolling procedures has since improved the timeliness and fairness of ODPa investigations.

Analysis

Complainant's policy complaint reveals significant procedural gaps in the management of PAB hearings and officer availability. One of the primary issues identified is the lack of provisions in BPD Policy 1010 that ensure officers make themselves available for PAB hearings. Although BPD Policy 1010 outlines general responsibilities for officers during investigations, it does not address officer participation in external oversight processes, leaving a critical gap in ensuring timely and mandatory attendance at PAB hearings. This gap contributed to delays in Complainant's case, illustrating the need for policy updates that mandate officer availability for civilian oversight hearings.

The PAB Interim Regulations set a 240-day timeline for completing investigations and scheduling hearings, but these regulations offer limited flexibility in accommodating officer availability. While the Government Code provides tolling provisions for certain scenarios, such as medical leave, these provisions were not fully systematized by the ODPa at the time of Complainant's case. This further compounded the delays, as the investigation timeline was not adjusted appropriately. However, since then, the ODPa has improved its internal processes to screen for applicable tolling provisions, ensuring that investigations are not unnecessarily delayed by legitimate officer unavailability. Despite these improvements, the limited flexibility of the interim regulations still poses a challenge for meeting procedural deadlines when officers are unavailable for other reasons.

The Berkeley Workload Organizational Study (2024) underscores the impact of resource constraints on both the BPD and the ODP. The report highlights how the restructuring of Berkeley’s civilian oversight system, prompted by Measure II, has increased the complexity and volume of work for the PAB and ODP. While the ODP has received additional funding to hire an investigator, the overall resource allocation remains insufficient to handle the growing caseload effectively. Delays in Complainant’s case were partly due to these workload and resource constraints, which continue to impact the ability of both BPD and the ODP to manage complaints and investigations in a timely manner.

Furthermore, NACOLE’s report on civilian oversight emphasizes the importance of maintaining timely, accessible, and fair complaint processes. The lack of clear scheduling policies in BPD Policy 1010 and the PAB Interim Regulations undermines public trust in the accountability process by allowing procedural delays to occur. Delays in resolving complaints can erode public confidence, as the perception of inefficiency weakens the effectiveness of oversight bodies like the PAB. Without additional resources and clear scheduling policies, both BPD and ODP will continue to struggle with managing the increasing workload, resulting in further delays in the complaint process.

In conclusion, Complainant’s complaint highlights the need for policy revisions and additional resources to support timely and efficient oversight. BPD Policy 1010 should be updated to ensure officers prioritize attendance at PAB hearings, and the PAB Interim Regulations should be reviewed to provide greater flexibility for managing officer availability. Addressing these procedural gaps, along with securing adequate resources for the ODP and PAB, is essential for maintaining public trust and ensuring the fairness and effectiveness of Berkeley’s police accountability system.

Recommendations:

Amend BPD Policy 1010.7.3 “Investigation Within the Division”:

BPD Policy 1010.7.3 should be amended to explicitly require officers to make good faith efforts to participate in PAB hearings. This includes establishing clear guidelines that prioritize officer attendance at PAB hearings, even during work hours, with provisions allowing for time off when necessary. By addressing the current gap in officer participation, BPD can ensure that external oversight by the PAB is not delayed by unavailability, leading to more timely complaint resolutions and increased public trust in the oversight process.

Revise BPD Policy 1034 “Complaint Review Board”:

BPD Policy 1034, which governs the Complaint Review Board, should be revised to better align internal review processes with external oversight conducted by the PAB. Currently, Policy 1034 is focused solely on internal accountability, with no coordination with external civilian oversight bodies like the PAB. Updating Policy 1034 to ensure that the internal Complaint Review Board and PAB hearings are integrated would help streamline the accountability process, ensuring that officers are available for both internal and external reviews without causing unnecessary delays. This alignment would also ensure that both internal and external oversight processes are synchronized, reducing duplication and inefficiencies.

Amend Berkeley City Charter for Investigation and Discipline Timeframe:

The Berkeley City Charter should be amended to extend the investigation and discipline timeframe to 365 days (one year) in order to align with the California Government Code and other

oversight agencies across the state. This change would ensure that the timeframe for completing investigations and imposing discipline is consistent with state standards, providing adequate time for thorough investigations and reducing the likelihood of procedural delays.

Implementing this adjustment would require a charter amendment rather than changes to the PAB Interim Regulations. Additionally, this process would necessitate a meet and confer with the BPA to update the existing MOU. The meet and confer process would address any concerns related to extending the timeframe and ensure that both parties agree to the new discipline and investigation period. Aligning the Charter with the Government Code would equip the PAB to manage investigations more effectively while maintaining fairness and timeliness in the oversight process

Improve Communication Protocols:

Introducing automated communication tools between the ODPa, PAB, and BPD would streamline the scheduling and notification process. These tools would enable real-time updates about officer availability, hearing dates, and other key milestones in the investigation process, reducing the risk of miscommunication or scheduling conflicts. By automating these processes, the ODPa and PAB can more efficiently manage hearings and investigations, avoiding the types of delays encountered in Complainant's case.

Increase ODPa and PAB Resources:

Given the continued resource constraints affecting both the ODPa and PAB, it is imperative to allocate additional staffing and administrative support to handle the increased workload from the restructuring under Measure II. While the addition of an investigator has helped alleviate some pressure, the office still requires more resources to ensure investigations are completed in a timely and efficient manner. Additional support staff and technological enhancements for case management and scheduling will further enable both the ODPa and PAB to meet their obligations without compromising the quality of oversight.

Conclusion

This inquiry has demonstrated that the delays and inefficiencies in Complainant's case were not primarily due to policy deficiencies but rather to significant operational challenges that hindered the timely resolution of her complaint. The lack of alignment between internal policies, like BPD Policies 1010 and 1034, and external oversight processes, along with the insufficient resources within the ODPa and the PAB, contributed to these delays. These operational gaps, exacerbated by workload constraints and resource limitations, highlight the need for structural improvements in both policy and practice.

A key area for improvement lies in reducing or streamlining the administrative workload to alleviate pressure on both BPD and ODPa staff. Currently, the resource limitations and the lack of dedicated support personnel make it difficult for officers to prioritize participation in oversight hearings. Additionally, the scheduling of hearings within the 240-day timeframe, while mandated by the PAB Interim Regulations, has proven difficult to meet under the current operational setup. By adopting technological solutions—such as automated scheduling systems and real-time communication tools—the department can improve coordination between the PAB, ODPa, and BPD, ultimately reducing delays and minimizing procedural bottlenecks.

Moreover, the broader structural issues identified, such as the need for a Charter amendment to extend the investigation and discipline timeframe to 365 days, further underscore the complexity of the current oversight process. The integration of Government Code standards and improved coordination between internal review mechanisms, as outlined in BPD Policy 1034, and the PAB hearings is critical for achieving a more efficient and transparent accountability system.

In conclusion, addressing these operational inefficiencies through a combination of policy revisions, technological enhancements, and resource allocation will significantly improve the department's responsiveness and procedural effectiveness. These changes will ensure that both internal and external oversight processes function more seamlessly, restoring public confidence in the accountability mechanisms and ensuring that complainants like Complainant receive timely and just outcomes.

Next Steps

To address the challenges identified in this review and implement the recommendations, the following next steps are proposed:

1. Consider exploring an amendment to the Berkeley City Charter: Initiate the process to amend the Berkeley City Charter to extend the investigation and discipline timeframe from 240 days to 365 days. This amendment will align Berkeley's oversight practices with the California Government Code and other oversight agencies across the state, ensuring a more consistent and manageable timeline for investigations and disciplinary actions. This will require collaboration with the City Council to introduce and pass the amendment.
2. Consider revising BPD Policies 1010 and 1034: Amend BPD Policy 1010 to explicitly require officers to prioritize participation in PAB hearings, ensuring their availability without causing unnecessary delays in the oversight process. Additionally, BPD Policy 1034 should be revised to better integrate the internal Complaint Review Board with the external PAB process, aligning internal and external accountability mechanisms.
3. Improve Scheduling and Communication Protocols: Develop and implement automated scheduling systems and communication tools to streamline the coordination of PAB hearings and officer participation. These systems will reduce administrative bottlenecks and prevent delays caused by miscommunication or scheduling conflicts, ensuring that hearings are conducted within the required timeframe.
4. Seek an allocation of Additional Resources to the ODPa and PAB: Secure additional funding and staffing for the ODPa and the PAB to alleviate the current resource constraints. This includes hiring more administrative and investigative personnel to handle the increased workload and reduce delays in processing complaints and scheduling hearings.
5. Monitor and Adjust Tolling Procedures: Continue to monitor and apply the tolling provisions to ensure that investigations are not unfairly delayed when officers are unavailable for legitimate reasons. Regular reviews of these procedures will help maintain the balance between procedural fairness and timely case resolution.
6. Public Engagement and Communication: Increase public transparency by communicating these changes and improvements to the broader community. This will include public updates on the progress of Charter amendments, policy revisions, and operational

improvements, ensuring that the community remains informed and confident in the effectiveness of the accountability processes.

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Police Accountability Board and Office of the Director of Police Accountability Interim Regulations for Handling Complaints Against Sworn Officers of the Police Department

https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA.Interim.Reggs_.Approved.2021-10-05.pdf

Appendices

Appendix A- Amended Policy Complaint



POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

1947 Center Street, 5th Floor, Berkeley, CA 94704

Web: www.cityofberkeley.info/dpa

E-mail: dpa@cityofberkeley.info

Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received: _____

DPA Case # _____

1

Name of Complainant: _____
Last First Middle

Mailing Address: _____
Street City State Zip

Primary Phone: () _____ Alt Phone: () _____

E-mail address: _____

Occupation: Retired Gender: F Age: 78

Ethnicity: Asian Black/African-American Caucasian
 Latino/Hispanic Multiethnic: _____ Other: Bengladeshi

2

Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.

See attached.

3

Location of Incident (if applicable) _____

Date & Time of Incident (if applicable) _____

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

See attached.

6-24-21

4

What changes to BPD policy, practice, or procedure do you propose?

See attached.

5

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

Relevant documents include DPA complaint #21, which the Board and OPDA have access to, but that I will not formally attach in order to comply with POBRA. In particular, the date of the incident, the complaint, and the transcribed interviews are all relevant.

6

CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.

[Redacted Signature]
Signature of Complainant

2/14/23
Date

7

How did you hear about the Director of Police Accountability or Police Accountability Board?

- Internet
Berkeley Police Dept.
Newspaper:
Referred by:
[X] Other:

6-24-21

I. BPD POLICIES AT ISSUE

I am asking the Board to review BPD policy 1010, which establishes the procedure for officer complaints and details officer responsibility during complaint processes.

§ 1010.7.3 deals with complaints to the Police Accountability Board in particular. It states, in full:

1010.7.3 COMPLAINTS TO THE POLICE ACCOUNTABILITY BOARD

Complaints made to the Police Accountability Board shall also be investigated by IAB as "external complaints."

(a) As directed by the City Manager, the requirement to testify before the Police Accountability Board shall not apply to non-sworn Parking personnel affiliated with the Investigations Division.

1. Personnel falling within the provisions of this exempted classification, however, shall fully cooperate with all aspects of external/internal personnel complaint investigations conducted by IAB and/or other designated Departmental staff.

Nowhere in § 1010.7.3, nor anywhere else in Policy 1010, is a process established for communicating with the PAB established. There is also no instruction for Berkeley Police Officers instructed to comply with PAB investigations.

II. STATEMENT OF FACTS

This policy review request is the result of DPA Complaint #21. As this board is aware, the complainant filed a complaint with the ODPa after suffering harm at the hands of two BPD officers. That complaint resulted from an incident at my apartment complex, where the complainant called the police for help after being physically attacked by my neighbors and their family. The police arrived and spoke with the other family first. By the time they spoke to the complainant, they had already made up their minds about what happened. The officers interrupted the complainant when she told her story, they called her a liar, and they threatened to arrest the complainant and put her in jail. The complainant is a 78-year-old woman from Bangladesh and both of these officers were much larger.

Because those officers treated the complainant so poorly when she called for help, I turned to the police accountability process. By no fault of her own, the investigation of her complaint took so long that the PAB was unable to schedule a hearing within the prescribed time. ODPa did schedule a hearing for December 16, 2022, but the hearing was cancelled the week before because the PAB was unable to staff the hearing and the involved officers were unable to attend. During a meeting in early January of 2022, ODPa gave reasons for the delay, which include the change in leadership of ODPa, scarce availability of the officers involved, and the PAB's inability to fully staff a hearing within the statutorily required time.

As a result of the delay, the complainant was unable to access the administrative procedure that ostensibly exists to provide a form of justice for those who are mistreated by BPD officers.

III. PROPOSED CHANGES TO BPD POLICIES

One of the reasons cited by ODPa for running the statute of limitations was scarce availability of the involved officers. In fact, the complainant was informed that one of the reasons that the December 16, 2022, hearing was cancelled was that the involved officer(s) were unable to attend.

With that in mind, we propose that the Board recommend an amendment to Policy 1010.7.3 that establishes an officer responsibility to be available for PAB hearings. We propose that BPD allow officers time off for hearings that happen during work hours. We also propose that BPD include a policy requiring officers make good faith efforts to comply and cooperate in a timely way with the ODPa and the Board during investigation and when scheduling hearings.

Appendix B- Original Policy Complaint



POLICY COMPLAINT FORM
Office of the Director of Police Accountability (DPA)
1947 Center Street, 5th Floor, Berkeley, CA 94704
Web: www.cityofberkeley.info/dpa
E-mail: dpa@cityofberkeley.info
Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received:
January 27, 2023

DPA Case # 2023-PR-0001

1

Name of Complainant: [Redacted]
Last First Middle
Mailing Address: [Redacted]
Street City State Zip
Primary Phone: () [Redacted] Alt Phone: () [Redacted]
E-mail address: [Redacted]
Occupation: Retired Gender: F Age: 78
Ethnicity: Asian Black/African-American Caucasian
 Latino/Hispanic Multiethnic: _____ Other: Bengladeshi

2

Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.

See attached.

3

Location of incident (if applicable) _____

Date & Time of Incident (if applicable) _____

Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.

See attached.

4

What changes to BPD policy, practice, or procedure do you propose?

See attached.

5

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

Relevant documents include DPA complaint #21, which the Board and OPDA have access to, but that I will not formally attach in order to comply with POBRA. In particular, the date of the incident, the complaint, and the transcribed interviews are all relevant.

6

CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.

Signature of Complainant

1/25/23

Date

7

How did you hear about the Director of Police Accountability or Police Accountability Board?

- Internet
Berkeley Police Dept.
Newspaper:
Referred by:
Other: (checked)

RESPONSE TO QUESTION 2:

I am asking the PAB to review Art. II § M of their own regulations and Art. XVIII § 125(18)(d)-(e) and (i) of the Berkeley City Charter. These sections of the regulations and the charter establish the required timeline for ODPa investigations and PAB hearings.

- Charter § 125(18)(d) and Regulation Art. II § M (1) establish that the time limit for investigations and notification of discipline is 240 days from “the date of the City’s discovery of alleged misconduct unless a Government Code section 3304(d) exception applies.”
- Regulation Art. II § M (3) establishes that the time limit may be tolled for any office unavailability due to a leave of absence longer than 14 days.

RESPONSE TO QUESTION 3:

This policy review request is the result of DPA Complaint #21. As this board is aware, I filed a complaint with the ODPa after suffering harm at the hands of two BPD officers. That complaint resulted from an incident at my apartment complex, where I called the police for help after being physically attacked by my neighbors and their family. The police arrived and spoke with the family first. By the time they spoke to me, they had already made up their minds about what happened. The officers interrupted me when I told my story, they called me a liar, and they threatened to arrest me and put me in jail. I am a 78 year old woman from Bangladesh and both of these officers were much larger than me.

Because those officers treated me so poorly when I needed help, I turned to the police accountability process for help. By no fault of my own, the investigation of my complaint took so long that the PAB was unable to schedule a hearing within the prescribed time. The reasons I have been given for the delay include the change in leadership of ODPa, scarce officer availability, and the PAB’s inability to fully staff a hearing within the statutorily required time. As a result, I was unable to access the administrative procedure that ostensibly exists to provide a form of justice for those who are mistreated by BPD officers.

RESPONSE TO QUESTION 4:

I propose that the PAB create the following exceptions for the prescribed timeline:

- (1) An exception for error or undue delay on the part of the ODPAs;
- (2) An exception for officer unavailability that does not require that the officer is on a leave of absence lasting longer than 14 days; and
- (3) An exception for PAB member unavailability to attend a scheduled hearing such delay exists

Appendix C- Memorandum by Maddie Driscoll, Berkeley Law Police Review Project

Memorandum

TO: Berkeley Police Accountability Board, Office of the Director of Police
Accountability

FROM: Maddie Driscoll, Berkeley Law Police Review Project
(mldriscoll14@berkeley.edu)

DATE: February 14, 2023

RE: Regulations pertaining to the timeline for complaints

I. Purpose

As this Board knows, DPA Complaint #21 was dismissed without a hearing after the statute of limitations ran on the complaint. This Board asked the complainant to file a policy complaint. The complainant submitted an Amended Policy Complaint to the ODPA on February 14, 2023, to address BPD Policy 1010. Policy 1010 governs officer responsibilities during the complaint and hearing process.

In this case, however, the Board's own regulations must also be examined. The primary reason the statute of limitations ran is because of ODPA and this Board, not because of poor BPD policies. Because there is no formal process for people to submit complaints about the Board's regulations, this memorandum highlights the regulation that we urge you to examine and our proposals for improvement.

II. PAB Regulation Article II § M

The regulation at issue is Article II § M of the most recent PAB regulations, published on November 11, 2022. § M reads, in full, as follows:

Time limits; extensions; tolling.

1. Overall limit. The time limit for investigations and notification of discipline is 240 days from the date of the City's discovery of alleged misconduct unless a Government Code section 3304(d) exception applies.
2. Other time limits. The deadlines for the Director to complete an investigation, present investigative findings to the Board, submit findings and recommendations to the Chief of Police, or request that the Chief submit a tentative decision to the City Manager; as well as

deadlines for the Chief to act on findings and recommendations from the Director or Hearing Panel, and for the City Manager or their designee to make a final decision, are advisory, and may be adjusted by the Director after consulting with the City Manager and Chief, to ensure that all investigations and notifications are completed within 240 days. The timeline for completing an investigation shall not be extended beyond 195 days.

3. Tolling. If a subject officer is unavailable for an interview with ODPa staff or to attend a confidential personnel hearing due to any leave of absence, the 240- day time limit for complaint investigation and notification of discipline under Section 18(d) of Article XVIII of the City Charter shall be tolled pending availability of the officer. This provision shall apply only when the subject officer's leave of absence exceeds 14 consecutive days.

§§ M (1) and (3) are restatements of time limits contained within the City Charter. As this Board is aware, and as I mentioned during my public comment at the public PAB meeting on February 8, 2023, the Board does not have the power to amend those restrictions. The Board can, however, amend § M (2), since that regulation is independent from any City Charter requirement. Per Article VI of the Board's regulations, it has the power to amend its own regulations and submit amendments for ratification by City Council.

§ M (2) establishes that the deadline for ODPa investigation is 195 days after the city's discovery of misconduct. The stated purpose of this provision is "to ensure that all investigations and notifications are completed within 240 days." The regulation does not mention any other deadlines, timelines, or establish any other responsibilities for ODPa or this Board.

III. PAB Regulation Article II § M should include a more detailed timeline that establishes greater PAB oversight

Because the PAB is unable to change or amend the City Charter, which establishes inequitable statute of limitations exceptions, we must, as Board Member Owens stated at the most recent PAB meeting, come up with creative solutions. Establishing a more detailed complaint and investigation timeline that includes greater PAB oversight is a step toward ensuring that no complainant is put in this situation again.

Establishing a more detailed timeline would create more accountability. Rather than allowing 195 days to complete the investigation, the timeline should detail the amount of days to reach out to witnesses, to conduct interviews, and to reach out to BPD for more

information. Of course, sometimes those deadlines will need to be extended; investigations are variable and the amount of other work varies. Even still, having those deadlines will keep the complaint on the minds and the calendars of ODPa staff members.

There also need to be deadlines for scheduling hearings. A large part of the reason DPA Complaint #21 went unheard was because the officers and a full PAB board were unable to attend the scheduled December 16 hearing. The regulations should require that the scheduling process begin at least 45 days before the **statute** of limitations deadline and that the hearing itself be scheduled at least 21 days before the deadline. That way, there would be enough time to reschedule after cancellation or sudden unavailability.

Greater PAB oversight would ensure that these deadlines are followed. This oversight need not be extreme. Checking in at the established deadlines, asking for an update about the status of each complaint at PAB meetings, and maintaining a log of the status of each complaint may be enough. Even that minimal oversight would put more eyes on the complaints and ensure that they are progressing in a timely manner.

Director Aguilar and ODPa staff members Thomas, Murillo, and Martinez have helped so many harmed people. It is evident to us, and I'm sure to the PAB as well, that they care deeply about this work and about ensuring that complainants feel heard. It is troublesome that, in *spite* of that care, a complaint slipped through the cracks. There needs to be more formal guidelines to ensure that something like that does not happen again.

IV. The PAB should establish a procedure for complaints about its own process

In the current PAB regulations, there is no established procedure for filing a complaint about the PAB regulations or PAB actions. This is an oversight that should be corrected.

Just this year, there have been two complainants that have been dissatisfied with the PAB hearing process. DPA Complainant #20 spoke during the public comment portion of the PAB meeting on January 11, 2023, about feeling unheard during her hearing. DPA Complainant #21, about whom this memorandum specifically relates, was unable to access her hearing. When those complainants have attempted to raise concerns about PAB regulations or actions, procedural confusion has resulted.

Even my organization, the Berkeley Law Police Review Project, has been unsure how to go about raising complaints. We started by raising public comments, meeting with PAB members, and eventually wrote an explanatory memorandum. It was not confirmed that submitting a memorandum was an acceptable way of communicating with the PAB until a meeting with PAB Chief John Moore and ODPa staff on January 18, 2023. Going into this year, our group and our members had at least some familiarity and institutional knowledge

about how the PAB works and, because of that, we were able to figure out the best way to be heard. Many people, including the complainants mentioned above, have no idea where to start.

Currently, the only publicized system for people to voice complaints with the PAB is through public comment at PAB meetings. This is an inadequate forum. Some complainants might feel uncomfortable sharing their experiences with Berkeley police officers, especially when the meetings soon transition to an in-person format. Moreover, the three-minute comments are not the most effective format for complaints. There is no guarantee that the PAB will seriously review and consider complaints brought to their attention during the comment period. There is also no guarantee that Board members will respond to the complaint during their meetings, as happened after DPA Complainant #20 made her public comment.¹

Establishing a more formal process would not be difficult. The PAB can adapt the policy complaint form it uses for BPD policy complaints and include information about the process for submitting a complaint on its website. Any required amendment to the regulations would likely have no trouble passing, for this proposal implicates no other interest group. The PAB should also establish a process for reviewing those complaints and discussing the ones it deems necessary to discuss.

V. CONCLUSION

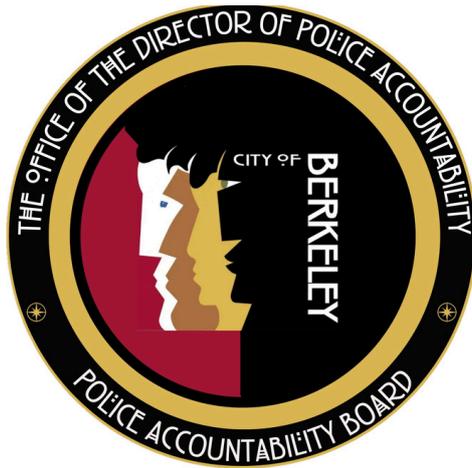
These proposals will make the PAB more accountable to the people that it serves. If you have any questions or would like to discuss further, I am happy to meet or correspond about either of these proposals. Thank you for your time and attention.

¹ To their credit, ODPA staff reached out to Complainant #20 after her public comment and addressed her concerns. It is important to remember, though, that this only happened *after* she attended the meeting and made her public comment – something that she was very anxious to do. An established complaint procedure would fix the confusion surrounding the process.

ⁱ The ODPa and PAB take all complaints seriously and strive to conduct thorough and accurate reviews within a reasonable time frame. However, the completion of this particular policy review was delayed due to unforeseen challenges, including vacancies on the Police Accountability Board and personnel shortages within the Office of the Director of Police Accountability. These staffing limitations hindered the timely completion of the review process, despite the ODPa’s ongoing commitment to upholding accountability and ensuring a thorough investigation. Efforts to address these resource constraints are ongoing to prevent future delays and to ensure that all complaints are handled in a timely and efficient manner.

Item 9.b.ii

Policy Review Report 2023-PR-0002



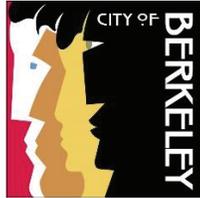
POLICY REVIEW REPORT

ODPA No. 2023-PR-0002

Prepared by:

Office of the Director of
Police Accountability

Presented to the PAB on
September 25, 2024



MAYOR

Jesse Arreguín

CITY COUNCIL

Rashi Kesarwani, District 1
Terry Taplin, District 2
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Igor Tregub, District 4

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Susan Wengraf, District 6
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City Manager

Paul Buddenhagen, City Manager

Berkeley Police Department

Jennifer Louis, Chief of Police

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David Williams

OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY (ODPA) STAFF

Hansel Alejandro Aguilar, Director of Police Accountability
Jose De Jesus Murillo, Policy Analyst
Jayson Wechter, Investigator
Keegan Horton, Investigator
Melanie E. Beasley, Administrative Analyst
Lucky, Therapy Animal

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Executive Summary:

This policy review was initiated by a public complaint regarding the Berkeley Police Department's (BPD) lack of response to emails sent to their general account, an issue of considerable significance as this account often serves as the first point of contact for community members. In accordance with Section 125(17)(A) of the Berkeley City Charter, which allows the Police Accountability Board (PAB) to review policies at the request of the public, the PAB delegated this review to the Office of the Director of Police Accountability (ODPA).

The complainant expressed concern that the absence of timely responses from the BPD undermines community trust. In response, the ODPA undertook a comprehensive investigation that included data collection and a literature review to identify effective solutions for enhancing community engagement. The findings revealed that while the BPD is facing challenges with an overloaded email system, it is currently providing a level of service that exceeds that of many neighboring agencies.

The objective of policy review 2023-PR-0002 is to evaluate the BPD's email response practices in comparison to other agencies and to recommend strategies that can optimize communication and improve overall service to Berkeley residents and stakeholders. By addressing these operational inefficiencies, the BPD can enhance its responsiveness and foster greater public trust in the long term.

Introduction

Background

On April 11, 2023¹, the ODPA received a completed policy complaint form and additional attachments via email at dpa@cityofberkeley.info. The complaint concerns the BPD not responding to emails sent to police@cityofberkeley.info. The complainant reported that the BPD had not replied to emails sent on March 22 and March 24, 2023, with the subject lines "Was a Tenant Activist Murdered?" and "Property Manager Engages in Assault and Battery." See Appendix 1 for the completed complaint form and Appendix 2 for the referenced emails.

Specifically, the complainant sent two emails to the BPD on March 22 and March 24, 2023. At the time of filing the complaint, twenty days had elapsed since the first email and twenty-two days since the second email. The first email sought the BPD's views on a statement regarding the death of a tenant in the complainant's complex, which the complainant believed occurred under unusual circumstances, and concluded with the complainant expressing fear for his life. The second email reported that a tenant in the complainant's building had been "physically attacked" by the property manager, an incident that had been reported to the BPD, but it did not include any specific actions or information request. On April 21, 2023, ODPA staff contacted the complainant, who reported that while the issues raised in his email had been partially addressed, he still wanted to proceed with a review of the BPD's policy on email response times.

The complaint was submitted to the PAB on April 26, 2023. The complainant was not present during the PAB's discussions and could not provide further context. However, ODPA staff informed the PAB that they had contacted the complainant on April 21, and the complainant stated that while the issues in the emails had been addressed, the primary intent of the policy complaint was to highlight the BPD's lack of response. Based on the available information, the PAB decided

to request that ODPA staff conduct additional inquiries before making a formal decision to accept or reject the policy complaint.

Objectives

Section 125(17)(A) of the Berkeley City Charter states that the PAB “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 a police officer.”¹ In this context, policy review 2023-PR-0002 requested that the PAB examine the BPD’s policies and practices regarding email responses to the public. The objective of this review is to assess how the BPD’s approach aligns with those of other agencies and to identify practices that can enhance the department’s email communications and better serve Berkeley residents and community stakeholders.

Methodology

To achieve the objectives of the policy, practices, and procedures review aimed at assessing the BPD’s communication with the public concerning email responses in comparison to other Alameda County agencies, the ODPA conducted a landscape analysis focused on how law enforcement agencies throughout the county respond to public inquiries sent to their general email accounts. While agencies within the county may not all serve as proper comparators for statistical and policy recommendations, our aim in this case was to identify practices from a diverse range of department sizes serving different communities to uncover any approaches that could be applicable in the Berkeley context. This review was grounded by existing literature addressing these issues in government and or specifically in policing. The literature review included a review of academic articles, industry reports, and government publications. This was conducted to establish a foundational understanding of prevailing themes and best practices.

For this review, the ODPA used several methods:

1. Content review- the ODPA requested and reviewed several exhibits that provided insight to practices and policies relevant to the topic at hand
 - a. Records Request: A request was submitted to the BPD seeking information about their email monitoring practices, relevant policies, and activity reports. See Appendix 3.
2. Statistical analysis- as part of its review, the ODPA conducted internal statistical analysis by requesting email activity reports from the BPD and also conducted a cursory comparative analysis.
 - a. Internal data- the ODPA calculated descriptive statistics on the amount of email traffic received in the BPD general inbox.
 - b. External data- the ODPA made inquiries and conducted desk research by collecting data from external entities. Emails were sent to the general email accounts of Alameda County law enforcement agencies, with inquiries regarding how frequently the account is monitored, who monitors it, and how emails are prioritized. This approach also tested the presence of automated

¹ Berkeley City Charter Section 125(17)(A): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

responses to allow for a comparison with the BPD's practices. See Appendix 4 for the inquiry sent to the Alameda County law enforcement agencies.

Literature Review: Police Agency Communication and Operational Efficiency

The Berkeley Police Department's (BPD) communication challenges, particularly its email management and response time, reflect a broader issue faced by many law enforcement agencies in managing public inquiries. Effective communication, especially in non-emergency scenarios, is essential to maintaining public trust and ensuring that community concerns are addressed promptly.

Police Agency Communication with the Public

Public trust in law enforcement is significantly influenced by the quality and responsiveness of communication between police agencies and the communities they serve. Community policing models, which emphasize collaboration and open lines of communication with the public, are critical for maintaining transparency and building legitimacy (Tyler, 2004). Effective communication fosters trust, encourages public engagement, and improves police-community relations. Law enforcement agencies, including the BPD, often struggle to balance efficient communication with operational constraints, particularly in dealing with high volumes of public inquiries.

Research by Mazerolle, Bennett, Davis, Sargeant, and Manning (2013) emphasizes that procedural justice—including fairness, respectful treatment, and giving citizens a voice during interactions with police—is crucial in shaping public perceptions of police legitimacy. Procedural justice is especially impactful in direct interactions between police and the public, as citizens who perceive the police as acting fairly and respectfully are more likely to view them as legitimate, regardless of the outcome of the encounter.

For the specific importance of timely and transparent communication, research by Schafer, Huebner, and Bynum (2003) highlights that clear and prompt communication by police agencies plays a significant role in shaping public satisfaction with police services. Delays or unclear responses, particularly in non-emergency interactions, can lead to negative public perceptions, demonstrating the importance of responsive and transparent communication practices in maintaining public trust.

Automated Responses in Government Communication

Automated email responses are a common tool used by government agencies to acknowledge the receipt of inquiries and manage public expectations. However, as shown in the BPD's automated reply system, generic responses may not adequately address the needs of community members who seek immediate answers.

Moon (2002) emphasizes that while automated systems can improve operational efficiency, they often do not deliver the level of engagement or responsiveness the public expects. Moon's research on e-government highlights the importance of automation in managing public inquiries but stresses that these systems must offer actionable and relevant information to maintain public trust. In the BPD's case, improving the substance of automated responses, such as providing clear guidance to other resources or specific contact points, could enhance public satisfaction.

Emerging technologies such as artificial intelligence (AI) have shown promise in improving communication efficiency within government agencies. AI systems can be employed to triage public inquiries, identifying those that require urgent attention and routing them to the appropriate department or individual (Gasser & Almeida, 2017). In law enforcement contexts, this could reduce the administrative burden on personnel while ensuring that important public communications are not overlooked.

Operational Challenges in Law Enforcement Email Management

Law enforcement agencies, including the BPD, face significant operational challenges in managing public inquiries due to the high volume of irrelevant or non-urgent emails. These operational inefficiencies are exacerbated by staffing constraints and the allocation of personnel to non-core duties, which reduces the agency's capacity to respond promptly.

Paoline and Terrill (2005) explore how police officers are often tasked with administrative duties, such as managing email communications, which detract from their core policing responsibilities. This is especially relevant to the BPD, where a large number of marketing-related emails prevents staff from addressing legitimate community concerns. Effective workload management and reassignment of non-policing tasks can significantly improve operational efficiency.

Dabbish and Kraut (2006) highlight how employees in public sector organizations often face email overload, which can hinder their ability to address important communications promptly. The research emphasizes the importance of email filtering systems to prioritize relevant messages and reduce the time spent managing irrelevant communications. For law enforcement agencies, such as the BPD, implementing such systems could significantly improve the handling of community inquiries.

Policy Overview

Current Policy, Practices, Procedures

Policy 204.3 outlines the protocol for checking email correspondence, stipulating that the designated email address must be monitored at least twice daily, ideally at the beginning and end of each shift. The urgency of responses is determined by the content of the email.

The email address police@berkeleyca.gov is actively monitored by members of the Community Services Bureau (CSB) within the Operations Division. The personnel responsible for overseeing this email account include the Lieutenant, Sergeant, Area Coordinators (currently three officers in special assignments), and the Community Service Officer (CSO), who serves as the primary monitor of the account. The CSO will respond to emails within their area of expertise; if they are unable to provide a sufficient response, they will forward the inquiry to the most appropriate member of the police department for follow-up. Every email sent to police@berkeleyca.gov receives the following automatic response:

Thank you for your inquiry with the City of Berkeley Police Department. Your inquiry is very important to us, and our responses are prioritized based on their significance. Please note that this email account is not monitored 24 hours a day. To report emergencies, please dial 911 (or program 510-981-5911 on your cell phone). For non-emergencies, please call (510) 981-5900. For more information

about services provided by the Berkeley Police Department, please visit:
<https://linktr.ee/berkeleypoliceca>.

Findings

The following section outlines key findings from the records review and supporting research.

From the Records Request

The materials obtained from records requests to the BPD and the City of Berkeley's IT department have provided valuable insights. These records reveal aspects of BPD's internal operations, including how they manage their general email account and the nature of the communications received. The following key findings were identified:

Finding 1. The email address police@berkeleyca.gov is monitored by members of the Community Services Bureau (CSB) within the Operations Division, including a Lieutenant, Sergeant, three Area Coordinators (officers on special assignment), and a Community Service Officer (CSO).

Finding 2. The CSO is the primary person responsible for monitoring the email account, responding to emails within their expertise. If unable to respond, the CSO forwards the email to the appropriate police department employee.

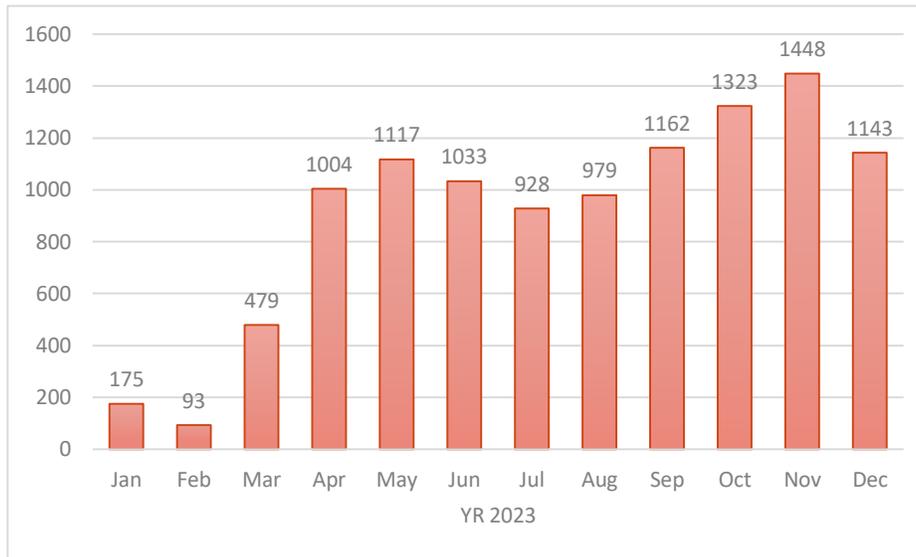
Finding 3. Every email sent to police@berkeleyca.gov receives an automatic reply, informing senders that the account is not monitored 24/7 and directing them to dial 911 for emergencies or (510) 981-5900 for non-emergencies. The response also provides a link to further information about Berkeley Police Department services. See Appendix 5.

Finding 4. Policy 204.3 required that emails accounts be checked at least twice a day, with the recommendation to do so at the beginning and end of shift.

Finding 5. The urgency of the response is determined by the factual content of the email received.

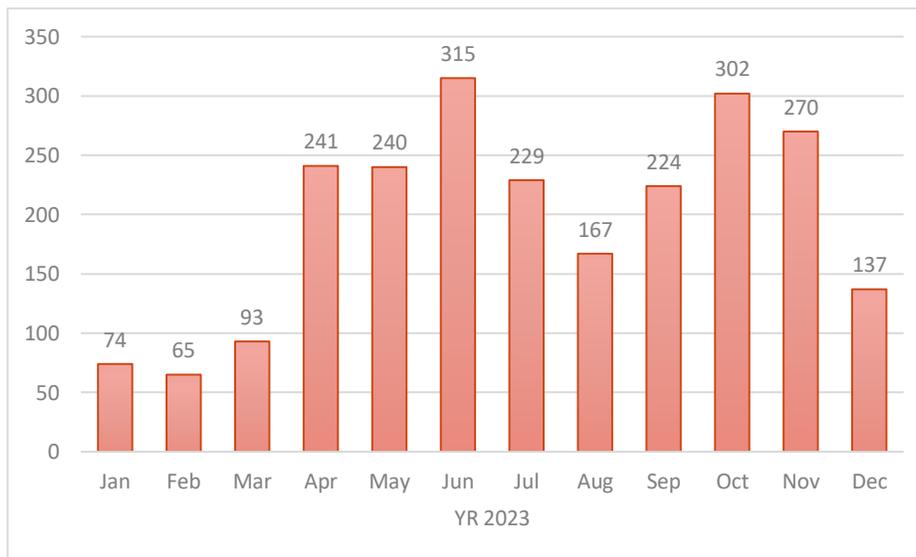
Finding 6. Between January 1, 2023, and December 31, 2023, the BPD received a total of 10,884 emails at police@berkeleyca.gov, averaging 907 emails per month or approximately 30 emails per day.

Figure 1. Emails received at police@berkeleyca.gov between January 1, 2023 and December 31, 2023.



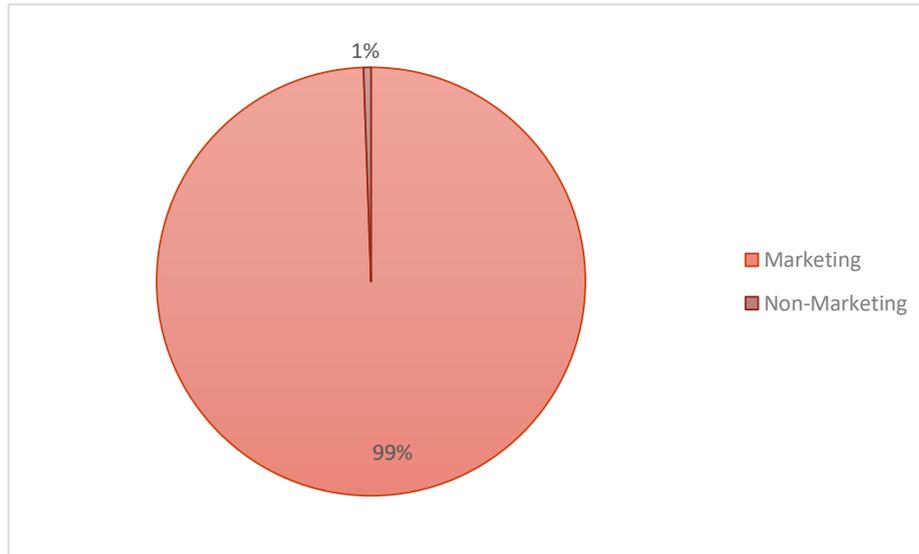
Findings 7. Between January 1, 2023, and December 31, 2023, only 2,357 of the 10,884 emails were read. This averages approximately 196 emails per month or about 6 emails per day.

Figure 2. Emails read by police@berkeleyca.gov between January 1, 2023 and December 31, 2023.



Finding 8. Out of 8,527 unread emails, there were 1,020 unique senders. A review was conducted on 250 of these unique senders, covering a total of 7,182 emails. Except for 40 emails from two members of the public, the remaining 7,142 emails were all marketing-related.

Figure 3. Percentage of Unread Emails Received at police@berkeleyca.gov from January 1, 2023, to December 31, 2023, Categorized by Marketing vs. Non-Marketing Emails.



Finding 9. A total of 477 emails were filed in a folder labeled “DELUSIONAL emails,” with 45 of those remaining unread. Of those 45 emails, 44 emails were sent by one community member.

From the Survey of Local Agencies

A landscape analysis of 17 law enforcement agencies in Alameda County was conducted to compare practices. The goal was to identify current practices and assess how the BPD’s procedures align with those of other agencies. The following key findings were made:

Finding 10. Out of the 17 agencies reviewed, only 7 (including the BPD) had an accessible general email address, while the remaining agencies provided emails for specific units or only phone numbers.

Finding 11. Among the 7 agencies with an automated reply, only the BPD and the Albany Police Department had automated replies.

Finding 12. For the remaining 5 agencies that did not have an automated reply, only the Livermore Police Department responded within 24-hours; other agencies did not respond.

Finding 13. The general email account for the Albany Police Department was monitored by the Chief of Police and two Lieutenants.

Finding 14: The general email account for the Livermore Police Department was monitored by the Administrative Assistant to the Chief of Police.

Finding 15. A workload organizational study of the BPD found that 51 of 68 respondents to an employee survey indicated that at least two hours daily were spent on collateral assignments (Citygate Associates, LLC, 2024).

Finding 16. Law enforcement agencies can utilize AI to improve their communication with the public by deploying chatbots to answer inquiries and distribute emergency information (Congressional Research Service, 2023).

Findings 17. AI systems will enable officers to engage with the public more effectively, combining knowledge with empathy (Chen, 2023). Chatbots, which have already been rated as more helpful and empathetic than human doctors, will be adapted for use by public information officers (Ayers et al., 2023).

Analysis

This policy review addresses the lack of response from the Berkeley Police Department's general email account, police@cityofberkeley.info. The use and monitoring of this account are governed by BPD Policy 204.3, "Checking Email and the Crime Forum." According to this policy, BPD employees are required to "check their email and crime forum accounts for new messages and post at least twice per duty shift." Additionally, employees must respond to emails in a timely manner when requested by the sender or when otherwise necessary or appropriate. See Appendix 6 for a copy of the complete policy.

The police@cityofberkeley.info email is primarily monitored by a CSO who reviews, responds, or forwards emails to the appropriate division with the BPD. Between January 1, 2023, and December 31, 2023, the BPD received a total of 10,884 emails at police@berkeleyca.gov, averaging 907 emails per month, or approximately 30 per day. Of these, only 2,357 emails were read, averaging 196 per month, or about 6 per day. Among the 8,527 unread emails, there were 1,020 unique senders. A review of 250 unique senders, accounting for 7,182 emails, revealed that aside from 40 emails from two members of the public, the remaining 7,142 emails were marketing-related. Indicating that a majority of correspondences received are marketing related and that BPD staff must sort through that email traffic to identify emails from community members.

All email correspondences receive an automatic reply, as shown in Appendix 5, before any substantive response is provided by the monitoring CSO or relevant staff from another division. This automatic reply informs the public that the email account is not monitored 24/7 and provides contact details for emergencies and non-emergency calls. Additionally, it includes a link to the BPD's Linktree, which offers resources such as how to report a crime, employment opportunities, instructions for submitting complaints and commendations, signing up for Nixle Alerts, accessing the Police Transparency Hub, submitting public records requests, and reviewing Policy and Training Materials. This link guides people to publicly available information that may address their inquiries. Among the 17 surveyed agencies, the BPD was the only one to include consolidated publicly available information in their automated response.

In the context of the complainant's correspondences, twenty days had passed since the first email and twenty-two days since the second email at the time the complaint was filed. After ODPa staff followed up for more information, the complainant reported that his concerns were addressed following contact from a BPD employee. Based on previously described internal operations, the BPD's general email serves as a screening mechanism, with emails forwarded to the relevant parties. Given this process, it is likely that the email was received and forwarded to the appropriate department, where it encountered delays. The 2024 Berkeley workload organizational study speaks

to the administrative strains that the BPD has encountered with staff dedicating at least two hours on collateral assignments daily (Citygate Associates, LLC, 2024).

Recommendations for Enhanced Communication and Operational Efficiency

Based on the findings from the policy review and literature, several recommendations can be made to improve the Berkeley Police Department's (BPD) email communication and management processes:

1. **Implement Email Filtering Software:** To minimize the time spent on marketing-related emails, the BPD should adopt automated email filtering software to categorize and prioritize incoming communications, ensuring that community concerns are addressed promptly.
2. **Enhance Automated Responses:** The current automatic reply should be expanded to better guide community members toward alternative contact methods for non-urgent inquiries, reducing the volume of emails requiring manual forwarding.
3. **Allocate Dedicated Administrative Support:** Establishing a dedicated administrative team or assigning additional personnel to manage email correspondence would ensure timely responses and prevent backlogs during high email traffic periods.
4. **Integrate Communication Platforms:** Integrating email monitoring with other communication platforms, such as a centralized case management system, would streamline email handling and facilitate timely tracking and escalation of concerns.
5. **Regular Review of Email Policies:** Periodic reviews of BPD Policy 204.3 are essential to ensure email management practices remain effective, including refining monitoring frequency based on staffing levels.
6. **Optimize Workload Distribution:** To alleviate administrative strain, efforts should be made to reduce collateral duties assigned to key personnel by reassigning administrative tasks to specialized staff.
7. **Leverage Artificial Intelligence for Response Triage:** Implementing AI-powered tools to assist in triaging emails can help identify high-priority matters and automatically forward them to the relevant departments, enhancing operational efficiency.
8. **Provide Ongoing Staff Training:** Regular training on email management best practices should be provided to ensure staff can handle communications effectively and escalate issues appropriately.

By implementing these recommendations, the BPD can enhance its email management processes, reduce administrative burdens, and improve its responsiveness to community inquiries.

Supporting Literature for Recommendations

The supporting literature provides a foundation for the presented recommendations, emphasizing the importance of effective communication strategies and operational efficiency in law enforcement.

- **Email Filtering Software:** Dabbish and Kraut (2006) highlight the importance of email filtering systems in reducing administrative burdens by categorizing and prioritizing incoming emails. For the BPD, adopting such technology would allow staff to focus on community concerns while minimizing the time spent sifting through marketing-related emails.
- **AI Triage Systems:** A recent report from the Congressional Research Service (2023) highlights the increasing role AI is playing in law enforcement, with a particular focus on improving communication workflows and prioritizing inquiries through automated systems. AI-powered chatbots and triage tools can handle routine questions, freeing up human officers to focus on more complex or urgent cases. Gasser and Almeida (2017) propose the use of AI-powered triage systems to assist in managing large volumes of email. These systems could help law enforcement agencies identify high-priority matters and route them to the appropriate personnel, reducing delays in responding to urgent public inquiries. Frank Chen (2023), an emerging tech expert, has also explored the potential benefits of AI in law enforcement. He points out that AI-driven communication tools are designed not only to manage inquiries efficiently but also to provide personalized responses that can help enhance public engagement and satisfaction. This goes beyond just automating replies—it is about using AI to better understand the public’s needs and ensure that their concerns are handled with greater efficiency and care. In addition, a study in *JAMA Internal Medicine* (2023) shows that AI-driven chatbots in healthcare settings were rated as more empathetic than human providers in some cases. This finding suggests that AI could similarly be applied to law enforcement communication, where chatbots or AI-based systems might improve both the speed and emotional engagement of responses to non-emergency public inquiries, thereby enhancing the public's perception of the police.
- **Dedicated Administrative Support:** PERF (2024) emphasizes that civilianization—the practice of employing administrative staff to manage non-policing tasks—can significantly enhance the operational efficiency of police departments. By assigning dedicated administrative personnel to oversee the BPD’s general email account, the department can ensure timely responses to community inquiries, allowing sworn officers to concentrate on their core responsibilities. This need for improved focus is highlighted in Citygate’s 2024 workload organizational study, which reveals a significant challenge for the BPD: many sworn personnel, especially those in supervisory roles, are tasked with numerous ancillary responsibilities, resulting in an increasing amount of time spent on administrative duties rather than their primary functions of leadership and field supervision (Citygate Associates, LLC, 2024).
- **Policy and Procedural Reviews:** Periodic reviews of email management policies, such as those outlined by the International Association of Chiefs of Police (IACP, 2014), are necessary to ensure that law enforcement agencies maintain best practices in communication. Regular updates to these policies can help ensure that the BPD’s email management practices are aligned with staffing levels and technological advancements.

Conclusion

The complainant articulated concerns regarding the BPD's delayed response to two emails submitted to its general email account and raised issues about the department's potential policies governing email communication. An examination of the policy revealed that the challenges identified stemmed from operational inefficiencies rather than a deficiency in policy. The literature review conducted as part of this analysis indicates that this issue is not unique to the BPD; numerous agencies and government bodies encounter similar challenges. To address these concerns, it is crucial to reduce or streamline the administrative workload to alleviate pressure on staff. This can be achieved through the implementation of new software solutions and operational systems designed to expedite routine tasks and optimize resource management. By addressing these operational inefficiencies, the department can enhance both its responsiveness and overall procedural effectiveness which can enhance community engagement and, over time, further strengthen public trust.

Next Steps

The following section outlines a prioritized, phased approach to implementing the recommendations based on the findings from the policy review and supporting literature. This step-by-step strategy will help the BPD improve its email communication and management processes efficiently, while balancing resource constraints and operational demands. By focusing on immediate actions, mid-term goals, and long-term improvements, the department can enhance responsiveness and reduce administrative burdens over time.

Stage 1: Immediate Implementation

1. *Enhance Automated Responses:* Expand the current automatic reply to better guide community members toward alternative contact methods for non-urgent inquiries. This can be implemented quickly with minimal resources, helping reduce manual forwarding.
2. *Provide Ongoing Staff Training:* Conduct staff training on best practices for email management and response escalation. This ensures that personnel are immediately equipped to handle communications more effectively.

Stage 2: Mid-Term Implementation

3. *Allocate Dedicated Administrative Support:* Assign additional personnel or establish a dedicated team to manage general email correspondence, particularly during high-traffic periods. This will prevent backlogs and ensure timely responses.
4. *Implement Email Filtering Software:* Deploy automated email filtering software to categorize and prioritize emails, ensuring marketing emails are minimized and community concerns are addressed more promptly. This will reduce administrative time spent on irrelevant communications.

Stage 3: Long-Term Implementation

5. *Leverage Artificial Intelligence for Response Triage:* Introduce AI-powered tools to assist in triaging incoming emails, automatically identifying high-priority matters, and forwarding them to the appropriate departments, significantly improving response times and efficiency.

6. *Integrate Communication Platforms:* Integrate email monitoring with other communication systems, such as a centralized case management system, to streamline tracking, handling, and escalation of concerns across departments.
7. *Optimize Workload Distribution:* Reassign administrative tasks from key personnel to specialized staff, reducing the strain of collateral duties and allowing officers to focus on their core responsibilities. This step can be implemented once the infrastructure for administrative support is established.

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Appendices

Appendix 1. Policy Complaint Form 2023-PR-0002 (Redacted)

		POLICY COMPLAINT FORM	
Office of the Director of Police Accountability (DPA)		1947 Center Street, 5 th Floor, Berkeley, CA 94704	
Web: www.cityofberkeley.info/dpa		E-mail: dpa@cityofberkeley.info	
Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955		DPA Case # <u>2023-PR-0002</u>	

Received by DPA
APR 11 2023
Date Received: _____

1 Name of Complainant: Last [Redacted] First [Redacted] Middle [Redacted]
Mailing Address: Street [Redacted] City [Redacted] State [Redacted] Zip [Redacted]
Primary Phone: [Redacted] Alt Phone: [Redacted]
E-mail address: [Redacted]
Occupation: [Redacted] Gender: Male Age: 63
Ethnicity: Other: Visigoth

2 Identify the Berkeley Police Department (BPD) policy or practice you would like the Police Accountability Board to review.
BPD does not respond to email sent to police@cityofberkeley.info

3 Location of Incident (if applicable) Police Headquarters
Date & Time of Incident (if applicable) March 22, 2023 to Date
Provide a factual description of the incident that forms the basis of your complaint. Be specific and include what transpired, and how the incident ended.
**BPD has not responded to emails I sent on March 22 and March 24 of 2023.
The subject lines were "Was a Tenant Activist Murdered?" and
"Property Manager Engages in Assault and Battery."**

6-24-21

4 What changes to BPD policy, practice, or procedure do you propose?

BPD should open and respond to email sent to police@cityofberkeley.info

5 Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

Copies of the emails I sent to BPD on March 22 and March 24 are attached in PDF format.

6 CERTIFICATION

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.

Signature of Complainant

04/11/2023
Date

7 How did you hear about the Director of Police Accountability or Police Accountability Board?

X Internet
Berkeley Police Dept.

Newspaper: _____

Referred by: _____

Other: _____

6-24-21

Appendix 2. Emails from Complainant to BPD (Redacted)

4/11/23, 10:00 AM

Gmail - Property Manager Engages in Assault and Battery



Property Manager Engages in Assault and Battery

1 message



Fri, Mar 24, 2023 at 12:16 PM

To: police@cityofberkeley.info



March 24, 2023

Berkeley Police Department
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704
510-981-5900
police@cityofberkeley.info

Via Email

Subject: Property Manager Engages in Assault and Battery

Dear Berkeley Police Department:

On March 23 the property manager of [REDACTED] physically attacked one of the tenants of the building. The tenant reported the incident to the Berkeley Police Department. The tenant's name is [REDACTED]. She lives in apartment [REDACTED].

Best regards,



4/11/23, 10:03 AM

Gmail - Was a Tenant Activist Murdered?



Was a Tenant Activist Murdered?

1 message

To: police@cityofberkeley.info

Wed, Mar 22, 2023 at 10:49 AM



March 22, 2023

Berkeley Police Department
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704
510-881-5900
police@cityofberkeley.info

Via Email

Subject: Was a Tenant Activist Murdered?

Dear Berkeley Police Department:

Thank you for being on the job during these difficult times.

What are your thoughts on the following statement?

A tenant of [REDACTED] who was a tenant activist recently died under unusual circumstances. His name was [REDACTED] and he lived in [REDACTED]. During the final months of his life, [REDACTED] repeatedly expressed the fear of being murdered by property management. [REDACTED] died of a heart attack. [REDACTED] was young and physically fit. [REDACTED] frequently engaged in cardio workouts. It seems questionable that [REDACTED] heart attack was due to natural causes. Perhaps [REDACTED] heart attack was caused by his being poisoned with digoxin. While [REDACTED] was alive he stated that he once came home to his apartment and found that some of his food had been tampered with. [REDACTED] threw the food away, because he believed that it had been poisoned.

Berkeley Housing Code Enforcement has levied \$6,320.00 in fines against [REDACTED] for refusing to correct housing code violations. [REDACTED] and I are the two tenants who are most responsible for the fines that have been levied against [REDACTED]

I fear for my life.

Best regards,



Appendix 3. Records Requested of the BPD

To gain further context, the ODPa contacted the BPD and requested the following records:

1. Information on Email Monitoring: The working title, sworn/un-sworn status, and division of the individual(s) responsible for monitoring or managing emails sent to police@berkeleyca.gov.
2. Policies and Procedures: Any documented policies, procedures, or guidelines outlining how email correspondences received at police@berkeleyca.gov are prioritized and handled, including the criteria used to determine response urgency and the date the policy was last updated.
3. Email Activity Report: An email activity report outlining the email activity for police@berkeleyca.gov, showing the total number of received actions and sent actions for the period of January 1, 2023 to the present. The data should be exported as an Excel .csv file.

The BPD provided records and information for request one and two while the Information and Technology Department (IT) provided the requested information for item three.

The analysis of these records and gathered information sought to identify current practices, trends, and gaps in communication between law enforcement and the community, with a particular focus on responses to public emails.

Appendix 4. BPD Automated Email Response

From: BPD Webmail
Sent: Thursday, April 27, 2023 9:55 AM
To: [REDACTED]
Subject: Automatic reply: Test

Thank you for your inquiry with the City of Berkeley Police Department. Your inquiry is very important to us and our responses are prioritized by order of importance. This email account is NOT monitored 24 hours a day.

To report Emergencies, dial **911** (Program 510-981-5911 on your cell phone).

To report Non-Emergencies, dial (510) 981-5900.

For more information about services at Berkeley PD, visit:
<https://linktr.ee/berkeleypoliceca>

Appendix 5. Survey Distributed to Alameda County Law Enforcement Agencies.

The following email was sent to agencies with a general public contact email address. Excluding the BPD, the survey included the following agencies:

- Albany Police Department
- Emeryville Police Department
- UC Berkeley Police Department
- Hayward Police Department
- Livermore Police Department
- Newark Police Department

Hello,

I hope this message finds you well. My name is Jose Murillo, and I am a Policy Analyst with the City of Berkeley's Office of the Director of Police Accountability (ODPA).

Our office is currently conducting a landscape analysis of automated email responses used by neighboring law enforcement agencies for their general email accounts. The goal of this analysis is to enhance our communication strategies with the public, ensuring we align with best practices and improve overall service.

This email is being sent to prompt an automated response from your department, if one is in place.

Additionally, it would be helpful to know the following:

- *Who monitors this email address (working title, sworn/un-sworn status)?*
- *How frequently is this email address monitored?*
- *How are email correspondences to this address prioritized?*

Thank you in advance for your assistance. Please feel free to reach out with any questions.

Best regards,

Appendix 6. BPD Policy 204 “Electronic Communication”

Policy
204

Berkeley Police Department
Law Enforcement Services Manual

Electronic Communication

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Department's electronic communication systems by employees of this department. Electronic communication is a tool available to employees to enhance efficiency in the performance of job duties and is to be used in accordance with generally accepted business practices and current law (e.g., California Public Records Act). Messages transmitted over the Department's electronic communication systems must only be those that involve official business activities or contain information essential to employees for the accomplishment of business-related tasks and/or communication directly related to the business, administrations or practices of the Department.

204.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over department networks are considered department records and therefore are department property. The Department reserves the right to access, audit or disclose, for any lawful reason, any message including any attachment that is transmitted over its email system or that is stored on any department system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the Department. Therefore, the email system is not appropriate for confidential communications. If a communication must be private, an alternative method to communicate the message should be used instead of email. Employees using the Department's email system shall have no expectation of privacy concerning communications utilizing the system.

Employees should not use personal accounts to exchange email or other information that is related to the official business of the Department.

204.3 CHECKING EMAIL AND THE CRIME FORUM

Employees shall check their email and Crime Forum accounts for new messages or posts at least two times each duty shift.

- (a) It is recommended that the accounts be checked close to the beginning and end of each shift in order to maximize the employee's exposure to new email messages and crime information.

When requested by the sender of a message, or as otherwise necessary or appropriate, employees shall respond to received email in a timely fashion.

Mis-addressed email should be sent back to the original sender with an advisement that the message was mis-addressed.

Employees may forward or re-distribute copies of email messages only when doing so fulfills a legitimate work-related purpose.

Berkeley Police Department
Law Enforcement Services Manual

Electronic Communication

204.4 PROHIBITED USE OF EMAIL

Sending email messages which are derogatory, defamatory, obscene, disrespectful, sexually suggestive, harassing or in any other way inappropriate, is prohibited and may result in discipline.

Email messages addressed to the entire department should only be used for official business related items that are of particular interest to all users. Personal advertisements are not acceptable. Email messages addressed to the entire city must be approved by the Chief of Police or City Manager.

204.5 SECURITY

It is a violation of this policy to transmit a message under another employee's name. Employees are strongly encouraged to log off the network when their computer is unattended.

Employees should protect the security of their network, email and Crime Forum accounts by regularly changing their passwords.

Employees shall not share their passwords with any other individual.

The unauthorized use, or attempted use, of another employee's password, computer files or email without that person's expressed consent is prohibited.

An employee who observes another person use a departmental communication system inappropriately shall immediately notify their supervisor, or if unavailable, the next person in their chain of command.

204.6 EMAIL RECORD MANAGEMENT

Email may, depending upon the individual content, be considered a public record under the California Public Records Act and must be managed in accordance with the established records retention schedule and in compliance with state law.

204.7 SIGNATURE BLOCK

All staff shall utilize a consistent and uniform email signature block using the following guidelines:

Line 1: Rank and Name

Line 2: Berkeley Police Department

Line 3: Name of Division, Bureau or Patrol Team the sender is a member of (just one)

Line 4: - Up to two ancillary assignments separated by a " / " (e.g., Lead Armorer / Field Training Officer)

- Non-sworn staff may use their job title/position here

Line 5: One phone number that directly connects the message recipient to the sender. This shall either be a direct desk line for people in special assignments or a work cell phone

Line 6: The five current social media links as defined by the Community Services Bureau

Berkeley Police Department
Law Enforcement Services Manual

Electronic Communication

The Berkeley PD logo may be included in the signature block.

The signature block shall be in Calibri font, size 11.

The signature block shall not include confidentiality notices, quotes or any other deviations from what is outlined above.

Example:

Officer John Smith
Berkeley Police Department
Patrol Team 2
Field Training Officer / Armorer
(510) 847-1234

Follow us on:



ⁱ The ODPa and PAB take all complaints seriously and strive to conduct thorough and accurate reviews within a reasonable time frame. However, the completion of this particular policy review was delayed due to unforeseen challenges, including vacancies on the Police Accountability Board and personnel shortages within the Office of the Director of Police Accountability. These staffing limitations hindered the timely completion of the review process, despite the ODPa's ongoing commitment to upholding accountability and ensuring a thorough investigation. Efforts to address these resource constraints are ongoing to prevent future delays and to ensure that all complaints are handled in a timely and efficient manner.

ITEM 9.C.

ODPA MEMO WITH THE SUBJECT LINE “KEY FINDINGS AND
RECOMMENDATIONS OF CITY GATE POLICE SERVICES’ REPORT TITLED
‘WORKLOAD ORGANIZATIONAL STUDY OF THE POLICE DEPARTMENT –
CITY OF BERKELEY, CALIFORNIA’



MEMORANDUM

Date: September 20, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability
Jose D. Murillo, Policy Analyst *JM* *Jo*
Subject: Key Findings and Recommendations of City Gate Police Services' Report Titled "Workload Organizational Study of the Police Department – City of Berkeley, California"

The purpose of this memorandum is to highlight key findings and recommendations from a review of the Citygate Police Services Report titled "Workload and Organizational Study of the Police Department – City of Berkeley, California" for the PAB.

Background:

The City of Berkeley retained Citygate Associates, LLC to conduct a Workload and Organizational Study of the Police Department. The study reviews staffing levels, deployment systems, beat structure, overtime, and organizational structure, along with police response times, crime data, and calls for service. It also examines alternative responses to non-police emergencies. The report offers 74 findings and 54 actionable recommendations to the Berkeley Police Department (BPD).¹

Key Findings and Recommendations:

Citygate's study identifies two key challenges for the Berkeley PD. The first challenge is maintaining emergency and needed police services commensurate to current demands. Citygate found that the Department, particularly Patrol and the Communications Center (Dispatch), suffers from staffing shortages, leading to frequent overtime and the need to reassign staff from other units. Supervisors are burdened with additional administrative tasks, detracting from their primary field duties. The Department also struggles with recruiting, hiring, and training new staff amid attrition, compounded by evolving public perceptions of law enforcement. To address this, a full-time Recruitment Officer has been

¹ Berkeley Workload Organizational Study of the Police Department (09-04-24).pdf (berkeleyca.gov): [https://berkeleyca.gov/sites/default/files/documents/Berkeley Workload Organizational Study of the Police Department %2809-04-24%29.pdf#Page=139](https://berkeleyca.gov/sites/default/files/documents/Berkeley%20Workload%20Organizational%20Study%20of%20the%20Police%20Department%2009-04-24%29.pdf#Page=139)

appointed. Additionally, staffing shortages and technical limitations hinder response efforts, impacting morale, overtime, recruitment, and retention.

The second challenge identified by Citygate is expanding non-9-1-1 services to support Berkeley's compassionate human services. Since 2021, the City has been reimagining public safety with a focus on holistic, community-centered approaches that address needs not requiring emergency response. This involves developing new programs and hiring non-sworn personnel, such as Community Service Officers (CSOs) and specialists for homelessness and mental health crises. However, these efforts face challenges in planning, recruitment, and oversight.

Citygate's 74 findings and 54 actionable recommendations offer valuable insights into the operational needs of the BPD. These recommendations are intended to serve the BPD in its efforts to achieve the following six goals:

1. Increase staffing and allocate personnel based on timely data and analysis to meet operational needs.
2. Evaluate collateral duties, particularly for supervisors, to ensure they can focus on their primary roles, while considering employee wellness and accountability.
3. Continue managing and limiting overtime use to when it's necessary.
4. Maintain strong efforts in data analysis to enhance performance and drive continuous improvement.
5. Focus on employee wellness to reduce fatigue, improve morale, and foster a healthier work environment.
6. Improve employee retention and prioritize morale to enhance service, build community trust, and motivate the workforce.

The Office of the Director of Police Accountability (ODPA) has reviewed these findings and recommendations to pinpoint areas where the PAB is either actively involved or could support the BPD. The ODPA would like to emphasize the following recommendations for the PAB:

Use of Force

- Recommendation #7: "Given the number of reported Level 1 uses of force in Berkeley—in which a subject did not experience more than temporary discomfort—Citygate recommends the City and Department modify their reporting requirements to those more in line with the policies of the cities of Fremont, Hayward, Richmond, San Leandro, and Santa Clara, whose Lexipol-created policies comply with both state and federal law."

Citygate's review of Berkeley's Level 1 Use of Force criteria (Finding #21) highlights that it unnecessarily diverts supervisors' time to minor incidents that don't require detailed evaluation, suggesting supervisors would be more effective if they focused on training officers and modeling behavior during calls. In Recommendation #7, Citygate advises Berkeley to adjust its reporting requirements to align with cities like Fremont and

Hayward, whose policies meet state and federal standards. Citygate further suggests officers continue documenting lower-level force in crime reports and through body-worn cameras, reducing the need for sergeants to review every incident. However, if body-worn camera footage is missing, a sergeant's response should remain mandatory, and random video audits should still be permitted.

Operations Division

- Recommendation #8: Restore Patrol staffing by adding 15 additional officers – four officers each to teams 1, 2, and 3; and three officers to Team 7 – bringing the total from the current 58 to 73. It is Citygate's understanding that these additional positions are funded but not currently filled. The added staffing would reduce the need for Patrol overtime, which would reduce the likelihood of fatigue and burnout while affording officers the ability to take time off without the need to 'sell' shifts."
- Recommendation #9: "Add five CSOs² (Citygate understands these positions have already been funded) to support Patrol officers on weekday morning and evening shifts. Given existing call demands and committed time, Citygate believes the Department should strategically deploy five Patrol CSOs to match those times of day and days of week where Patrol time is most obligated currently (Day Shift and Swing Shift), which would help to reduce the committed time of Patrol Officers, affording them more time for community engagement and to be proactive while also ensuring greater availability to respond to emergencies and cover assignments."
- Recommendation #10: CSOs should be trained to take many non-emergency calls and write related reports, recover stolen vehicles and found property, tow abandoned vehicles, and retrieve and download video evidence, transport witnesses and victims, etc.

Citygate found that in 2023, Patrol worked 34,111 overtime hours due to increased calls for service, more Part 1 crime incidents, and rising case reports since 2020. The Department's span of control, with one Sergeant for every four to six officers, is still reasonable, even if 15 officers are added. However, sergeants and officers are spending more time on administrative tasks, prisoner transport, and evidence collection, which takes them off the streets. Patrol officers were available for service 43% of the time, largely due to overtime and reassigning Bike Team officers to fill gaps. Citygate also noted that the Department can now regularly assess staffing and make adjustments as needed. The Community Services Bureau and Bike Team help reduce Patrol's workload, but fewer staff have resulted in less officer-initiated activity, slower response times for non-emergency calls, and more time spent on scenes.

Other Considerations

Citygate has proposed adding 19 new personnel across all areas reviewed, with 4 positions prioritized as funding level 1 and 15 as funding level 2. Of these, 8 are sworn

² CSO stands for Community Service officers.

personnel roles, while the remaining 11 are for administrative and clerical support. The recommendations requiring additional personnel are the following³:

- Recommendation 5
- Recommendation 6
- Recommendation 11 (Sworn)
- Recommendation 16
- Recommendation 21 (Sworn)
- Recommendation 22 (Sworn)
- Recommendation 23
- Recommendation 32
- Recommendation 35
- Recommendation 37
- Recommendation 42
- Recommendation 48
- Recommendation 54

Recommendation

The PAB is encouraged to either support or oppose the recommendations in this report. If the PAB chooses to respond, it should submit a letter to the Berkeley City Council⁴ clearly stating its position on the recommendations or any other relevant issues raised in this memorandum.

³ See Table 1 “Recommendation and Funding Priorities” of the Berkeley Workload Organizational Study: <https://berkeleyca.gov/sites/default/files/documents/Berkeley%20Workload%20Organizational%20Study%20of%20the%20Police%20Department%20%2809-04-24%29.pdf>

⁴ Per Chapter III Section A(3) “Communicating to the City Council”, the PAB “may transmit their findings or recommendations to the Council in the form of a letter. This type of communication is more timely; however, the Council cannot take any official action based solely on a written communication from a commission. Sending a letter to the City Council requires the authorization of the commission. Once approved by the commission, the secretary submits the letter to the City Clerk.” Source: <https://berkeleyca.gov/sites/default/files/documents/Commissioners%20Manual%202019%20WCAG.pdf>

ITEM 9.D.

BUDGET & METRICS SUBCOMMITTEE'S PROPOSED PAB METRICS

PROPOSED METRICS

Draft for Review & Input by Police Accountability Board at September 25, 2024 Board Meeting

PAB Metrics

- Timely completion of all mandated non-complaint related responsibilities
 - Enumerate [see chart being developed per Ops and Process]
- Effectiveness of mandated non-complaint related responsibilities
 - How measured?
 - % of recommendations to City Council adopted/agreed to
- Timely completion of personnel complaint investigations
 - Per regs
- Effectiveness of personnel complaint investigations
 - How measured?
 - % agreement with Chief (on sustained PAB findings)
 - % agreement with City Manager (on sustained PAB findings)
- Timely completion of policy complaint reviews
 - Per standards tbd
- Effectiveness of policy complaint reviews
 - How measured?
- Timely completion of commendations
 - How many quarters did we deliver on-time?
 - How many issued per quarter?
- Community engagement/awareness
 - How assessed?
 - Meeting attendance (in-person & virtual)
 - # of community meetings & attendance
 - # of press releases (?)
 - # of social media (LinkedIn, X, Instagram, Facebook) followers?

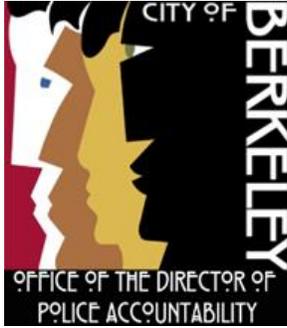
BPD Metrics

- CFS Response Time by Level
 - Absolute and comparative
- Clearance Rates
 - Absolute and comparative
- Complaint Rates
 - Sustained complaint rate?
 - Absolute and comparative?
- Fiscal Responsibility (?)
 - Absolute and comparative
- Prevention Focused
 - ?
- Jail Related?
- Community Perception
 - Bi-annual community survey

Evaluation of specific BPD initiatives

- Surveillance cameras
 - ALPRs
 - # of times “used”
 - % of times those cleared a crime
 - Fixed
 - # of times “used”
 - % of times those cleared a crime
- EWS?
- Others?

LEGISLATIVE UPDATES



MEMORANDUM

Date: September 20, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel Aguilar, Director of Police Accountability *HA*
Keegan Horton, ODPa Investigator *KH*
Jose Murillo, ODPa Policy Analyst *JM*
Subject: Legislative Updates

The purpose of this memorandum is to provide a legislative update to the PAB, enabling them to stay informed about changes in local, state, and federal law.

State Legislative Updates¹

The ODPa has identified the following state legislation as relevant to the work of the PAB:

- **AB 2020 “Survivors of Human Trafficking Support Act”** The bill would require each law enforcement agency to adopt a written policy for interacting with survivors of human trafficking.
Status: Enrolled and presented to the Governor at 4 p.m.
- **SB 50 “Vehicles: enforcement”** This bill would prohibit a peace officer from stopping or detaining the operator of a motor vehicle or bicycle for a low-level infraction unless a separate, independent basis for a stop exists or more than one low-level infraction is observed.
Status: Ordered to inactive file at the request of Assembly Member Bryan.

Lexipol Policy Update

The following updates have been made to the BPD's Lexipol KMS system:

- **BPD Policy 707 Long Range Acoustical Device (LRAD).** Updates to reflect Bureau name changes.

¹ <https://post.ca.gov/Status-of-Current-Legislation>

- **BPD Policy 1019 Overtime Compensation Requests.** Updates to reflect Bureau name changes.
- **BPD Policy 1028 Conference, Meeting, and Training Attendance.** Updates to reflect Bureau name changes.
- **BPD Policy 1034 Complaint Review Board.** Removal of gendered language and assignment of new Deputy Chief to Review Board in the place of the Professional Standards Division Captain.

City of Berkeley Council Meeting Update

The following items being considered by the City Council are relevant to the PAB:

September 24, 2024 City Council Regular Meeting Agenda

Consent Calendar

- **Item 3. - Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code**
From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor)
Recommendation: Adopt second reading of Ordinance No. 7,935-N.S. adopting revisions to BMC Chapter 14.48 (Ordinance No. 7632) on miscellaneous use of streets and sidewalks to delete portions of 14.48.020, 14.48.120A and 14.48.120B in order to give the City Manager authority to make conforming changes to Administrative Regulation 10.2 to effectuate the above-stated encampment policy. Administrative Regulation 10.2 Regulating Temporary Non-Commercial Objects on Sidewalks and In Parklets Pursuant to BMC 14.48.120 is to be revised by the City Manager to enable enforcement of temporary non-commercial objects of less than nine-square-feet within less than 24 hours in a designated public area marked with signage to deter re-encampment.
- **Item 4. - Establish 2025 City Council Meeting Schedule**
From: City Manager
Recommendation: Adopt a Resolution establishing the City Council regular meeting schedule for 2025, with starting times of 6:00 p.m.

Action Calendar

- **Item 11. - City Council Rules of Procedure and Order Revisions (Continued from September 10, 2024)**
From: City Manager
Recommendation: Adopt a Resolution revising the City Council Rules of Procedure and Order to clarify and reorganize existing language, make technical corrections related to account for hybrid meetings; incorporate temporary

provisions from Appendix C into the main body of the document; add revisions recommended by the Open Government Commission and approved by Council; Add new language and update existing language related to the legislative process recommended by the Agenda & Rules Committee; and rescinding any preceding amendatory resolutions.

October 1, 2024 City Council Regular Meeting Agenda

Communications

[League of Women Voters Letter of Support following the PAB Bike Unit Investigation's](#)