



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, December 11, 2024
6:30 P.M.**

Board Members

John Moore III (Chair)	Leah Wilson (Vice-Chair)
Kitty Calavita	Juliet Leftwich
Joshua Cayetano	Alexander Mozes
David Williams	

MEETING LOCATION

Office of the Director of Police Accountability
1900 Addison Street, Floor 3
Berkeley, CA 94704

Item	Description	Page
-	Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions	1
2	December 11, 2024 PAB Regular Meeting Agenda	4
4	Minutes for the Regular Meeting of November 13, 2024	10
8	List of Current PAB Subcommittees	17
10.a.	ODPA Memorandum Titled “Notice of Policy Complaint No. 2024-PR-0007”	20
10.b.	ODPA Memorandum Titled “Status Update re Policy review No. 2023-PR-0007”	26
10.d.ii.	ODPA Memorandum Titled “Development of a Work Plan Requirement under the Commissioner’s Manual”	29

10.f.	ODPA Memorandum Titled “Update on Council Approvals of AAO#1 Adjustments”	48
Off Agenda Reports & Resources		
1	Legislative Updates Relevant to the PAB’s Work	53

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

December 11, 2024 PAB Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, December 11, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Joshua Cayetano

Leah Wilson (Vice-Chair)
Juliet Leftwich
Alexander Mozes

David Williams

MEETING LOCATION

Office of the Director of Police Accountability
1900 Addison Street, Floor 3
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 November 13, 2024
- 5. ODPa STAFF REPORT (10 MINUTES)**

Announcements, updates, and other items.

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

Announcements, updates, and other items.

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

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. OLD BUSINESS (15 MINUTES)

- a. Discussion and action on the Operation & Processes Subcommittee's proposed PAB Policy Review Process¹ (Wilson & Mozes) – (15 Minutes)

10. NEW BUSINESS (1 HOUR 10 MINUTES)

- a. Discussion and action on new Policy Complaint 2024-PR-0007 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules (ODPA) – (15 Minutes)
- b. Discussion and action regarding the status update on ODPA Policy Review 2023-PR-0007 (ODPA) – (15 Minutes)
- c. Discussion and possible action on the status update regarding the outstanding request to BPD for Vehicle Pursuit Forms² (Cayetano) – (5 Minutes)
- d. Discussion and Action on the PAB's Strategic Planning Session for 2025 (ODPA) – (15 Minutes)
 - i. Proposed date of the session
 - ii. Development of the PAB's 2025 Workplan in accordance with Chapter I, Section E, "Development of a Work Plan," in the City of Berkeley Commissioner's Manual
- e. Discussion and action on the proposed presentation of the PAB's reports to Council (Calavita) – (5 Minutes):
 - i. "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board"³
 - ii. "2024 Police Accountability Board Report: Fair and Impartial Policing Implementation"⁴
- f. ODPA Updates for 2025 (ODPA) – (15 Minutes)
 - i. Budget Updates
 - ii. Programmatic Updates

¹ See Item 10.b. on the PAB's November 13, 2024 Regular Meeting:

<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/DRAFT%202024-11-13%20Regular%20Meeting%20Minutes.pdf>

² See Item 10.c. on the PAB's October 30, 2024 Regular Meeting:

https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-10-30%20Regular%20Meeting%20Minutes_final%20-%20signed.pdf

³ The full PAB report can be accessed at the following link:

https://berkeleyca.gov/sites/default/files/documents/2024-08-29%20BPD%20Texting%20Offenses_PAB%20Investigation%20Report_Final.pdf

⁴ The full PAB report can be accessed at the following link:

https://berkeleyca.gov/sites/default/files/documents/2024%20PAB%20Report_FIP%20Implementation_Final.pdf

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

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 1900 Addison Street, Floor 3, Berkeley, CA 94704.

Contact the Director of Police Accountability (Board Secretary) at:

1900 Addison Street, Floor 3, Berkeley, CA 94704

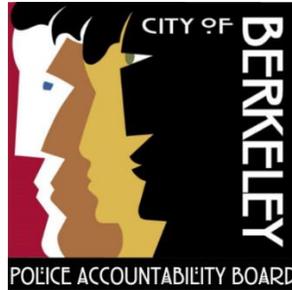
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

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

Email: dpa@berkeleyca.gov

Item 4

Minutes for the Regular Meeting of November 13, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
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](#))

Video Recording: <https://youtu.be/aXGwAkiPZCw>

MINUTES

1. CALL TO ORDER AND ROLL CALL AT 6:32 PM

Present: Board Member John Moore (Chair)
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

Absent: None.

ODPA Staff: Hansel Aguilar, Director of Police Accountability¹
Jose Murillo, Policy Analyst
Jayson Wechter, Investigator
Keegan Horton, Investigator
Syed Mehdi, Data Analyst

BPD Staff: Deputy Chief Tate
Captain Okies
Captain Durbin
Lt. Rego
Sgt. Rafferty
Sgt. Kleppe
Ofc. Tillberg

CAO Staff: DCA Ashley Carter

CMO Staff: Rex Brown, DEI Officer

2. APPROVAL OF AGENDA (2 MINUTES)

Motion to approve the agenda.

Moved/Second (Leftwich/Cayetano) Motion carried.

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

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

3. PUBLIC COMMENT (TBD)

1 Physically Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES (5 MINUTES)

a. Minutes for the Regular Meeting of October 30, 2024

Motion to approve the minutes for the Regular Meeting on October 30, 2024.

Moved/Second (Leftwich/Mozes) Motion carried.

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

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

5. DISCUSSION WITH AND PRESENTATION BY BPD (30 Minutes)

¹ Director Aguilar joined the meeting virtually.

- a. Presentation by the BPD on the usage of Automated License Plate Readers (ALPRs) – (15 Minutes)

No action taken by the PAB. Sgt. Rafferty provides a presentation to the PAB on ALPRs and answered Board Member Questions.

- 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)

No action taken by the PAB. Director Aguilar provides an overview of the Use of Force policy review. The PAB and BPD discuss next steps for the review.

6. ODDPA STAFF REPORT (10 MINUTES)

Director Aguilar announces the ODDPA office transition and new office space, along with a training opportunity on vehicle pursuits presented by COPS². Investigator Wechter shares information on upcoming NACOLE webinars³, and DEI Officer Brown gives an update on his attendance and networking at NACOLE’s Annual Conference⁴.

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

The PAB congratulates Board Member Blackaby on their election to the Berkeley City Council and Board Member Cayetano on passing the California Bar exam.

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

Deputy Chief Tate shares updates on notable cases, community events, and other relevant topics.

9. SUBCOMMITTEE REPORTS (10 MINUTES)

Subcommittees report on their activities.

² “Vehicle Pursuit Management: Balancing Risks and Enhancing Safety”:

<https://copstrainingportal.org/project/vehicular-pursuit-management-balancing-risks-and-enhancing-safety/>

³ NACOLE Webinar Titled “The Importance of a Discipline Matrix in Policing & Civilian Oversight”:

https://www.nacole.org/2024_nacole_webinar_series_november

⁴ NACOLE: <https://www.nacole.org/>

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 Rules⁵ (ODPA) – (15 Minutes)

The complainant presents to the PAB and answers their questions. Public comment is taken with one additional speaker participating.

Motion to accept Policy Complaint 2024-PR-0006 and ODPA Staff’s recommendation to assign it to the ODPA.

Moved/Second (Wilson/Cayetano) Motion carried.

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

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

- b. Discussion and action on the Operation & Processes Subcommittee’s proposed PAB Policy Review Process (Wilson & Mozes) – (15 Minutes)

No actions taken. The Operation & Processes Subcommittee will return with an updated version incorporating PAB feedback.

- 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 Manual⁶ (Wilson) – (15 Minutes)

No actions taken. The PAB will further consider the workplan at their annual strategic planning session.

- 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)

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

⁶ City of Berkeley Commissioner’s Manual: <https://berkeleyca.gov/sites/default/files/2022-03/Commissioners-Manual.pdf#Page=20>

Motion to relocate the PAB's regular meetings to the ODPAs new office and meeting space at 1900 Addison Street, 3rd Floor, Berkeley, CA with the alternative location being the North Berkeley Senior Center.

Moved/Second (Wilson/Mozes) 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)

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 ODPAs.

Motion to accept recommendation number 1 in ODPAs Complaint 2024-PR-0012

Moved/Second (Leftwich/Calavita) Motion carried.

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

Noes: Leftwich and Mozes. Abstain: None. Absent: None.

Motion to accept recommendation number 2-5 in ODPAs Complaint 2024-PR-0012

Moved/Second (Cayetano/Leftwich) Motion carried.

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

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

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announces the PAB's closed session actions.

14. ADJOURNMENT (1 MINUTE)

Motion to adjourn. Moved/Second (Mozes/Leftwich). The meeting was adjourned at 10:00 pm by unanimous consent.

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

DRAFT

Item 8

List of Current PAB Subcommittees



SUBCOMMITTEES LIST

Subcommittee	Board Members	Chair	BPD Reps
<p>Regulations Formed 7-7-21 Renewed 6-7-2023</p>	<p>Calavita Leftwich</p> <p><u>Public members:</u> Kitt Saginor</p>	N/A	Lt. Dan Montgomery
<p>Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 6-7-2023</p>	<p>Calavita Wilson</p> <p><u>Public members:</u> George Lippman</p>	Calavita	Sgt. Peter Lee
<p>Surveillance Technology Policy Formed 6-7-2023</p>	<p>Calavita Moore</p>	N/A	N/A
<p>Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22</p>	<p>Calavita Moore</p>	Calavita	N/A
<p>Body-Worn Camera Policy Formed 03-15-23</p>	<p>Leftwich Cayetano</p>	Leftwich	Cpt. Okies Lt. Cummings
<p>Conflict of Interest Formed 03-29-23</p>	<p>Leftwich Wilson</p>	Leftwich	N/A
<p>Unnamed – Policy Complaint 2023-PR-0003 Formed June 21, 2023</p>	<p>Wilson [Vacant]</p>	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 Cayetano	N/A	N/A
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Moore Mozes	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.

ODPA Memorandum Titled “Notice of Policy Complaint No.
2024-PR-0007”



MEMORANDUM

Date: December 5, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability (DPA) *h/a*
Jose D. Murillo, Policy Analyst *JM*
Subject: Notice of Policy Complaint No. 2024-PR-0007

The purpose of this memorandum is to introduce Policy Complaint Number 2024-PR-0007 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On Monday, December 3, 2024, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2024-PR-0007, submitted in person by a member of the public (hereinafter referred to as the "Complainant"). Initially, the Complainant completed a personnel Complaint Form, stating that over the past seven years, they had contacted the Berkeley Police Department (BPD) fifty times regarding alleged attacks using satellite technology.

Investigator Wechter and DPA Aguilar met with the Complainant to discuss the details of their complaint, specifically whether it involved interactions with specific BPD officers on specific dates within the past 180 days. The Complainant clarified that their complaint was about the BPD's overall failure over the past seven years to address their claims of being attacked using satellite technology.

The Complainant was advised that they could either file a complaint about specific actions taken by individual BPD officers or submit a complaint about a BPD policy or practice. The Complainant opted to complain about a policy or practice and subsequently

¹ Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules:
https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

completed a Policy Complaint Form. For additional details, refer to Attachment 1, Policy Complaint 2024-PR-0007.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the PAB has the 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." The ODPa values and carefully considers all concerns brought forward by members of the public. After an initial assessment of this complaint, the ODPa could not identify a specific policy or practice the PAB could consider reviewing. Additionally, pursuing a personnel or policy complaint through the PAB and ODPa would not effectively address the specific concerns raised by the complainant and there may be other City, County, or state resources available to assist the complainant.

Courses of Action:

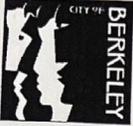
Upon receiving a policy complaint, the Board can choose from several potential courses of action², which include:

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 ODPa defers to the PAB's assessment regarding the acceptance or rejection of this policy complaint.

² 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



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: 12/3/24

DPA Case # 2024-PR-0057

1 Name of Complainant: [REDACTED]

Mailing Address: [REDACTED] First [REDACTED] Middle [REDACTED]
[REDACTED] Street City [REDACTED] State [REDACTED] Zip [REDACTED]

Primary Phone: ([REDACTED]) Alt Phone: ([REDACTED])

E-mail address: [REDACTED]

Occupation: unemployed Gender: male Age: 58

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

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

I haven't been helped by BPD in seven years, with 50 contacts. I've been severely attacked, almost at all times, mostly with satellite technology, but also by operatives on the street, by organized crime. The Berkeley Police aren't doing their job in any way. An investigation needs to take place, as to why, in addition to my being helped.

3 Location of Incident (if applicable) City of Berkeley

Date & Time of Incident (if applicable) ongoing for 7 years

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 above. See individual complaint form for details.

4

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

The BPD start helping me with all the attack I'm facing.

Four horizontal lines for additional text.

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.)

Eight horizontal lines for additional text.

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

8 Dec 3, 2024

Date

7

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

Internet

Berkeley Police Dept.

Newspaper: _____

Referred by: _____

Other: _____

3 POLICE OFFICER INFORMATION

Badge #	Name	Gender	Race

4 WITNESS INFORMATION

Name	Address	Phone Number

5 Please describe the incident that forms the basis of your complaint. It is important that you include a detailed *factual* description of the events that gave rise to your complaint. A DPA Investigator will interview you about the incident before the case can be scheduled for a hearing.

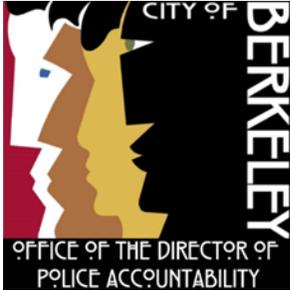
I've been severely attacked by organized crime for ten years, mostly by satellite technology, which has included mentally, physical, and destruction and theft of property. I have been additionally stalked on the streets by operatives for a number of years, on a daily basis this year. The satellite attack has included an audio-visual broadcast to my brain, that includes being abused by people all daily, and especially sexually abused by queer men. I am straight. In particular, I've been a victim of [REDACTED] all day and night for six-plus years. He was a 50-year Berkeley resident, whose death was faked in the City of Berkeley 3 years ago. He is possibly staying with his son [REDACTED], in [REDACTED]

I have also been threatened with torture, abduction, mutilation, other violence. I've contacted the Berkeley Police about 50 times, (Use additional pages if necessary)

and never helped with anything.

Item 10.b.

ODPA Memorandum Titled “Status Update re Policy review
No. 2023-PR-0007”



MEMORANDUM

Date: December 5, 2024
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability 
Jose Murillo, ODPa Policy Analyst 
Subject: Status Update re Policy review No. 2023-PR-0007

The purpose of this memorandum is to present the Police Accountability Board (PAB) with a status update regarding Policy review No. 2023-PR-0007.

Background:

On September 22, 2023, a policy review form was submitted to the Office of the Director of Police Accountability (ODPA). The policy review, along with several related personnel complaint forms concerning the same incidents, was mailed to the ODPA. See Attachment 1, "Notice of Policy review Number 2023-PR-0007." The ODPA presented the complaint to the Police Accountability Board (PAB) on October 11, 2023¹. At that time, the PAB deferred a decision on accepting or rejecting the complaint pending the resolution of the related personnel complaints. On July 24, 2024, the PAB formally accepted the policy review and assigned it to the ODPA for an initial review.²

Based on the information detailed in the complaint form, the ODPA recommended the review focus on the following areas:

- 1. Enforcement of Restraining Orders:** The complainant alleges that the Berkeley Police Department (BPD) has failed to adequately enforce restraining orders, despite multiple incidents and legal actions, including a new restraining order related to elder abuse. The complaint raises concerns about the interpretation and application of restraining orders by police officers, suggesting potential misunderstandings or disregard of these orders. This issue highlights a possible

¹ Meeting Minutes for the PAB's October 11, 2023 Regular Meeting:
<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-10-11%20Regular%20Meeting%20Min%20Approved.pdf>

² Meeting Minutes for the PAB's July 24, 2024 Regular Meeting:
<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2024-07-24%20Regular%20Meeting%20Minutes%20-%20signed.pdf>

need for enhanced training and communication regarding the enforcement of legal orders.

- 2. Communication with Elders and Dependent Adults and Response to Potential Abuse:** The complainant's statement indicates potential shortcomings in the BPD's handling of alleged abuse cases involving elders and dependent adults. Concerns have been raised regarding the sensitivity and understanding required to address and protect these vulnerable populations.

Status Update:

Since the approval of this policy review, ODPa staff have commenced their work. In addition to reviewing the details of this complaint and conducting a literature review, the ODPa interviewed the complainant on September 3, 2024, to gain further insights for the review. During this process, the ODPa also received a personnel complaint alleging treatment similar to the concerns that prompted the review as it relates to policies on communication with elders and dependent adults and response to potential abuse.

The personnel complaint investigation is ongoing, and it is currently unclear whether a hearing will take place. According to Section G.1.b. of the Police Accountability Board's Interim Regulations for Handling Complaints Against Sworn Officers of the Police Department, "no member of a hearing panel shall publicly state an opinion regarding policies directly related to the subject matter of a pending complaint."³ Given the active status of this issue, the ODPa recommends postponing consideration of policies on communication with elders and dependent adults, as well as potential abuse, until the personnel complaint is resolved. However, the ODPa acknowledges the importance of the PAB conducting a timely review of these policy matters and proposes an alternative approach to advance this review.

The ODPa recommends addressing the two issues raised in this policy review separately. Although the two issues are connected within the context of the review, they are distinct and, based on the ODPa's review to date, represent different matters. While the review of policies related to interactions with elder adults should be postponed, the ODPa believes it would be appropriate to first present a report on the Berkeley Police Department's procedures for enforcing restraining orders. A follow-up report would then be completed later to address the remaining policy review, which will also incorporate related details from the restraining order portion of the review.

Recommendation:

The PAB should approve the ODPa's proposal to create two separate reports for the presented policy reviews, pending the completion of the personnel matter.

³ PAB and ODPa's Interim Regulations for Handling Complaint Against Sworn Officers of the Police Department. Section G.1.b.: https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA.Interim.Reggs_.Approved.2021-10-05.pdf#Page=12

Item 10.d.ii.

ODPA Memorandum Titled “Development of a Work Plan Requirement under the Commissioner’s Manual”



Memorandum

Date: December 5, 2024
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA) 
Subject: Development of a Work Plan Requirement under the Commissioner's Manual

PURPOSE:

This memo outlines the requirement under Chapter I, Section E of the City of Berkeley Commissioner's Manual for the Police Accountability Board (PAB) to develop a work plan. It also provides examples of previous work plans from the Police Review Commission (PRC) to guide the Board in creating its plan.

REQUIREMENT TO DEVELOP A WORK PLAN:

The City of Berkeley Commissioner's Manual mandates that all commissions, including the PAB, submit a work plan at the start of each fiscal year. According to Chapter I, Section E. DEVELOPMENT OF A WORK PLAN¹:

"In 2016, the City Council took formal action directing all commissions, except Board of Library Trustees (BOLT), Design Review, and Zoning Adjustments Board (ZAB), to submit an annual work plan at the start of each fiscal year to the Council in the form of an Information Report. A commission work plan should contain the commission's mission statement, goals, resources, activities, outputs, and desired outcomes. This planning document specifies how and when the commission plans

¹ City of Berkeley Commissioner's Manual, Chapter I, Section E. DEVELOPMENT OF A WORK PLAN (pg. 20). Available at <https://berkeleyca.gov/sites/default/files/2022-03/Commissioners-Manual.pdf>

to accomplish its objectives (by specifying outcomes) during the fiscal year. Goal statements explain the nature and scope of the work to be performed and the time needed to accomplish the goal.

Designing yearly work plans or goal statements may be done in conjunction with the development of the relevant departmental work plan so that the work of the department and the commission will complement each other throughout the year.

When developing a work plan, commissions should take special care to ensure that they remain within the subject area purview of their enabling legislation."

Work plans are vital for maintaining accountability, transparency, and a strategic approach to addressing community safety and oversight concerns.

EXAMPLES OF PAST WORK PLANS:

To assist the PAB in creating its work plan, attached are examples of work plans from the PRC for previous calendar years:

1. **2019-2020 PRC Work Plan**
 - Included goals such as reviewing police policies, addressing disparities in policing, and increasing community outreach (SEE ATTACHED).
2. **2020-2021 PRC Work Plan**
 - Focused on contributing to the City's reimagining community safety efforts, conducting policy reviews, and increasing public awareness through outreach activities (SEE ATTACHED).

NEXT STEPS:

1. **Review Past Work Plans:** Board members are encouraged to review the attached PRC work plans to understand the scope and format.
2. **Identify Priorities:** The PAB should determine its priorities for the current fiscal year, including any Council referrals, community concerns, or oversight initiatives.
3. **Draft the Work Plan:** Using the guidance from the Commissioner's Manual, alignment with the ODP's Departmental Work Plan and past work plans, develop a draft work plan.
4. **Submit for Approval:** Present the draft work plan at an upcoming PAB meeting for review, feedback, and approval to submit to City of Council.

ATTACHMENTS:

1. PRC Work Plan for 2019-2020
2. PRC Work Plan for 2020-2021

1. PRC Work Plan for 2019-2020



Police Review Commission

INFORMATION CALENDAR

September 10, 2019

To: Honorable Mayor and Members of the City Council
From: Police Review Commission
Submitted by: George Perezvelez, Chairperson, Police Review Commission
Subject: Police Review Commission Work Plan for 2019-2020

INTRODUCTION

The Police Review Commission submits its work plan for the year beginning July 2019, in compliance with the 2016 City Council directive for commissions to submit work plans at the beginning of each fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The Commission adopted the attached work plan at its July 24, 2019 meeting. (M/S/C: Allamby/Calavita; Ayes: Allamby, Calavita, Chang, Earnest, Matthews, Perezvelez, Ramsey, Roberts; Noes: None; Abstain: None; Absent: Mikiten.)

The work plan includes a list of policy subjects that the Commission is or anticipates addressing in this fiscal year. The Commission is also interested in participating in more training about police procedures and tactics, staffing and organization of the police department, and training that officers receive. Additionally, the Commission would like to conduct more outreach to ensure that the public is aware of the Commission's existence and its role.

BACKGROUND

The Police Review Commission was established by ordinance in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

Policy work is carried out by the Commission with support from staff, while complaint investigations are handled by staff with commissioner involvement if a case proceeds to hearing. Review of police policies, practices and procedures is largely determined by the Commission itself, while complaint investigations and hearings are externally driven.

ENVIRONMENTAL SUSTAINABILITY

No identifiable environmental effects or opportunities are associated with the subject of this report.

POSSIBLE FUTURE ACTION

While the attached work plan reflects the Commission's priorities as of the date of its adoption, it is subject to change throughout the year should more urgent or important matters arise. These matters may take precedence as a result of Council referrals, incidents involving the police, or requests from the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts of possible future action are anticipated for the current fiscal year.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, 510-981-4960

Attachments:

1: Police Review Commission Work Plan for 2019-2020



Police Review Commission

Police Review Commission 2019-2020 Work Plan

Commission mission statement

The general purpose of the Police Review Commission is to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. sec. 3.32.010.)

Goal #1: Review and set BPD policies, practices, and procedures.

a. Resources¹

PRC staff, BPD staff, meeting space.

b. Program activities

A policy review may be initiated by the Commission, by a City Council referral, the Police Department, or a member of the public. The initial review steps may be undertaken by the Commission, a commission subcommittee, or staff, depending on the nature and breadth of the policy, practice, or procedure in question. The review could include: holding meetings and hearings to receive input from community members; meeting with and asking questions of the BPD; studying current policies, practices, and procedures; gathering policies from other jurisdictions; and surveying the literature regarding best practices.

If a subcommittee or staff perform the initial work, it will be presented to the full Commission for review and approval.

c. Outputs

Based on the information gathered, the Commission will make a recommendation to the BPD, City Manager or City Council about a change in a policy, practice, or procedure.

¹ Unlike most other commissions, the Police Review Commission has a staff of three City employees dedicated to supporting the Commission's work.

d. Outcomes

The desired change is a new or improved policy, practice, or procedure. If new, it will provide guidance where it did not previously exist or was not well-documented. A revised policy, practice, or procedure will reflect a change to conform with new laws, to embrace best practices that have changed since the original policy was established, or to better align with community values.

- e. Specific policies, practices, or procedures to be addressed in the coming fiscal year will include ongoing, recurring, and new reviews.

Topics for which review was begun last fiscal year and will continue:

- New or revised policies and practices to address disparities in BPD pedestrian and traffic stop, citation, search, and arrest rates; and other efforts to ensure unbiased policing.
 - Specifically, a PRC Subcommittee is looking into the BPD practices of routinely asking detainees whether they are on probation or parole and, if they are, conducting searches.
- Conversion of all BPD General Orders into Lexipol policies.

Recurring topics:

- Memoranda of understanding and mutual aid pacts with other law enforcement agencies (an annual process).
- Surveillance Acquisition Policies and Surveillance Technology Use Policies, under the Surveillance Technology Use and Community Safety Ordinance, as needed when new technologies or new uses of existing technologies are proposed.

Possible new or renewed subjects of review:

- Revised policy governing the Use of Force by police officers.
- Assessment of use of body-worn cameras and re-visiting of policy recommendations made in March 2018.
- Evaluation of a proposed charter amendment to restructure the police commission and oversight staff.

Not all reviews of police policies, practices, or procedures can be anticipated in advance, as some issues are undertaken based on a request from the City Council or a civilian. Also, the PRC may undertake a review in response to particular police activity or incident.

Goal #2: Process complaints regarding individual police officer misconduct.

a. Resources

PRC staff are responsible for carrying out this goal, with critical participation by Commissioners. BPD staff are also involved.

b. Program activities

Staff will receive complaints of alleged misconduct by police officers, conduct an investigation, and, if warranted, prepare the case for a hearing before a Board of Inquiry. Rotating panels of three Commissioners serve as the BOI, except in death cases, where the Commission sits as a whole.

Cases may be closed without a hearing; the reasons for such closures include: mediation between the complainant and subject officer is completed; the complainant withdraws the complaint; or the complainant does not cooperate in the investigation.

c. Outputs

Following a BOI hearing, a Findings Report will be sent to the Chief of Police and City Manager, who may rely on the PRC's findings in determining whether to impose discipline.

Based on prior years, it is anticipated that roughly eight BOI hearings will be held in the coming fiscal year.

d. Outcomes

By providing a venue for investigation of complaints that is separate from the Police Department, civilians may view the process as more objective than investigations conducted by the Police Department internally. Addressing problematic behavior identified by the PRC may result in corrective action or discipline. Police officers' awareness of the PRC's complaint process may influence their behavior in a positive way.

Goal #3: Participate in training.

a. Resources

PRC staff and BPD staff

b. Program activities

Presently, Commissioners are not subject to any mandatory or prescribed course of training, other than the training that all commission chairs and vice-chairs must complete. Each Commissioner receives a 2-hour orientation from PRC staff covering topics relevant to service on the commission, the role of Commissioners and PRC staff in reviewing policy and processing complaints, and service on Boards of Inquiry. Commissioners are to meet with the Chief of Police and schedule a ride-along.

Currently, additional training on the organization of the BPD, police policies, relevant law, and officer training occurs sporadically. Topics presented to the PRC in the past year include BPD de-escalation training and response of BPD in conjunction with the Mobile Crisis Team to persons in mental health crisis.

In light of an October 2018 Council referral asking the PRC to explore mandatory training requirements, the Commission has asked the PRC Chair and PRC Officer to arrange for ongoing training.

c. Outputs

The results will be Commissioners who are better and more uniformly knowledgeable about police procedures, staffing and organization, training, tactics, and relevant law.

d. Outcomes

The outcome will be policy reviews and Board of Inquiry decisions that are based on a deep understanding of police work and police-community relations such that both the police and the community will have more confidence in the work of the PRC.

Goal #4: Conduct outreach activities.

a. Resources

PRC staff, printing of materials

b. Program activities

The Commission, as a whole or through a subcommittee, will develop and implement activities and strategies to better inform the community about the PRC's mission and services, including its policy review function and intake of civilian complaints about officer misconduct as an agency independent of the Police Department.

c. Outputs

The results will include increased presence at community fairs and other events; speaking to community groups, churches, and the like; holding Commission meetings at various locations; updated literature describing the Commission's work; a revamped and expanded website.

d. Outcomes

The outcome will be larger numbers of community members who are aware of the PRC and informed about its services and activities.

Goal #5: Revise PRC Regulations for Handling Complaints Against Police Officers as needed.

a. Resources

PRC staff and BPD staff.

b. Program activities

The complaint process, from intake through the BOI hearing, is governed by regulations promulgated by the PRC. The need to revise the regulations may arise when, for example: a deficiency is discovered; a way to streamline the process is identified; or a change is desired.

Regulation changes may be initiated by the Commission or by staff. The Commission as a whole may consider a revision, or establish a subcommittee for this purpose.

Depending on the specific change, a meet-and-confer with the police union may be required.

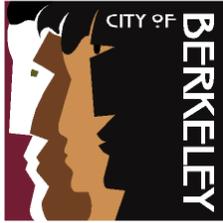
c. Outputs

The result will be amended PRC Regulations.

d. Outcomes

Amended Regulations will result in a process for handling complaints that is clearer; more efficient; conforms to current law; and reflects community values.

2. PRC Work Plan for 2020-2021



Police Review Commission

INFORMATION CALENDAR

October 27, 2020

To: Honorable Mayor and Members of the City Council
From: Police Review Commission
Submitted by: Kitty Calavita, Chairperson, Police Review Commission
Subject: Police Review Commission Work Plan for 2020-2021

INTRODUCTION

The Police Review Commission submits its work plan for the year beginning July 2020, in compliance with the 2016 City Council directive for commissions to submit work plans at the beginning of each fiscal year.

CURRENT SITUATION AND ITS EFFECTS

The Commission adopted the attached work plan at its September 9, 2020 meeting. (M/S/C: Mikiten/Chang; Ayes: Calavita, Chang, Leftwich, Mikiten, Mizell, Perezvelez, Ramsey; Noes: None; Abstain: None; Absent: Allamby.)

The work plan includes a list of policy subjects that the Commission is or anticipates addressing in this fiscal year. Foremost among those subjects is the Citywide effort to transform community safety; the Commission expects to participate in the upcoming process of envisioning and shaping a reimagined police department. As time and resources permit, the Commission would like more training about police procedures and tactics, and to learn more about training that our police officers receive. Additionally, the Commission would like to conduct more outreach to ensure that the public is aware of the Commission's existence and role. Finally, the Commission's role in hearing complaints of alleged police misconduct will continue.

If the ballot measure to establish a new Police Accountability Board and Director of Police Accountability position is passed by the voters this November, the current Commission should be phased out by June 30, 2021, which coincides with the period covered by this work plan.

BACKGROUND

The Police Review Commission was established by ordinance in 1973 to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department.

Policy work is carried out by the Commission with support from staff, while complaint investigations are handled by staff with commissioner involvement if a case proceeds to hearing. Historically, review of police policies, practices and procedures was largely determined by the Commission itself, with some review generated by members of the public or the City Council but, in light of the heightened scrutiny of law enforcement and push for racial equity, more referrals have been coming from the City Council since June of this year. The number of complaint investigations and hearings remain externally driven.

ENVIRONMENTAL SUSTAINABILITY

No identifiable environmental effects or opportunities are associated with the subject of this report.

POSSIBLE FUTURE ACTION

While the attached work plan reflects the Commission's priorities as of the date of its adoption, it is subject to change throughout the year should more urgent or important matters arise. These matters may take precedence as a result of Council referrals, incidents involving the police, or requests from the community.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

No fiscal impacts of possible future action are anticipated for the current fiscal year.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, 510-981-4960

Attachments:

- 1: Police Review Commission Work Plan for 2020-2021



Police Review Commission

Police Review Commission 2020-2021 Work Plan

Commission mission statement

The general purpose of the Police Review Commission is to provide for community participation in setting and reviewing police department policies, practices, and procedures, and to provide a means for prompt, impartial, and fair investigation of complaints brought by individuals against the Berkeley Police Department. (B.M.C. sec. 3.32.010.)

Goal #1: Participate in the process to transform community safety in the City of Berkeley.

a. Resources

PRC staff, BPD and other City staff, and consultants.

b. Program activities

The City Council, in a reflection of the community's desires, has directed the City Manager to embark on a process of re-imagining community safety in the City, which includes limiting the role of law enforcement and identifying elements of police work that can be achieved through alternative programs, policies, systems, and community investments. As the body tasked with reviewing police policies, practices and procedures, the PRC has a valuable perspective on the current work of our police force, and expects to participate, with other community stakeholders, in envisioning and shaping a reimagined police department that sheds some responsibilities – such as mental health responses and traffic enforcement – and employs alternative approaches to remaining duties where appropriate.

c. Outputs

Recommendations for programs, structures, and initiatives to transform community safety in the City, especially as they relate to changes in the current scope of responsibilities of the Police Department.

Goal #2: Review and set BPD policies, practices, and procedures.

a. Resources

PRC staff, BPD staff, meeting space or videoconferencing capability.

b. Program activities

A policy review may be initiated by the Commission, by a City Council referral, the Police Department, or a member of the public. The initial review steps may be undertaken by the Commission, a commission subcommittee, or staff, depending on the nature and breadth of the policy, practice, or procedure in question. The review could include: holding meetings and hearings to receive input from community members; meeting with and asking questions of the BPD; studying current policies, practices, and procedures; gathering policies from other jurisdictions; and surveying the literature regarding best practices.

If a subcommittee or staff perform the initial work, it will be presented to the full Commission for review and approval.

c. Outputs

Based on the information gathered, the Commission will make a recommendation to the BPD, City Manager or City Council about a change in a policy, practice, or procedure.

d. Outcomes

The desired change is a new or improved policy, practice, or procedure. If new, it will provide guidance where it did not previously exist or was not well-documented. A revised policy, practice, or procedure will reflect a change to conform with new laws, to embrace best practices that have changed since the original policy was established, or to better align with community values.

This fiscal year, policy review must be considered in the context of the overarching effort to transform community safety.

e. Specific policies, practices, or procedures to be addressed in the current fiscal year will include ongoing, recurring, and new reviews.

Topics for which review was begun last fiscal year and will continue:

- New or revised policies and practices to address disparities in BPD pedestrian and traffic stop, citation, search, and arrest rates; and other

efforts to ensure unbiased policing. (Note that three PRC members are on the Mayor's Working Group on Fair & Impartial Policing.)

- Complete conversion of all BPD General Orders into Lexipol policies.
- Surveillance Acquisition Policies and Surveillance Technology Use Policies. Under the Surveillance Technology Use and Community Safety Ordinance, the PRC reviews these policies when new technologies or new uses of existing technologies are proposed, and makes a recommendation to the Council.

Matters for which review has begun or is anticipated to start this year:

- Uses of tear gas in narrowly defined circumstances.
- Evaluation of a proposed ordinance regulating Police Acquisition and Use of Controlled Equipment, as referred from the Council Agenda & Rules Committee.
- Assessment of use of body-worn cameras and re-visiting of policy recommendations made in March 2018.

Recurring topics:

- Memoranda of understanding and mutual aid pacts with other law enforcement agencies (an annual process).

Not all reviews of police policies, practices, or procedures can be anticipated in advance, as some issues are undertaken based on a request from the City Council or a civilian. Also, the PRC may undertake a review in response to particular police activity or incident.

Goal #3: Process complaints regarding individual police officer misconduct.

a. Resources

PRC staff are responsible for carrying out this goal, with critical participation by Commissioners. BPD staff are also involved.

b. Program activities

Staff will receive complaints of alleged misconduct by police officers, conduct an investigation, and, if warranted, prepare the case for a hearing before a Board of Inquiry. Rotating panels of three Commissioners serve as the BOI, except in death cases, where the Commission sits as a whole.

Cases may be closed without a hearing; the reasons for such closures include: mediation between the complainant and subject officer is completed; the complainant withdraws the complaint; or the complainant does not cooperate in the investigation.

c. Outputs

Following a BOI hearing, a Findings Report will be sent to the Chief of Police and City Manager, who may rely on the PRC's findings in determining whether to impose discipline.

Based on prior years, it is anticipated that about seven BOI hearings will be held this fiscal year.

d. Outcomes

By providing a venue for investigation of complaints that is separate from the Police Department, civilians may be more willing to file complaints, and view the process as more objective than investigations conducted by the Police Department internally. Addressing problematic behavior identified by the PRC may result in corrective action or discipline. Police officers' awareness of the PRC's complaint process may influence their behavior in a positive way.

Goal #4: Participate in training.

a. Resources

PRC staff and BPD staff

b. Program activities

Presently, Commissioners are not subject to any mandatory or prescribed course of training, other than the training that all commission chairs and vice-chairs must complete. Each Commissioner receives a 2-hour orientation from PRC staff covering topics relevant to service on the commission, the role of Commissioners and PRC staff in reviewing policy and processing complaints, and service on Boards of Inquiry.

Commissioners are to meet with the Chief of Police and schedule a ride-along.

Currently, additional training on the organization of the BPD, police policies, relevant law, and officer training occurs sporadically. In light of an October 2018 Council referral asking the PRC to explore mandatory

training requirements, the Commission has asked the PRC Chair and PRC Officer to arrange for ongoing training.

c. Outputs

The results will be Commissioners who are better and more uniformly knowledgeable about police procedures, staffing and organization, training, tactics, and relevant law.

d. Outcomes

The outcome will be policy reviews and Board of Inquiry decisions that are based on a deeper understanding of police work and police-community relations such that both the police and the community will have more confidence in the work of the PRC.

Goal #5: Conduct outreach activities.

a. Resources

PRC staff

b. Program activities

The Commission, through its Outreach Subcommittee, will develop and implement activities and strategies to better inform the community about the PRC's mission and services, including its policy review function and intake of civilian complaints about officer misconduct as an agency independent of the Police Department.

c. Outputs

The results will include increased presence at community fairs and other events; speaking to community groups, churches, and the like; holding Commission meetings at various locations; updated literature describing the Commission's work; a revamped website.

d. Outcomes

The outcome will be larger numbers of community members who are aware of the PRC and informed about its services and activities.

Item 10.f.

ODPA Memorandum Titled “Update on Council Approvals
of AAO#1 Adjustments”



Memorandum

Date: December 5, 2024
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA) 
Subject: Update on Council Approvals of AAO#1 Adjustments

PURPOSE:

This memo provides an update on the City Council's approval of the Office of the Director of Police Accountability's (ODPA) funding allocations as part of the Annual Appropriations Ordinance (AAO#1). These allocations aim to enhance our operational capacity and support key initiatives that align with the Board's oversight objectives.

SUMMARY OF APPROVED ALLOCATIONS:

The City Council approved the following allocations for ODPAs under the General Fund:

New Office Furniture (\$20,000):

- Allocation for purchasing furniture to accommodate the new office space.
- Procurement is pending based on the finalized office location and quotes.

Office IT Reconfiguration (\$20,000):

Funds to reconfigure IT infrastructure to meet the requirements of the new office.

Office AV and Miscellaneous Costs (\$20,000):

Tenant improvement costs, including audio/visual setup and other necessary adjustments.

Standalone Website and Social Media Program (\$32,076):

- For stakeholder engagement as required by City of Berkeley Charter 125(14)(m)¹:
 - Investment in launching a dedicated ODPAs website and expanding social media engagement to enhance transparency and stakeholder interaction.

¹ [https://berkeley.municipal.codes/Charter/125\(14\)\(m\)](https://berkeley.municipal.codes/Charter/125(14)(m))

- Funds will also be used to hire a consultant to provide a social media landscape report tailored to Berkeley. This report will identify strategies to achieve the best return on investment (ROI) for social media outreach efforts.

VIRTRA Virtual Training Simulator² (\$58,118):

- For stakeholder engagement as required by City of Berkeley Charter 125(14)(m):
 - Acquisition of a virtual training simulator to improve training while maintaining confidentiality standards.
 - Funds will support Board member training, staff training, and community training initiatives to enhance understanding and application of oversight and procedural justice concepts.

PAB Committee and Training Stipends (\$12,000):

Adjustments for Board member stipends to align with City of Berkeley Charter 125(11)(a)³.

Outreach - Promotional Materials (\$25,071):

Funding to produce materials that increase community awareness of the ODPAs work for stakeholder engagement as required by City of Berkeley Charter 125(14)(m).

Outreach - Community Engagement Meetings (\$24,250):

Resources to support hosting community engagement events for stakeholder engagement as required by City of Berkeley Charter 125(14)(m).

Public Safety Pulse Survey (\$25,000):

Implementation of a public safety pulse survey to gather community feedback on law enforcement practices and policies for stakeholder engagement as required by City of Berkeley Charter 125(14)(m).

NEXT STEPS:

Implementation Timeline: The ODPAs team is coordinating with the relevant internal stakeholders to initiate purchases and installations for the new office.

Engagement Strategies: Planning is underway for stakeholder engagement efforts, including the launch of a standalone website, outreach campaigns, and community engagement events.

Training Simulator Setup: A timeline for deploying the VIRTRA simulator is being developed.

CONCLUSION:

² <https://www.virtra.com/overview-le/>

³ [https://berkeley.municipal.codes/Charter/125\(11\)\(a\)](https://berkeley.municipal.codes/Charter/125(11)(a))

These approved allocations represent a significant investment in strengthening the ODPA's capacity to fulfill its mission. Your continued support and input as we implement these initiatives are invaluable. Should you have any questions or require further details, please do not hesitate to contact me.

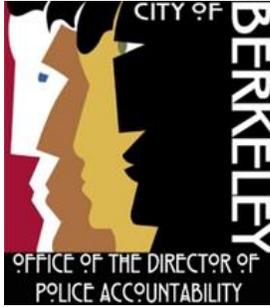
ATTACHMENTS:

AAO#1 Detail List (Approved Adjustments)

FY 2024 Unencumbered Carryover and FY 2025 Adjustments (AAO#1)

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Budget Mod #	Updated? (Y or N)	To Budget Code	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
35	011	General Fund	Office of the Director of Police Accountability	20,000			New Office Furniture (1X Expense)			011-14-000-000-0000-000-412-various-		X		Need to obtain quote based on approved office location space.
36	011	General Fund	Office of the Director of Police Accountability	20,000			New Office IT Reconfiguration (1X)			011-14-000-000-0000-000-412-various-		X		Carryover funding to pay for ODP's IT reconfiguration for their new office
37	011	General Fund	Office of the Director of Police Accountability	20,000			New Office A/V and misc. cost			011-14-000-000-0000-000-412-various-		X		Tenant Improvement cost (AV)
38	011	General Fund	Office of the Director of Police Accountability	32,076			Stand-alone Website + social media program launch			011-14-000-000-0000-000-412-various-		X		Stakeholder engagement- 125(14)(m)
39	011	General Fund	Office of the Director of Police Accountability	58,118			VIRTRA-Virtual training simulator (1X Expense)			011-14-000-000-0000-000-412-various-		X		Training and maintaining confidentiality- 125(14)(m)
40	011	General Fund	Office of the Director of Police Accountability	12,000			PAB Committee + Training Stipends Adjustments			011-14-000-000-0000-000-412-various-		X		Board Member Stipends 125(11)(a)
41	011	General Fund	Office of the Director of Police Accountability	25,071			Outreach (Promotional materials)			011-14-000-000-0000-000-412-various-		X		Stakeholder engagement- 125(14)(m)
42	011	General Fund	Office of the Director of Police Accountability	24,250			Outreach (Community Engagement Meetings)			011-14-000-000-0000-000-412-various-		X		Stakeholder engagement- 125(14)(m)
43	011	General Fund	Office of the Director of Police Accountability	25,000			Public Safety Pulse Survey			011-14-000-000-0000-000-412-various-		X		Stakeholder engagement- 125(14)(m)
	801 Total													
	Grand Total			236,516										

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: December 5, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel Aguilar, Director of Police Accountability (DPA) *(Ha)*
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 – December 3, 2024](#)

Council Meeting Informational Reports:

- [Audit Recommendation Status - Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities](#)
- [Staff Shortages: City Services Constrained by Staff Retention Challenges and Delayed Hiring Audit Status Report](#)
- [Measure FF Spending Audit Status Report](#)

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

City Council Regular Meeting – December 10, 2024

Ceremonial Matters

1. *Swearing in of newly elected and re-elected officials.*

Consent Calendar

- **Item 14.** - [Contract: Stommel Inc., dba Lehr for Hybrid Police Patrol Vehicles Supplies, Equipment, and Installation Services](#)

From: City Manager

Recommendation: Adopt a Resolution satisfying bid requirements of the City allowing the City to participate in competitively bid contracts, authorizing the City Manager to enter into contract with Stommel Inc. dba Lehr, for Hybrid Police Patrol vehicle supplies, equipment, and installation services with a contract term from December 15, 2024 to December 15, 2026 for an amount not to exceed \$400,000.

- **Item 19.** - [City Council Committee and Regional Body Appointments](#)

From: Mayor Arreguin

Recommendation: Adopt a Resolution approving appointments to City Council Policy Committees, Partnership Committees and Regional Bodies, to temporarily appoint Mayor Adena Ishii and Councilmembers Terry Taplin and Ben Bartlett to the Agenda & Rules Committee.

Other Relevant Information

Press Releases

- [In Response to Increased Threats to California Immigrant Communities, Attorney General Bonta Provides Guidance to Public Institutions to Protect Immigrants' Rights Under the Law | State of California - Department of Justice - Office of the Attorney General](#)