



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, November 13, 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

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
([Click here for Directions](#))

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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

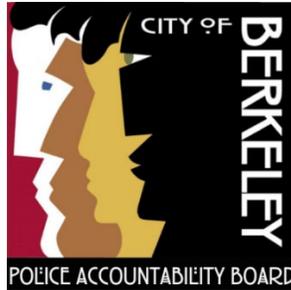
Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

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

November 13, 2024 PAB Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, NOVEMBER 13, 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

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
([Click here for Directions](#))

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 October 30, 2024
5. **DISCUSSION WITH AND PRESENTATION BY BPD (30 Minutes)**
 - a. Presentation by the BPD on the usage of Automated License Plate Readers (ALPRs) – (15 Minutes)
 - b. Discussion and action on the annual review of the Use of Force Policy to reflect developing practices and procedures per SB 230 and BPD Policy 300.13 "Policy Review and Updates" (ODPA) – (15 Minutes)
6. **ODPA STAFF REPORT (10 MINUTES)**

Announcements, updates, and other items.

7. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)

Announcements, updates, and other items.

8. CHIEF OF POLICE'S REPORT (10 MINUTES)

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

9. 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.

10. NEW BUSINESS (50 MINUTES)

- a. Discussion and action on new Policy Complaint 2024-PR-0006 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules¹ (ODPA) – (15 Minutes)
- b. Discussion and action on the Operation & Processes Subcommittee's proposed PAB Policy Review Process (Wilson & Mozes) – (15 Minutes)
- c. Discussion and action on developing the PAB's 2025 Workplan in accordance with Chapter I, Section E, "Development of a Work Plan," in the City of Berkeley Commissioner's Manual² (Wilson) – (15 Minutes)
- d. Discussion and action on relocating PAB regular meetings to the ODPA's new office and meeting space at 1900 Addison Street, 3rd Floor, Berkeley, CA with the alternative location being the North Berkeley Senior Center (ODPA) – (5 Minutes)

¹ Standing Rules of the Police Accountability Board: https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

² City of Berkeley Commissioner's Manual: <https://berkeleyca.gov/sites/default/files/2022-03/Commissioners-Manual.pdf#Page=20>

11. 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.

12. 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 | xx. | 2024-CI-0030 |
| ii. | 2024-CI-0003 | xxi. | 2024-CI-0031 |
| iii. | 2024-CI-0004 | xxii. | 2024-CI-0032 |
| iv. | 2024-CI-0009 | xxiii. | 2024-CI-0033 |
| v. | 2024-CI-0012 | xxiv. | 2024-CI-0034 |
| vi. | 2024-CI-0016 | xxv. | 2024-CI-0035 |
| vii. | 2024-CI-0017 | xxvi. | 2024-CI-0036 |
| viii. | 2024-CI-0018 | xxvii. | 2024-CI-0037 |
| ix. | 2024-CI-0019 | xxviii. | 2024-CI-0038 |
| x. | 2024-CI-0020 | xxix. | 2024-CI-0039 |
| xi. | 2024-CI-0021 | xxx. | 2024-CI-0040 |
| xii. | 2024-CI-0022 | xxxi. | 2024-CI-0041 |
| xiii. | 2024-CI-0023 | xxxii. | 2024-CI-0042 |
| xiv. | 2024-CI-0024 | xxxiii. | 2024-CI-0043 |
| xv. | 2024-CI-0025 | xxxiv. | 2024-CI-0044 |
| xvi. | 2024-CI-0026 | xxxv. | 2024-CI-0045 |
| xvii. | 2024-CI-0027 | xxxvi. | 2024-CI-0046 |
| xviii. | 2024-CI-0028 | xxxvii. | 2024-CI-0047 |
| xix. | 2024-CI-0029 | xxxviii. | 2024-CI-0048 |

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

14. 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:

1900 Addison Street, Floor 3, Berkeley, CA 94704

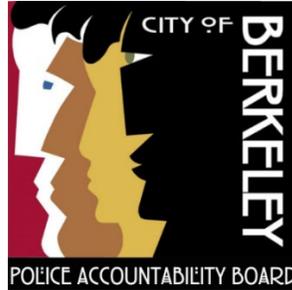
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

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

Email: dpa@berkeleyca.gov

Item 4

Minutes for the Regular Meeting of October 30, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
WEDNESDAY, OCTOBER 30, 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

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709
([Click here for Directions](#))

Meeting Recording: <https://youtu.be/xmZFclJYdk?si=HRqZYhY-vCTswy72>

Minutes

1. CALL TO ORDER AND ROLL CALL

Present: Board Member John Moore (Chair)¹
Leah Wilson (Vice-Chair)
Board Member Brent Blackaby
Board Member Kitty Calavita
Board Member Joshua Cayetano
Board Member Juliet Leftwich
Board Member David Williams
Board Member Alexander Mozes

¹ Chair Moore arrived at 6:53 PM after roll-call.

Absent: None.
ODPA Staff: Hansel Aguilar, Director of Police Accountability
Jose Murillo, Policy Analyst
Jayson Wechter, Investigator
Syed Mehdi, Data Analyst
BPD Staff: Deputy Chief Tate
Lt. Rego
CAO Staff: DCA Ashley Carter
CMO Staff: Paul Buddenhagen, City Manager

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Leftwich/Mozes) Motion carried by general consent.

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

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

3. PUBLIC COMMENT (TBD)

2 Physically Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES (5 MINUTES)

a. Minutes for the Regular Meeting of October 9, 2024

Motion to approve the minutes for the Regular Meeting on October 9, 2024.

Moved/Second (Calavita/Blackaby) Motion carried by general consent.

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

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

5. ODPa STAFF REPORT (10 MINUTES)

Director Aguilar introduced City Manager Paul Buddenhagen to the PAB, where he provided an overview of his role and addressed questions from the members. Syed Irtaza Mehdi was introduced as the new Data Analyst for the ODPa. Staff recapped PAB and ODPa's recent participation in the NACOLE conference, shared updates regarding BART's civilian oversight initiatives, and presented an overview of Marin County's new civilian oversight ordinance. Director Aguilar also noted that Rex Brown, the City of

Berkeley's DEI Officer, has connected with Amir Chapel, Deputy Program Director at the Council of State Governments' Justice Center², to explore potential future projects.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore expressed appreciation to those who attended the NACOLE conference and provided PAB with an update on his and Board Member Cayetano's recent visit to the Law and Justice class³ at Berkeley High School, where they discussed PAB's mission and work. Board Member Cayetano shared additional insights from NACOLE and their outreach at BHS. Board Member Leftwich reported on her recent ride-along experience, while Vice Chair Wilson updated PAB on the feedback submitted to the City Council regarding the Citygate report and the Council's response to their comments. Board Member Williams noted that he, too, would be participating in an upcoming ride-along and his participation in Daigle Law Group's Internal Affairs training.⁴

7. CHIEF OF POLICE'S REPORT

Deputy Chief Tate reported on the BPD's participation at NACOLE, shared briefings on various cases of interest, and provided additional relevant updates.

8. SUBCOMMITTEE REPORTS

Subcommittees report on their activities.

9. OLD BUSINESS (5 MINUTES)

- a. Discussion and action on the PAB's 2025 Regular Meeting Calendar
(5 Minutes)

Motion to approve the PAB's 2025 Regular Meeting Calendar

Moved/Second (Leftwich/Wilson) Motion carried.

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

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

² Biography of Amir Chapel, Deputy Program Director at the Council of State Governments Justice Center: <https://csgjusticecenter.org/people/amir-chapel/>

³ Berkeley High School Class Catalog and Course Description: https://bhs.berkeleyschools.net/wp-content/uploads/2023/01/BHS_CourseCatalog_2023-24_Web-Final-Revised.pdf#Page=16

⁴ Daigle Law Group Internal Affairs Training: <https://daiglelawgroup.com/internal-affairs-training/>

10. NEW BUSINESS

- a. Discussion and action on new Policy Complaint 2024-PR-0005 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules⁵ (ODPA)

Motion to direct ODPa staff to conduct further research on the deputizing of citizens by BPD officers and examine the role of the Berkeley Ambassador program and its relationship with the BPD.

Moved/Second (Cayetano/Wilson) Motion carried.

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

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

- b. Policy Review Updates (ODPA)

No action was taken. ODPa staff provided an update on the current status of policy reviews assigned to the office.

- c. Discussion and action regarding proposed Berkeley Police Department Policy 307 "Vehicle Pursuits" (Leftwich)

Motion to request all CHP 187A Forms from 2013-2020 and 2024 for the policy review of BPD Policy 307, "Vehicle Pursuits."

Moved/Second (Cayetano/Leftwich) Motion carried.

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

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

11. PUBLIC COMMENT (TBD)

0 Physically Present Speaker(s)

0 Virtually Present Speaker(s)

⁵ Standing Rules of the Police Accountability Board: https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

12. 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:

No actions were taken. ODPa staff provided updates on current cases.

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announced closed session actions.

14. ADJOURNMENT

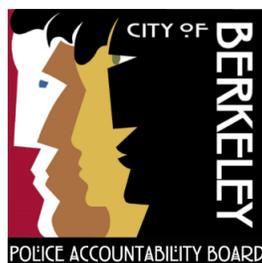
Motion to adjourn. Moved/Second (Mozes/Leftwich). The meeting was adjourned at 8:51 pm PM by unanimous consent.

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

Item 9

List of Current 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

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. Rafferty
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
Berkeley Police Department Policies 1010 and 1034 Review Formed 9-25-2024	Moore Williams	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 10.a.

Discussion and action on new Policy Complaint 2024-PR-0006 in accordance with Section G. “Policy Complaints and Reviews” of the PAB’s Standing Rules.



MEMORANDUM

Date: November 8, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability *HA*
Jose D. Murillo, Policy Analyst *JM*
Subject: Notice of Policy Complaint No. 2024-PR-0006

The purpose of this memorandum is to introduce Policy Complaint Number 2024-PR-0006 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On Sunday, October 27, 2024, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2024-PR-0006 via email correspondence. See Attachment 1, Policy Complaint 2024-PR-0006.

The filed policy complaint form stated that, on October 5, 2024, at the intersection of Woolsey and Wheeler Street, the complainant and their partner observed an incident involving a young woman who appeared to be experiencing a mental health crisis. The woman was accompanied by a young man and an older woman, reportedly his mother, who seemed visibly distressed. Officers reportedly arrived shortly thereafter, and the young woman was placed in handcuffs. According to the complainant, the older woman appeared apprehensive and allegedly requested that officers maintain distance.

An officer reportedly informed the complainant that, in cases involving domestic violence with reported injuries, state law requires one party to be taken into custody. The complainant declined to provide a witness statement. As one police vehicle departed, the complainant observed the young woman fall from the car, appearing distressed and calling out about her children. The complainant reports that officers quickly surrounded the woman, placing their hands on her and instructing her to calm down. When the complainant asked about involving mental health professionals, an officer allegedly responded, "We don't have time,"² adding that the response was intended to keep the

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

² See Page 1 Section 3 of Attachment 1.

peace. The complainant expressed concern that the large police presence and absence of a mental health response may not have contributed to a peaceful resolution.

Potential Area(s) of Review:

Berkeley City Charter Section 125(17)(a) grants the PAB authority to “review policies, practices, and procedures of the Police Department at its discretion, at the request of a member of the public, in response to a policy complaint, or following a public complaint against an officer.” Based on the allegations in Policy Complaint No. 2024-PR-0006, the following policies have been identified by the ODPa in its preliminary review as areas for potential PAB review. Additional policies may also be considered as further research and fact-finding progress.

The identified policies and their purpose are the following:

1. Berkeley Police Department Policy 310 “Domestic Violence”

Purpose of Policy: *“The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. This policy specifically addresses the commitment of this department to take enforcement action when appropriate, to provide assistance to victims and to guide officers in the investigation of domestic violence.”*

Reason: The complainant raises concerns about a young woman she observed being arrested during what appeared to be a mental health crisis. She reports that officers allegedly informed her that “in a situation involving domestic violence, if someone was hurt, California law requires that one of the parties must be taken to jail.”³ A call for service entry corresponding to the date and location of the incident reports a CFS 242 – Battery and includes the incident number 2024-00046441.⁴

2. Berkeley Police Department Policy 409 “Crisis Intervention”

Purpose of Policy: *“This policy provides guidelines for utilizing officers trained in Crisis Intervention and interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an officer to evaluate a person's mental state and intent in order to effectively and legally interact with the individual.”*

Reason: The complainant expresses, “In this situation, I was shocked that when the police arrived, the question shifted from ‘how do we get this young woman the help that she needs?’ to ‘which one of you goes to jail?’”⁵ The complainant also suggests that the

³ See Page 1 Section 3 of Attachment 1.

⁴ Berkeley Police Department Call for Service Data: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/cfs-stats>

⁵ See Page 2 Section 4 of Attachment 1.

situation may have been better suited for the Specialized Care Unit rather than for armed officers.

3. Berkeley Police Department Policy 410 “Mental Illness Commitments”

Purpose of Policy: *“This policy provides guidelines for when officers may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).”*

Reason: The complainant voices concern regarding the officers' response to her inquiry about why a mental health professional was not dispatched. According to the complainant, the officers on the scene stated that they “don't have time” and that they were “keeping the peace” due to the woman's alleged violent behavior.⁶

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁷, which include:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPA staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.
5. Temporarily deferring acceptance of the policy complaint and instructing ODPA staff to investigate the matter.
6. Rejecting the policy complaint.

Recommendation:

The PAB should accept the policy complaint and direct ODPA staff to carry out the initial review.

⁶ See Page 1 Section 3 of Attachment 1.

⁷ Section G(3)(a) "Policy Complaints and Reviews" of the PAB's Standing Rules:

https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

4

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

In this situation I was shocked that upon the arrival of the police the question no longer was "how do we get this young woman the help that she needs?" but rather "which one of you goes to jail?"

A lot of harm could have been prevented by whoever was taking the information from whomever called in the situation ascertaining that no one was in immediate life-threatening danger. Then they could have dispatched someone from the Specialized Care Unit. If that person felt police were necessary, they could have called for one or two officers. There is no universe in which four police cars and all those officers with guns created more well being for the young woman, the young man and his mother, or our neighborhood that day.

But if police officers do end up getting accidentally dispatched to a situation that involves a mental health crisis, if the officers could stay close to the question of who needs help in this situation and how do we best get them the help that they need rather than "who goes to jail?" that would also make for more peace and well being.

I would like to see us use our City of Berkeley resources to deploy battalions of skilled social workers, highly trained in self defense, (and paid as well as police officers) and keep our gun carrying police in reserve for the circumstances when their services are needed.

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.)

6

CERTIFICATION

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

Signature of Complainant

10/27/24

Date

7

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

- Internet
- Berkeley Police Dept.
- Newspaper: _____
- Referred by: _____
- Other: _____

Item 10.b.

Proposed Outline for the Police Accountability Board's Policy Review
Process



Police Accountability Board Policy Review Process Outline

The Board may initiate a review of Berkeley Police Department (BPD) policy, practice, or procedure by a majority vote. Reviews can be initiated sua sponte by any Board member or in response to a filed complaint.

Once the Board votes to initiate a policy review, the following process will generally apply:

I. Review by the Policy Committee

A. Recommendation for Assignment of the Review

1. Assignment Options:
 - Assigned to a specific Board member
 - Assigned to the Policy Committee
 - Assigned to a specially designated ad hoc committee
 - Assigned to the Office of the Director of Police Accountability (ODPA)
 - Review not recommended
2. Factors to be considered in generating assignment recommendation:
 - Scope of review
 1. Broad versus narrow scope: ODPA staff will provide a brief analysis of the policy at issue and any related policies to support the Policy Committee's determination of this issue.
 - Workload
 1. Board members
 2. Policy Committee
 3. ODPA staff
 - Desired timeline for completion
 - Impact and necessity.

II. Board Action on Policy Committee Recommendation

The Board will take formal action based on the Policy Committee's recommendation for assignment of the review.

III. Scope of and Process for Review

The scope of the review may include any of the steps enumerated in A-G below; not all steps will be required for each review. The assigned entity/Board member conducting the review may determine the appropriate steps as related to the particular review being conducted. ODPa will manage this process and the documentation generated.

A. Participation of BPD:

- BPD will be given the opportunity and will be encouraged to participate in the review process.

B. Determination of Policies to be Addressed:

- Identify the specific policy/ies to be reviewed, including those subject to the initial Board action and/or complaint, plus any related policies as relevant.

C. Assessment of Current Interpretation and Enforcement:

- Evaluate how the policy is currently interpreted and enforced by BPD.

D. Analysis of Complaints:

- Review any complaints received by the BPD regarding the policy. Analysis will be coordinated through the SPAM department at BPD.

E. Identification of Parallel Policies:

- Research and identify similar policies in other comparable jurisdictions.

F. Research Best Practices:

- Determine best practices relevant to the policy/ies under review.

G. Seek Community Input:

- Seek community input on the existing and any potential modified policy.

IV. Preparation of Final Report

The final report will include:

A. Summary of Scope and Process:

- Summary of the scope of and process for the review.

B. Key Findings and Recommendations:

- Highlight the main findings and provide recommendations based on the review.

C. BPD Feedback

- BPD will have the opportunity to review the draft work product before it is submitted to the PAB for final review and vote.
- BPD's feedback, along with clarification on what was agreed upon or opposed to, will be submitted concurrently with the draft report.

IV. Board Action on Final Report

A majority of the board will approve the final report and close the complaint. The final report will be transmitted to the complainant, if applicable, BPD, and posted on the ODPa website. As appropriate, reports will also be submitted to Council. ODPa/PAB Annual Reports will include a link to all policy reviews completed during the respective year.

DRAFT

Item 10.c.

Guidance on Developing the Police Accountability Board

(PAB) Workplan for 2025



MEMORANDUM

Date: November 8, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability 
Jose D. Murillo, Policy Analyst 
Subject: Guidance on Developing the Police Accountability Board (PAB) Workplan for 2025

Background:

This memo is intended to facilitate the Police Accountability Board's (PAB) discussion on developing an annual workplan that comprehensively addresses the Board's mandatory and permissive duties. Developing a structured workplan is a requirement under Chapter I, Section E, "Development of a Work Plan," in the City of Berkeley Commissioner's Manual, which mandates each commission to create an annual workplan to outline and guide its activities.

Considerations for Workplan Development:

The PAB workplan should prioritize both mandatory and permissive duties¹² as outlined in Berkeley ordinances and Council mandates. Key areas for consideration include:

1. Mandatory Reports and Policy Reviews:

- Items such as the PAB Annual Report, the biennial review of internal processes, and the structured review of key policies (e.g., Surveillance Use Policy, Controlled Equipment Impact Report, Use of Force Policy) are essential to fulfilling legal and regulatory mandates.

¹ ODPa Memorandum Titled "Review of Mandatory and Permissible Provisions in the City Charter, BPD Policies, and Standing Rules": https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2024-03-02%20PAB%20Special%20Meeting%20Packet_Final.pdf

² ODPa Memorandum Titled "Review of DPA Mandatory and Permissible Provisions in the City Charter – Section 125. Police Accountability Board and Director of Police Accountability": <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2024-03-01%20ODPA%20memo%20to%20PAB%20re%20Mandatory-Permissible%20Duties.pdf>

- These mandatory actions align with Berkeley ordinances and ensure ongoing transparency and accountability.

2. Permissive Duties and Strategic Initiatives:

- The workplan can incorporate strategic priorities that enhance community engagement and strengthen policy recommendations, even where not explicitly mandated.
- Examples include reviewing Mutual Aid Agreements with an emphasis on collaboration with neighboring jurisdictions that have civilian oversight bodies, and other initiatives that may be pursued based on resource availability and community needs.

3. Alignment with Council and Community Expectations:

- The workplan should reflect the PAB's commitment to supporting the City Council's public safety objectives and addressing community concerns.
- This includes maintaining flexibility within the workplan to respond to evolving public safety priorities and incorporating practices that foster trust and accountability.

4. Establishing Timelines and Review Processes:

- To facilitate timely and consistent action, it is recommended that the workplan assign specific timelines to each item and establish processes for periodic review and adjustment.

An attached draft table provides a suggested framework, with potential items, actions, and recommended timelines for the Board's consideration during workplan development discussions.

Summary:

This memo serves as a guide to developing a workplan that ensures the PAB meets its mandated responsibilities while strategically addressing permissive duties that align with broader oversight goals. Adopting a clear, structured workplan will be critical in maintaining effective oversight and supporting Berkeley's commitment to transparent, community-centered public safety.

Attachment: Proposed PAB Workplan Calendar for 2025

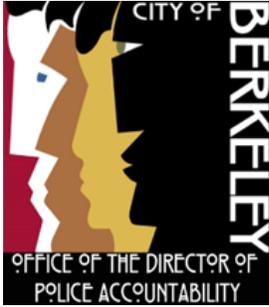
Attachment

Proposed PAB Workplan Calendar for 2025

Mandatory				
Item	Pursuant to	Reviewed by PAB	PAB Action	Anticipated/ Recommended Deadline
PAB Annual Report	125(16)	Annually within Quarter 1.	Review and Approve.	<u>End of Q1</u> Justification: coincides with the timing of the BPD Annual Report
Bi-annual review of internal processes	125(28)	Biennially in November, starting in 2024	Conduct a review.	<u>End of Q4</u> Justification: By Charter mandate
Surveillance Use Policy Report	Ordinance 2.99.030	Prior to adoption by the City Council.	Receive and recommendation to Council.	30 Days after receiving Policy. Justification: By ordinance mandate
Surveillance Acquisition and Report Policy [2.99]	Ordinance 2.99.030	Prior to adoption by the City Council.	Receive and recommendation to Council.	<u>30 Days after receiving Report.</u> Justification: By ordinance mandate
Controlled Equipment Impact Report and Use Policy pre-acquisition or use [2.100]	Ordinance 2.100	By March 15 or a date that's mutually agreed upon.	Review and recommendation to Council.	90 Days, or 30 Days in instances where the proposal is subject to a time-sensitive grant application.
Use of Force Policy	BPD Policy 300.13	Q1 Annually	Annually review and update in coordination with BPD.	Justification: By ordinance mandate <u>Before end of calendar year.</u>
Military Equipment Policy	Review not required under Charter, ordinance,	Q2 Annually.	Review and recommendation to Council.	Justification: By BPD Policy <u>30 Days after receiving Report.</u>
				Justification: By ordinance mandate

	<p>or state law, but has been instituted by practice.</p> <p>BPD Policy 709 Assembly Bill 481 (Gov Code section 7070-7075). Agencies required to submit annual report.</p>			
<p>Mutual Aid Agreements</p>	<p>125(3)(a)(2) Standing Rule K.</p>	<p>No timeline.</p>	<p>Review.</p>	<p>Begin with adjacent jurisdictions with oversight for possible collaboration and then branch out by creating a prioritization list based on data (i.e. frequency of mutual aid collaborations).</p> <p>Justification: This makes the review manageable with limited resources.</p>

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: November 8, 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

There have been no updates to state legislative initiatives related to the PAB’s work since the last PAB meeting.

Lexipol Policy Updates

There have been no updates to the BPD's Lexipol KMS system since the last PAB meeting.

City of Berkeley Council Meeting Updates

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

[City Council Regular Meeting for November 12, 2024](#)

Item 17. - [Pursuant to Chapter 2.99 of the Berkeley Municipal Code Annual Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Automatic License Plate Readers, the Street Level Imagery Project, and Unmanned Aerial Systems \(UAS\)](#)

From: City Manager

Recommendation: Pursuant to Chapter 2.99 of the Berkeley Municipal Code, adopt a

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

Resolution accepting the Surveillance Technology Report for Body Worn Cameras, GPS Trackers, Fixed Surveillance Video Cameras, Automatic License Plate Readers, the Street Level Imagery Project, and Unmanned Aerial Systems (UAS).

Item 18a. - [Resolution Opposing the Criminalization of Poverty and Homelessness](#)

From: Peace and Justice Commission

Recommendation: Adopt a resolution that the City of Berkeley Council opposing the criminalization of poverty and homelessness including:

City of Berkeley will continue to operate under the framework of Martin v. Boise, as permitted under the recent Supreme Court decision in Grants Pass v. Johnson, and refrain from any criminalization or effective prohibition of sleeping while unhoused, including citation or arrest simply for sleeping outside if no adequate shelter is available, without precluding enforcement of laws banning actions that threaten the health and safety of the whole community.

The City of Berkeley shall strengthen its commitment to connecting unhoused people with vital services including adequate short-term shelter and regional permanent supportive housing solutions.

Item 18b. - [Companion Report: Resolution Opposing the Criminalization of Poverty and Homelessness](#)

From: City Manager

Recommendation: The City Council has already adopted an encampment policy that is consistent with the Commission’s resolution by adopting the amended September 10, 2024 item, “Encampment Policy Resolution to Promote Healthy and Safe Neighborhoods and Related First Reading of Ordinance Amending Chapter 14.48 of the Berkeley Municipal Code.” Therefore, there is no need to take any action on the Peace and Justice Commission’s resolution and the City Manager recommends taking no action.

[City Council Regular Meeting for November 19, 2024](#)

Item 8. - [Contract No. 32300144 Amendment: Resource Development Associates for Specialized Care Unit \(SCU\) Evaluation](#)

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or his designee to amend Contract No. 32300144 with Resource Development Associates (RDA) to add \$40,000 for a not-to-exceed total contract amount of \$290,000.

Item 25.-[Amendment: FY 2025 Annual Appropriations Ordinance](#)

From: City Manager

Recommendation: Adopt first reading of an Ordinance amending the FY 2025 Annual Appropriations Ordinance No. 7,926–N.S. for fiscal year 2025 based upon

recommended re-appropriation of committed FY 2024 funding and other adjustments authorized since July 1, 2024.

City of Berkeley Council Committee Meeting Updates

Budget & Finance Committee Regular Meeting November 14, 2024

Item 1 – FY 2025 Annual Appropriations Ordinance Amendment (Item Contains Supplemental Material)

From: City Manager

Recommendation: Receive a report on the preliminary Fiscal Year 2024 Year-End financial status and the recommended adjustments for inclusion in the first amendment to the Fiscal Year 2025 Annual Appropriations Ordinance (“AAO1”) and provide recommendations on adjustments to AAO1.

Item 2 – City Council Legislative System Redesign

From: City Manager

Referred: January 16, 2024

Due: November 30, 2024

Recommendation: On January 16, 2024, the Agenda and Rules Committee referred the questions in the supplemental materials to the Budget and Finance Policy Committee for review and response.