



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, January 8, 2025
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

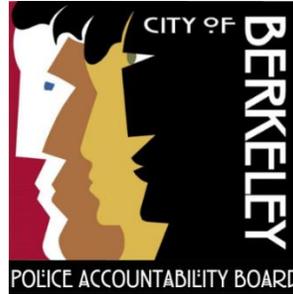
Office of the Director of Police Accountability
1900 Addison Street, Floor 3
Berkeley, CA 94704

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Item 2

January 8, 2024 PAB Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, JANUARY 8, 2025
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/89174589069>. 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 December 11, 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. NEW BUSINESS (1 HOUR 5 MINUTES)

- a. Discussion and action on new Policy Complaint 2024-PR-0008 in accordance with Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules (ODPA) – (15 Minutes)
- b. Discussion and action regarding the presentation of Policy Review 2023-PR-0007 Part I "Enforcement of Restraining Orders" (ODPA) – (15 Minutes)
- c. Designation of a presented for the PAB's reports to City Council (ODPA) - (5 Minutes)
 - i. "Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board"¹
 - ii. "2024 Police Accountability Board Report: Fair and Impartial Policing Implementation"²
- d. ODPa presentation of the proposed outline for the PAB and ODPa's 2024 Annual Report (ODPA) - (5 Minutes)
- e. ODPa Presentation of the Preliminary 2025 Calendar of Events (ODPA) – (5 Minutes)
- f. Discussion and action on establishing a Mutual Aid Agreement Subcommittee, as required by Section K, "Mutual Aid Agreements," of the PAB's Standing Rules (ODPA) – (5 Minutes)
- g. Nomination of candidates for the positions of Chair and Vice-Chair for the 2025 Calendar Year as outlined in Section 1(a) to Section 1(c) of the Standing Rules of the Police Accountability Board (ODPA) – (15 Minutes)

¹ 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

² 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

10. PUBLIC COMMENT (TBD)

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

11. CLOSED SESSION

CLOSED SESSION ITEMS

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

- a. Case Updates and Recommendations Regarding Personnel concerns, inquiries, and complaints received by the ODP.
- b. Active Complaints:
 - i. 2023-CI-0016
 - ii. 2024-CI-0003
 - iii. 2024-CI-0004
 - iv. 2024-CI-0009
 - v. 2024-CI-0025
 - vi. 2024-CI-0031
 - vii. 2024-CI-0045
 - viii. 2024-CI-0046

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

13. ADJOURNMENT (1 MINUTE)

Off Agenda Reports

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

Communications Disclaimer

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

Communication Access Information (A.R. 1.12)

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

SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 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 December 11, 2024



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

Board Members

John Moore III (Chair)
Kitty Calavita
Joshua Cayetano
David Williams

Leah Wilson (Vice-Chair)
Juliet Leftwich
Alexander Mozes

MEETING LOCATION

Office of the Director of Police Accountability
1900 Addison Street, Floor 3
Berkeley, CA 94704
([Click here for Directions](#))

Video Recording: https://youtu.be/Nt_YPFOJ60Q?si=Zk5MBW5eTKftJHwm

MINUTES

1. CALL TO ORDER AND ROLL CALL AT 6:34 PM

- Present:** Board Member John Moore (Chair)
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Joshua Cayetano
Board Member David Williams
- Absent:** Board Member Leah Wilson (Vice Chair)
Board Member Alexander Mozes
- ODPA Staff:** Hansel Aguilar, Director of Police Accountability
Jayson Wechter, Investigator
Syed Mehdi, Data Analyst
- BPD Staff:** Captain Schofield

Lt. Rego
CAO Staff: DCA Stephen Hylas
CMO Staff: Dr. Carianna Arredondo, Assistant to the City Manager

2. APPROVAL OF AGENDA (2 MINUTES)

Motion to approve the agenda with the amendment to table item 9A under Old Business to the next meeting.

Moved/Second (Leftwich/Calavita) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

3. PUBLIC COMMENT (TBD)

0 Physically Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES (5 MINUTES)

- a. Minutes for the Regular Meeting of November 13, 2024

Motion to approve the minutes for the Regular Meeting on November 13, 2024.

Moved/Second (Calavita/Leftwich) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

5. OPDA STAFF REPORT (10 MINUTES)

Director Aguilar provides updates on the new office space, NOBLE¹ membership, and the ASC conference², as well as a summary of recent NACOLE webinars³. Dr. Arredondo shares insights from the Community Violence Intervention Forum, highlighting their discussion on gun violence reduction strategies.

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

¹ National Organization of Black Law Enforcement Executives: <https://noblenational.org/>

² American Society of Criminology 2024 Annual Conference: <https://asc41.org/2024-asc-annual-meeting/>

³ National Association Civilian Oversight of Law Enforcement: <https://www.nacole.org/webinars>

Chair Moore expresses gratitude to everyone for their dedication and service. Board Member Cayetano thanks Chair Moore for their leadership and service and shares the update that he was sworn into the California Bar. Board Member Williams provides an update on his training and expresses appreciation for the members of the Board.

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

Deputy Chief Schofield (who is filling in for Deputy Chief Tate) shares updates on staffing, training of AEDs⁴ and ALPR⁵ cameras, crime trends, tsunami warnings, and other relevant topics. Board Member Calavita asks for clarification about pepper spray incident. Director Aguilar asks question about time frame investigation regarding pepper spray investigation.

8. SUBCOMMITTEE REPORTS (10 MINUTES)

Subcommittees report on their activities.

Motion to fold in the Body Guard Camera Subcommittee into Policy Subcommittee.

Moved/Second (Cayetano/Calavita) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

9. OLD BUSINESS

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

Tabled to the next meeting.

10. NEW BUSINESS (1 HOUR AND 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)

Motion to reject Policy Complaint 2024-PR-0007.

Moved/Second (Leftwich/Cayetano) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

⁴ Automated External Defibrillator: <https://www.redcross.org/take-a-class/aed/using-an-aed/what-is-aed>

⁵ Automated License Plate Reader: <https://berkeleyca.gov/community-recreation/news/berkeley-police-department-now-utilizing-alpr-cameras-berkeley>

- b. Discussion and action regarding the status update on ODPa Policy Review 2023-PR-0007 (ODPA) – (15 Minutes)

Motion to split Policy Review 2023-PR-0007 and review within next couple weeks.

Moved/Second (Cayetano/Leftwich) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

- c. Discussion and possible action on the status update regarding the outstanding request to BPD for Vehicle Pursuit Forms (Cayetano) – (5 Minutes)

No action taken.

- d. Discussion and Action on the PAB’s Strategic Planning Session for 2025 (ODPA) – (15 Minutes)

- i. Proposed date of the session

No action taken.

- 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

No action taken.

- 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”
 - ii. “2024 Police Accountability Board Report: Fair and Impartial Policing Implementation”

Motion to resubmit “Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board” and “2024 Police Accountability Board Report: Fair and Impartial Policing Implementation” reports to council.

Moved/Second (Calavita/Leftwich) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

- f. ODPa Updates for 2025 (ODPA) – (15 Minutes)

- i. Budget Updates
- ii. Programmatic Updates

No action taken. Director Aguilar provides updates on the budget, efforts to enhance social media presence, thematic programs, and public safety poll surveys.

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 ODP.

Motion to administratively close ODP Complaint No. 2024-CI-0030.

Moved/Second (Calavita/Leftwich) Motion carried.

Ayes: Calavita, Cayetano, Leftwich, Moore, and Williams.

Noes: None. Abstain: None. Absent: Mozes, and Wilson.

Motion to administratively close ODP Complaint No. 2024-CI-0016 – 2024-CI-0024, 2024-CI-0026 – 2024-CI-0029, 2024-CI-0032 – 2024-CI-0044, 2024-CI-0047, and 2024-CI-0048.

Motion to administratively close ODP Complaint No. 2024-CI-0030.

Moved/Second (Calavita/Leftwich) Motion carried.

Ayes: Calavita, Leftwich, Moore, and Williams.

Noes: None. Abstain: Cayetano. Absent: Mozes, and Wilson.

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 (Calavita/Leftwich). The meeting was adjourned at 9:00 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
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
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	Leftwich Cayetano Mozes	Leftwich	Deputy Chief Tate Sgt. Rafferty

Formally "Lexipol Review"	<u>Public members:</u> Kitt Saginor		
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 9.a.

ODPA Memorandum Titled “Notice of Policy Complaint No. 2024-PR-0008”



MEMORANDUM

Date: January 3, 2025
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability *HAA*
Jose D. Murillo, Policy Analyst *JM*
Subject: Notice of Policy Complaint No. 2024-PR-0008

The purpose of this memorandum is to introduce Policy Complaint Number 2024-PR-0008 to the Police Accountability Board (PAB) as required by Section G of the PAB's Standing Rules.¹

Background:

On Monday, December 11, 2024, the Office of the Director of Police Accountability (ODPA) received Policy Complaint No. 2024-PR-0008 from a member of the public (hereinafter referred to as the "Complainant"), who submitted the form via the ODPA's complaints and compliments system (Sivil). Refer to Attachment 1, Policy Complaint 2024-PR-0008.

The Complainant reported submitting a Public Records Act (PRA) request for Berkeley Police Department (BPD) officer rosters from 2012 to 2018², but BPD was unable to fulfill the request, stating that it no longer maintains past rosters. However, BPD did provide its current roster. Refer to Attachment 2, Timeline of CPRA Request 23-1846.

On December 12, 2024, Director Aguilar contacted the Complainant to confirm receipt of the policy complaint form. As part of the review process, Director Aguilar examined the PRA request at the center of this complaint and verified the response provided by BPD. In acknowledging the complaint, Director Aguilar referred the Complainant to TransparentCalifornia.com³, a public resource that provides access to salary, pension, and employment information for public employees across California. As a courtesy, Director Aguilar extracted and shared the available data for 2012 through

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 CPRA Request 24-1846: <https://cityofberkeleyca.nextrequest.com/requests/24-1846>

³ Transparent California (Berkeley, CA): <https://transparentcalifornia.com/salaries/berkeley/>

2018 from this resource, while noting that the ODPa has not verified the accuracy of the publicly available information.

The Complainant presented a recommendation for a practice change, suggesting that BPD begin retaining and providing police rosters upon request through PRA submissions.

Potential Area(s) of Review:

Under Berkeley City Charter Section 125(17)(a), the Police Accountability Board (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."⁴ This authority is relevant to the current policy complaint, which concerns the BPD inability to disclose past sworn personnel rosters. BPD has stated that it does not maintain records of past rosters and retains only its current roster. As a result, it could not release past rosters as part of the Public Records Act (PRA) request because the records no longer exist.

In California, the California Public Records Act (CPRA) governs public access to records held by state and local agencies, including police departments. While the CPRA mandates that public records be accessible upon request, it does not specify retention periods for particular records. Record retention schedules are typically determined by individual agencies, often guided by local policies or city ordinances.

The BPD follows a retention schedule adopted by city resolution⁵, which is currently under review and update. However, there is no retention requirement for past sworn personnel rosters at this time. Additionally, BPD Policy 804, "Records Maintenance and Release," does not address the retention of historical rosters and specifies under Policy 804.4.1(a) that the department is not obligated to create records that do not already exist. See Attachment 3, BPD Policy 804 "Records Maintenance and Release."

If the PAB decides to proceed with this review, it may want to consider making recommendations regarding the BPD's retention practices and the following policy:

- **BPD Policy 804 "Record Maintenance and Release"**
 - Purpose of Policy: This policy outlines the procedures for maintaining and releasing department records.
 - Reason: This policy was identified in response to the specific focus of the policy complaint, which pertains to the BPD's management and release of historical rosters. The retention of personnel rosters is not specifically addressed within this policy.

⁴ Berkeley City Charter Section 125(17)(a): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

⁵ City of Berkeley Records Retention Schedule as set by Resolution 68,661-N.S.:

<https://berkeleyca.gov/sites/default/files/2022-03/Records-Retention-Schedule.pdf>

Courses of Action:

Upon receiving a policy complaint, the Board can choose from several potential courses of action⁶, 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:

Considering the observed policy gap, the ODPA recommends accepting this policy complaint. In accepting this complaint, the PAB should evaluate whether this policy review aligns with the broader policy objectives and work plan goals.

Attachments:

1. Policy Complaint 2024-PR-0008
2. Timeline of CPRA Request 23-1846
3. BPD Policy 804 "Records Maintenance and Release"

⁶ 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

Attachment 1



Tracking Number ODP-241212-755729
Created by Molly Miller - December 11, 2024
Original version

POLICY

Personal Information

Basic Information

Email	First Name
[REDACTED]	[REDACTED]
Last Name	Home/Cell Telephone
[REDACTED]	[REDACTED]
Anonymously	Work Telephone
No	Not Specified

Mailing Address

Street Name	Apt/Unit #
[REDACTED]	Not Specified
State	City
[REDACTED]	[REDACTED]
Zip Code	
[REDACTED]	

Occupation

Research Analyst

Demographics

Date Of Birth	Race
[REDACTED]	White
Ethnicity	
Not Hispanic or Latinx	

Gender

woman

Incident Details

Statement

I submitted a PRA to BPD requesting police rosters for the years 2012 through 2018. BPD said that they could not provide the rosters because they do not maintain past rosters.

Location of Incident (if applicable)

Not Specified

Date of Incident (if applicable)

11-22-2024

Time of Incident (if applicable)

Not Specified

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

I propose BPD maintaining and providing police rosters, and making them available to members of the public who submit PRAs requesting them.

Additional Information

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.)

I am providing a link below to the request.

Upload Document

Not Specified

Incident External Links

<https://cityofberkeleyca.nextrequest.com/requests/24-1846>

How did you hear about us?

Website

Attachment 2



City of Berkeley Public Record Requests

Request #24-1846
Closed
As of January 2, 2025, 8:39am
Request Visibility: Staff

Details

Dear Custodian of Records,

I am requesting access to records in possession or control of the Berkeley Police Department for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution. The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined at Government Code § 6252(e) & (g). I request access to inspect/copies of:

- Officer rosters that include first and last names and badge numbers for the years 2012, 2013, 2014, 2015, 2016, 2017 and 2018

Please provide these documents to the email address [REDACTED] as soon as possible and in accordance with the CPRA.

Thanks in advance for your assistance,

[REDACTED]

Received

November 7, 2024 via web

Due

December 2, 2024

Departments

Police Department

Requester

[REDACTED]
[REDACTED]

Requester email status list

Request opened



City of Berkeley Public Record Requests

- **Sent** November 7, 2024, 6:26pm
- **Delivered** November 7, 2024, 6:27pm
- **Opened** November 7, 2024, 6:27pm

External message added

- **Sent** November 14, 2024, 10:35am
- **Delivered** November 14, 2024, 10:36am
- **Opened** November 14, 2024, 6:47pm

External message added

- **Sent** November 22, 2024, 10:10am
- **Delivered** November 22, 2024, 10:10am
- **Opened** November 23, 2024, 12:45pm

Document released

- **Sent** November 22, 2024, 10:11am
- **Delivered** November 22, 2024, 10:11am
- **Opened** November 23, 2024, 12:45pm

Request closed

- **Sent** November 22, 2024, 10:11am
- **Delivered** November 22, 2024, 10:12am
- **Opened** November 23, 2024, 12:45pm

Tags

Documents

Public (pending)

(none)

Requester

11222024_izo CO __.pdf

Staff Only

Email Correspondence PRA 24-1846.pdf

Staff

Point of Contact

██████████@berkeleyca.gov



City of Berkeley Public Record Requests

Support

██████████@berkeleyca.gov

Tasks

Timeline

Request Closed

Public

All records have been released, and your request has been fulfilled

November 22, 2024, 10:11 am by ██████████

Message to requester

Requester + Staff

This is in response to your November 7, 2024 Public Records Act request for:

"Access to records in possession or control of the Berkeley Police Department for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution. The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined at Government Code § 6252(e) & (g). I request access to inspect/copies of:

- Officer rosters that include first and last names and badge numbers for the years 2012, 2013, 2014, 2015, 2016, 2017 and 2018"

Berkeley Police has attached our current BPD roster. Berkeley Police does not maintain past rosters.

Your request is granted. The Berkeley Police Department has completed its search for responsive documents and as a courtesy has attached them to this letter. With this response, staff has completed their work to process and respond to your Public Records Act request.

Thank you,

Police Records Bureau

November 22, 2024, 10:11 am by ██████████ (Staff)

Document(s) Released to Requester

Requester + Staff

11222024_izo CO _.pdf

November 22, 2024, 10:11 am by ██████████

Message to requester

Requester + Staff

This is in response to your November 7, 2024 Public Records Act request for:

"Access to records in possession or control of the Berkeley Police Department for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution. The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined at Government Code § 6252(e) & (g). I request access to inspect/copies of:

- Officer rosters that include first and last names and badge numbers for the years 2012, 2013, 2014, 2015, 2016,



City of Berkeley Public Record Requests

2017 and 2018"

Berkeley Police has attached our current BPD roster. Berkeley Police does not maintain past rosters.

Your request is granted. The Berkeley Police Department has completed its search for responsive documents and as a courtesy has attached them to this letter. With this response, staff has completed their work to process and respond to your Public Records Act request.

Thank you,

Police Records Bureau

November 22, 2024, 10:10am by [REDACTED] (Staff)

Document(s) Added

Staff Only

11222024_izo CO _.pdf

November 22, 2024, 10:00am by [REDACTED]

Document(s) Added

Staff Only

Email Correspondence PRA 24-1846.pdf

November 14, 2024, 11:18am by [REDACTED]

Note Updated

Staff Only

[REDACTED]

Message to requester

Requester + Staff

This is in response to your November 7, 2024 Public Records Act request for:

I am requesting access to records in possession or control of the Berkeley Police Department for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. ("CPRA"), and Article I, § 3(b) of the California Constitution. The specific records I seek to inspect and copy are listed below. As used herein, "Record" includes "Public Records" and "Writings" as those terms are defined at Government Code § 6252(e) & (g). I request access to inspect/copies of:

- Officer rosters that include first and last names and badge numbers for the years 2012, 2013, 2014, 2015, 2016, 2017 and 2018

The City is extending the response period by fourteen additional calendar days to December 2, 2024 from November 18, 2024, based on the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records, and the need for consultation with two or more City departments or offices with substantial subject matter interest in the request. (Cal. Gov. Code § 7922.535(b)-(c) (formerly Gov. Code § 6253(c)).

Thank you,

Police Record Bureau

November 14, 2024, 10:35am by [REDACTED] Support Services (Staff)

Due Date Changed

Staff Only

12/02/2024 (was 11/18/2024).

November 14, 2024, 10:35am by [REDACTED]

Note

Staff Only



City of Berkeley Public Record Requests

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Support Staff Added

Staff Only

[REDACTED]

November 8, 2024, 9:01am by [REDACTED]

Department Assignment

Public

Police Department

November 7, 2024, 6:26pm (auto-assigned)

Request Visibility

Staff Only

All Staff

November 7, 2024, 6:26pm (auto-assigned)

Request Opened

Public

Request received via web

November 7, 2024, 6:26pm by [REDACTED]

Attachment 3

Records Maintenance and Release

804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

804.2 POLICY

The Berkeley Police Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

It shall be the policy of the Berkeley Police Department to release copies of public records, unless release would endanger a private person or law enforcement personnel, harm a law enforcement investigation, constitute an unwarranted invasion of privacy, or is prohibited by law.

804.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Support Services Captain shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
 1. Identifying the minimum length of time the Department must keep records.
 2. Identifying the department division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 7922.530).
- (g) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (h) Ensuring that all department current standards, policies, practices, operating procedures, and education and training materials are posted on the department website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the Department website meet the requirements of Government Code § 7922.680 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

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- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 7922.700) is publicly available upon request and posted in a prominent location on the Department's website (Government Code § 7922.710; Government Code § 7922.720).

804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

804.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access public records of this department, during regular business hours by submitting a request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530).

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).
 2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).

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Records Maintenance and Release

- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540). The requestor may appeal the denial to the Custodian of Records.

804.5 RECORDS FOR RELEASE

The following public information shall be released subsequent to administrative review of the Custodian of Records, unless release would endanger the safety of a person involved in an investigation, or endanger the successful completion of the investigation or a related investigation:

- (a) Arrest information for arrests made within six months of the date of the public information request (GC §6254(f)(1)):
 - 1. The arrestee's name, occupation, date of birth, and physical description, including gender, height, weight, and color of eyes and hair;
 - 2. The date, time and location of arrest, and the date and time of booking;
 - 3. The factual circumstances surrounding the arrest, the amount of bail set, the location where the individual is currently being held, or the time and manner of release; and,
 - 4. All charges the individual is being held upon, including any outstanding warrants from other jurisdictions, and parole or probation holds.
- (b) Complaints and requests for assistance made within six months of the date of the public information request (GC §6254(f)(2)):
 - 1. Factual circumstances surrounding the crime or incident, and a general description of any injuries, property or weapons involved.
 - 2. The time, substance, and location of all complaints or requests for assistance received by this department, and time and nature of response thereto, including, to the extent the information is recorded, the time, date and location of occurrence, and the time and date of the report.
 - 3. The victim's name, age and address, unless his/her name and address are not be disclosed pursuant to other provisions of this policy.

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- (c) Information required to be released to misdemeanor or felony crime victims, their agents, and insurers (GC §6254(f)):
 - 1. Names and addresses of persons involved in the incident;
 - 2. Names and addresses of witnesses (other than confidential informants) to the incident;
 - 3. The description of any property involved;
 - 4. The date, time and location of the incident;
 - 5. Statements of parties involved in the incident;
 - 6. Statements of witnesses (other than confidential informants); and,
 - 7. All diagrams.
- (d) Release of a complete copy, without redaction, of an identity theft (PC §530.5) police report to the victim of said offense (PC §530.6(a)).

804.6 COMMAND OFFICER RELEASE OF INFORMATION

Supervisory and command personnel may release verbatim excerpts from the General Orders, Training and Information Bulletins, or written policy directives of their particular command, and may quote statutory law which affects this Department and its conduct of public business.

Subsequent to the approval of the Chief of Police, the Public Information Officer, his/her designee, and command personnel may respond to criticism of their particular command, of the activities of members of their command, or of the department, except when the criticism has resulted in an Internal Affairs investigation of alleged misconduct.

804.7 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722) (Government Code § 6254.29).
- (b) Social Security numbers (Government Code § 7922.200).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
 - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.

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2. The identity of any officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief of Police, or as required by law.
- (d) The name and address of any person detained pursuant to Welfare and Institutions Code § 5150, where disclosure would constitute an unwarranted invasion of privacy.
 - (e) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).
 1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
 2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
 - (f) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.
 - (g) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation.
 - (h) Analysis and conclusions of investigating officers (Evidence Code § 1041; Government Code § 7923.605).
 1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.
 - (i) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
 1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney.
 - (j) Absent a Court Order, certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and

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- Institutions Code § 15633), juveniles (Welfare and Institutions Code § 827), sex crimes and/or domestic violence.
- (k) Incidents or investigations regarding violent or abusive conduct reported by a health care provider(PC 11163.2(b)).
 - (l) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).
 - (m) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
 - (n) Any record created exclusively in anticipation of potential litigation involving this department (Government Code § 7927.200).
 - (o) Records relating to the security of the department's electronic technology systems (Government Code § 7929.210).
 - (p) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
 - (q) Reports or information received from other agencies.
 - (r) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).
 - (s) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).
 - (t) Any prospective operation plan and related tactical inventory.

804.7.1 FIRST AMENDMENT EVENTS

Except as required by State and Federal law, no employee of the Berkeley Police Department or any other City of Berkeley employee shall actively broadcast through Twitter, Facebook, Nixle, or other social media, the addresses, legal names, booking photos or other identifying information of people arrested for non-violent offenses by the Berkeley Police Department or other departments acting in mutual aid at First Amendment Events, as defined in Policy 428. The Berkeley Police Department and other City employees may broadcast the fact of arrests having been made, and details of the reasons and circumstances of such arrests, so long as personal identifying information is not included.

Restrictions on broadcasting identifying information about individuals arrested for non-violent violations in conjunction with First Amendment Events shall not limit or diminish the City's

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obligation to release arrestee information as required by State law, subject to personal safety-based and other limitations. This prohibition does not apply to any suspect or suspects identified as persons wanted for committing a violent crime during any demonstrations or protest.

804.8 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

804.9 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

804.10 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records, or his/her designee, shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Supervisor shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

804.10.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Records Supervisor should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

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804.11 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an officer, or depicts an incident in which the use of force by an officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Custodian of Records should work as appropriate with the Chief of Police or the Internal Affairs Bureau supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

804.11.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

804.11.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief of Police in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

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Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

804.11.3 REDACTION

If the Custodian of Records, in consultation with the Chief of Police or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

804.11.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the person's authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

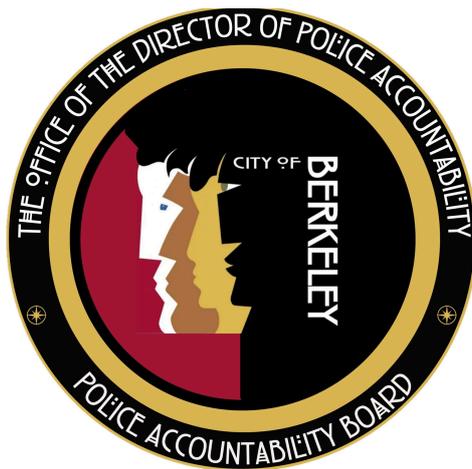
The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

804.12 ATTACHMENT

[See attachment: 804 Attach June 2022.pdf](#)

Item 9.b.

ODPA Report Titled “Policy Review 2023-PR-0007 Part I ‘Enforcement of Restraining Orders’”



POLICY REVIEW REPORT

ODPA No. 2023-PR-0007

PART I

Enforcement of Restraining Orders

Prepared by:

The Office of the Director
of Police Accountability

Presented to the PAB on
January 8, 2025

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Introduction

On September 22, 2023, a policy complaint form was submitted to the ODPa by mail, accompanied by several personnel complaint forms concerning the same incidents. The complaint is documented as "Policy Complaint Number 2023-PR-0007" (see Appendix A). The ODPa presented the complaint to the PAB on October 11, 2023. At that time, the PAB deferred its decision on accepting or rejecting the complaint pending the resolution of the related personnel complaints. The PAB officially accepted the complaint on July 24, 2024, assigning it to the ODPa. On December 11, 2024, the PAB decided to address this review in two reports due to a new personnel complaint filed by the complainant, which raised similar issues. The first report will focus on the Berkeley Police Department's (BPD) enforcement of restraining orders, while the second will examine the BPD's approach to elder abuse and its interactions with older adults.

Background

The Complainant states that she has been involved in a six-year dispute with her neighbor's caretaker. She states that this caretaker has caused disturbances and engaged in hostile behavior towards her, including blocking her car, disabling security gates, and verbally assaulting. Additionally, the complainant states that there have been various instances of property damage, harassment, and physical assault by the caretaker. Complainant filed a restraining order against her neighbor's caretaker, and her homeowner's association (HOA) issued a notice to perform covenant against the caretaker.

Despite these orders, the complainant contends that enforcement has been inadequate, with the Berkeley Police Department failing to take effective action. She recounts multiple encounters with her neighbor's caretaker and numerous attempts to seek assistance from the BPD, culminating in the issuance of a new restraining order on June 6, 2023, for elder abuse without exemptions. However, in filing the present policy complaint, the complainant continued to report sightings of her neighbor's apparent caretaker on the property and violations of the restraining order. She alleges that responding officers appeared to misunderstand or disregard the terms of the restraining order, suggesting that the neighbor's caretaker had an exemption as an employee. These interactions resulted in no immediate action to remove the caretaker from the property.

The complainant's communications with the police underscore her growing frustration with how the BPD has handled her case compared to her expected outcome. Her detailed accounts aim to highlight what she perceives as negligence and discrimination in the BPD's response, specifically questioning the officers' comprehension and enforcement of restraining orders. In her complaint narrative, the complainant states the following:

Their (BPD's) interpretation of the current restraining order apparently has no effect, no protections for me in my home, or for my vehicle which is parked in the garage, the used vehicle I had to acquire after [Redacted] completely destroyed my first vehicle by filling it with feces and urine,

scraping off the registration tags, spray painting ‘Bitch’ and ‘CUNT’ all over it, maintaining out the windows so that it was undriveable, smashing the windshield repeatedly. My insurance company told me that it was a total loss. [Redacted], despite giving my apartment front door, front windows, and potted plants the same treatment, has never been arrested for any of these assaults or any of his extreme vandalism despite my pleas for help, video evidence, etc. ***The Berkeley police’s decision to unilaterally and privately conclude that he is an employee means the court order of protection issued by the judge has no protection whatsoever.***

See Appendix A.

Interview with the Complainant

On September 3, 2024, ODPa Analyst Jose Murillo virtually conducted an interview with the complainant to discuss their experiences with the BPD’s handling of restraining orders and elder abuse concerns. The complainant detailed several negative encounters with BPD while seeking enforcement of restraining orders against an abusive individual. She expressed frustration, feeling that officers did not take the orders seriously, exhibited bias, lacked understanding of relevant laws, and, in some instances, mocked her situation.

Additionally, the complainant stated that BPD’s current policies and practices do not align with established best practices for addressing elder abuse and enforcing restraining orders. She referenced a favorable appellate court ruling that she believed highlighted shortcomings in BPD’s approach, urging the department to better align its policies with state laws protecting elders and individuals under restraining orders. The referenced court case was *Carol D. v. Wright (2024)*¹, issued by the California Court of Appeal, First District, Second Division. The complainants understanding of that ruling was that the BPD did not properly enforce her restraining order.

Objectives

This policy review examines concerns regarding the enforcement of restraining orders by the BPD. The complainant has reported challenges in the enforcement of these orders, including a recent restraining order related to elder abuse, following multiple incidents and legal proceedings. The complainant has raised concerns regarding officers’ interpretation and application of restraining orders, suggesting the need for clearer communication and potential improvements to training to ensure consistent enforcement.

The ODPa recognizes that the complainant’s statement points to potential gaps in the BPD’s approach to handling alleged abuse cases involving elder and dependent adults. Specifically, concerns have been raised about the level of sensitivity and understanding required to effectively safeguard these vulnerable populations. A more

¹ Carol D. v. Wright, No. A165330 (Cal. Ct. App. 2024). Retrieved from: https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=1&doc_id=2384564&doc_no=A165330&request_token=NilwLSEnTkw%2BWzBFSCitTEtIUEQ6UVxfJSNOSzITMCAgCg%3D%3D

detailed examination of these issues will be provided in a separate report following the resolution of the related personnel matter.

Methodology

This policy review employed a mixed-method approach to gather insights into the BPD's enforcement of restraining orders:

1. **Interviews:** ODPa staff interviewed the complainant and reviewed previous statements submitted to the ODPa as part of the personnel complaint investigation. The purpose of the interview was to understand the complainant's experience with BPD's response to her concerns.
2. **Incident Review:** The personnel complaint investigations of the corresponding events noted by the complainant were reviewed to gather a comprehensive understanding of the fact pattern. This process aimed to identify any information that the complainant may not have been aware of at the time, as well as procedural details not readily known to the public.
3. **Quantitative Data Analysis:** ODPa staff analyzed call-for-service data from the BPD related to response to restraining order violations. This analysis focused on patterns in calls for service and their outcomes to contextualize the current policies or practices of the BPD.

Through this approach, the review aimed to provide an understanding of the issue and inform potential policy recommendations.

Policy Overview

This policy review focuses on BPD Policy 430.4, "Court Orders." The policy provides guidance on handling court order violations, emphasizing documentation when no arrest is mandated. If enforcement action is needed, officers must consult a supervisor. In cases where a person disputes the order, officers are instructed to document relevant details and forward the report to the prosecutor and issuing court. See Appendix B, BPD Policy 430 "Civil Disputes".

Incident Review & Analysis

The complainant alleges that the BPD failed to enforce a restraining order against their neighbor during multiple calls for service, asserting that officers acted unilaterally and in violation of the court's order by choosing not to enforce it. A review of the incidents reveals that officers made several attempts to contact the restrained party at the neighbor's apartment, but their efforts were unsuccessful.² Officers observed signs in the neighbor's window instructing the complainant to leave him alone, highlighting ongoing tensions.³

² As noted under Incident Report numbers 2023-00037836, 2023-00043811, 2023-00046346, and CAD Narrative 2023-00041898.

³ As noted under Incident Report numbers 2023-00043811 and 2023-00046362

In one instance, the complainant reported that the restrained party came within four feet of her door and parked his car nearby. Officers reviewed the terms of the stay-away order and concluded no violation had occurred, citing provisions that allowed proximity when the restrained party was traveling to or from home or work.⁴ In this instance, the responding officer noted that he was familiar with the stay-away order, which permitted the individual to be within 100 yards of the protected party while traveling to or from home or work. He also stated that the individual had explained he was employed by IHSS to care for the tenant in the specified apartment and had provided a pay stub as evidence of his employment with IHSS.⁵ Based on the available information, the Officer determined that there was no violation of the terms of the restraining order.

When the complainant presented a letter from her homeowner's association regarding building rules, officers explained that enforcement of board member rules would be a civil matter. Officers also submitted out-of-custody complaints to the District Attorney's Office for review.⁶ The situation is further complicated by a documented history of disputes between the complainant and the restrained party, which includes a restraining order held by the restrained party against the complainant.

Despite the actions taken by officers, the complainant perceived these efforts as a lack of enforcement. This misunderstanding may have resulted from incomplete information about the process. Officers forwarded potential restraining order violations to the District Attorney's Office⁷, who is the primary prosecuting agency for the county of Alameda and has the primary responsibility for the enforcement of such orders.⁸ According to BPD 430.4, when no mandate exists for an officer to make an arrest, officers are directed to document apparent violations and consult a supervisor if immediate enforcement action is necessary. An arrest is required if an officer has probable cause to believe the restrained person had notice of the order and has disobeyed the order (Pen. Code Sec. 836(c)(1), 13701(b)).

In cases where the validity or applicability of a court order is disputed, officers are instructed by BPD Policy 430.4 to document key details, such as the person's knowledge of the order, whether proof of service exists, and any rationale for non-compliance. A copy of the court order should be included in the report, which is forwarded to both the appropriate prosecutor and the issuing court. This procedural approach ensures that potential violations are reviewed by legal authorities, though it may not meet the complainant's expectations for immediate enforcement, contributing to misunderstandings about the department's actions.

⁴ As noted in Incident Report Number 2023-00045765

⁵ Id.

⁶ As noted in Incident Report Numbers 2023-00043920, 2023-00046346,

⁷ As noted in Incident Report Number

⁸ California Penal Code § 273.6. Penal Code - Violations of protective orders:
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=273.6

The complainant referenced the decision in *Carol D. v. Wright (2024)*⁹, issued by the California Court of Appeal, First District, Second Division, to support claims that the BPD failed to properly enforce the restraining order. In summary, this case focused on whether the trial court correctly denied the renewal of a restraining order under the Elder Abuse Act. The Court of Appeal found that the trial court had not applied the proper legal standard in denying the renewal and reversed the decision. Specifically, the Appellate court stated the following regarding the denied restriction order renewal:

The order is reversed and remanded with directions for the trial court to reconsider Carol's request to renew the elder abuse restraining order. Upon remand, we direct the court to consider all of the relevant evidence produced by the parties, including the factual findings underlying the original restraining order. We express no view on the outcome upon remand.

The complainant's allegations outlined in this policy complaint are documented in the Appellant's opening brief¹⁰; however, the appellate court does not provide any commentary on the matter within their decision.

Findings

Upon review, the BPD adhered to its applicable policy in this case. Officers made multiple documented attempts to contact the restrained party, including knocking on doors and leaving business cards.¹¹ They reviewed the terms of the restraining order and, based on the available evidence—such as the restrained party's role as a caretaker—concluded that no violation had occurred. In accordance with procedural guidelines, officers forwarded potential violations to the District Attorney's Office for further evaluation. These actions aligned with BPD Policy 430.4, which outlines procedures for handling and enforcing court orders.

Since 2019, the BPD has responded to 376 calls for service related to restraining order violations. Of these, only 13 cases resulted in arrests, representing approximately 3.5% of all such calls. The majority of cases were resolved through other means, including incident reports (44 cases) and Mobile Data Terminal (MDT)¹² narratives (152 cases), while the remainder were recorded as stop data entries. See Figure 1, Dispositions of Calls for Service Related to Restraining Orders (Jan. 1, 2019 - Dec. 31, 2024). This data

⁹ *Carol D. v. Wright, No. A165330 (Cal. Ct. App. 2024)*. Retrieved from: https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=1&doc_id=2384564&doc_no=A165330&request_token=NilwLSEnTkw%2BWzBFSCItTETIUEQ6UVxfJSNOSzITMCAgCg%3D%3D

¹⁰ Appellant's Opening Brief. (2024, May 8). *Carol D. v. Wright, A165330*. California Court of Appeal, First Appellate District, Division Two. Retrieved January 3, 2025, from

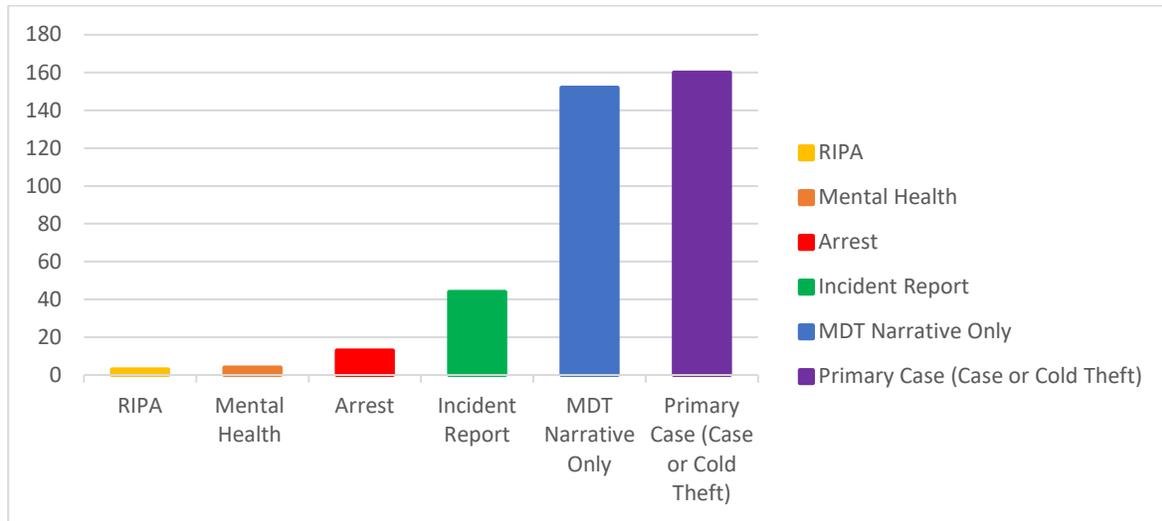
https://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=1&doc_id=2384564&doc_no=A165330&request_token=NilwLSEnTkw%2BWzBFSCItTETIUEQ6UVxfJSNOSzITMCAgCg%3D%3D

¹¹ As noted under Incident Report numbers 2023-00037836, 2023-00043811, 2023-00046346, and CAD Narrative 2023-00041898.

¹² An MDT is a computer installed in police vehicles that allows officers to quickly access criminal databases, warrant details, and dispatch information. BPD's use of MDTs is regulated by Policy 424, "Mobile Data Terminal Use."

suggests that, in most instances, BPD addresses restraining order violations without making arrests, often relying on documentation and forwarding cases for prosecutorial review when necessary.

Figure 1. Dispositions of Calls for Service Related to Restraining Orders Jan. 1, 2019 - Dec. 31, 2024



Source: Berkeley Police Department Transparency Hub

Penal Code Section 836(c)(1) requires peace officers to arrest an individual without a warrant if there is probable cause to believe a protective or restraining order has been violated, and BPD policy aligns with this state law. However, the issue may not lie in the policy itself but rather in the communication of enforcement actions and the reasons why an arrest may not occur. While BPD policy 430.4 highlights informing the reporting party that an arrested individual may not remain in custody for long, it does not similarly address the need to communicate with the reporting party when no arrest is made, which could contribute to misunderstandings or perceptions of inaction, like in the present case.

Recommendations

To enhance public understanding of BPD’s enforcement practices regarding restraining orders, it is recommended to improve the accessibility and clarity of information available to the community. This could be accomplished by creating a comprehensive, user-friendly webpage that explains the restraining order process, law enforcement’s role in enforcement, and the limitations of police authority in civil matters. For instance, the webpage could feature step-by-step guides, practical examples, and video explanations for a variety of audiences. Additionally, officers could be provided with further guidance on what information should be communicated to reporting parties regarding decisions to arrest or not arrest.

In the present case, it is unclear whether the complainant was provided with all the available information related to the enforcement process or if they were made aware of

developments after the BPD acted. Greater transparency about the steps involved in enforcing restraining orders and ongoing updates could help mitigate such gaps in understanding.

Other jurisdictions have implemented similar initiatives to improve public understanding. The **Los Angeles Police Department (LAPD)**, for instance, offers an FAQ section on its website, addressing questions about obtaining restraining orders, enforcement responsibilities, and limitations.¹³ The **San Diego Police Department (SDPD)** provides a similar resource, including downloadable guides and detailed examples of what constitutes a violation of a restraining order.¹⁴ The **Seattle Police Department (SPD)** goes further by directing community members to online tutorials and an interactive portal where individuals can learn about enforcement processes and submit specific questions for clarification.¹⁵

Another effective strategy would be to host informational workshops or webinars where community members can interact with BPD representatives, ask questions, and gain a deeper understanding of enforcement processes. For example, the **Chicago Police Department** periodically conducts community education sessions that include discussions on restraining orders and related enforcement challenges, helping bridge gaps in public understanding.¹⁶

By adopting a multifaceted approach to communication, BPD can address misconceptions about its role in restraining order enforcement, improve public access to vital information, and foster stronger trust and transparency within the Berkeley community. Additionally, ensuring that complainants are fully informed about the status of their cases could improve both understanding and trust in the department's enforcement practices.

Conclusion

This policy review has examined BPD's enforcement of restraining orders under Policy 430.4, "Court Orders." The review of incidents related to the complainant's allegations shows that BPD followed the procedures outlined in the policy. Officers made multiple attempts to contact the restrained party, reviewed the terms of the restraining order, and concluded that no violation occurred based on available evidence. As required by BPD policy, officers forwarded potential violations to the District Attorney's Office for further evaluation.

¹³ Los Angeles Police Department "Obtaining a restraining order": <https://www.lapdonline.org/domestic-violence/domestic-violence-obtaining-a-restraining-order/>

¹⁴ San Diego Police Department "Elder & dependent abuse": <https://www.sandiego.gov/police/services/elder-dependent-abuse>

¹⁵ Seattle Police Department "Protection orders. Seattle Police Department": <https://www.seattle.gov/police/need-help/crimes-against-persons/sexual-assault/protection-orders>

¹⁶ Chicago Police Department "Community conversations": <https://www.chicagopolice.org/community-conversations/>

While BPD adhered to its policy, it appears that a lack of clear communication regarding enforcement actions may have contributed to the complainant's perception of inaction. In cases where no immediate arrest is made, the complainant was not adequately informed about the reasoning behind this decision or the next steps in the process. This gap in communication may have led to misunderstandings about the department's efforts to enforce the restraining order.

To address such concerns and improve transparency, it is recommended that BPD enhance the accessibility of information about restraining order enforcement through easily navigable resources, such as a dedicated webpage and community outreach programs. Providing ongoing updates and explanations to those involved in enforcement cases can help ensure a clearer understanding of the department's actions and processes.

By adopting these measures, BPD can foster greater trust and clarity in its enforcement practices, reduce confusion, and help ensure that all community members are fully informed about the steps taken in restraining order cases. This proactive approach will further strengthen BPD's relationship with the community while ensuring that its enforcement of court orders remains consistent and transparent.

APPENDIX

1. Policy Complaint Number 2023-PR-0007



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

Received by DPA
Date Received:

SEP 22 2023

DPA Case # 2023-PR-0007

1

Name of Complainant: [Redacted] Last First Middle

Mailing Address: [Redacted] City State Zip

Primary Phone: [Redacted] Alt Phone: ()

E-mail address: [Redacted]

Occupation: retired Gender: F Age: 69

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.

police practice regarding restraining orders

3

Location of Incident (if applicable) [Redacted], Berkeley

Date & Time of Incident (if applicable) June 6, 2023 through the present

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

See attached

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

see attached

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

see attached

6 CERTIFICATION

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



Sept 18, 2023
Date

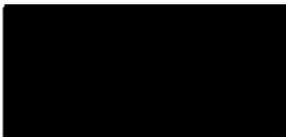
7 How did you hear about the Director of Police Accountability or Police Accountability Board?

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



NOTICE TO PERFORM COVENANT

February 5, 2023



Please take notice that you are in violation of the [REDACTED] Housing Association Building Rules (Section 6: Guests *and* Gate Entry Instructions, pg. 9) which states the following:

GUESTS

1. Tenants will be responsible for informing their guests of any building rules that apply to the situation.
2. Tenants are responsible for the actions of their guests, including property damage or injury caused by the guest.
3. Visitors are required to use the San Pablo Avenue entry gate system rather than standing outside the gate, shouting to be let in. It is the tenant's responsibility to explain to desired guests how to use the system (see below).

Due to recent and ongoing events involving your guest and employee, [REDACTED] and other tenants in the property, the Board of Directors has deemed that the aforementioned guest poses serious legal and safety concerns for [REDACTED]. For this reason, the board requires that [REDACTED] be restricted access to the premises, including keys to your unit, and the parking garage remote.

You are hereby required within FIVE (5) days to perform the aforesaid covenant(s) and to respond to the requirements described above. Failure to respond to this notice within the allotted time will or to deliver up possession of the above-described premises which you currently hold and occupy.

If you fail to do so, legal proceedings will be instituted against you to recover said premises and such damages as the law allows.

Thank you,
Board of Directors

Policy Complaint Form - Submission from [REDACTED]

#3. The Berkeley police, who repeatedly treated a previous restraining order against [REDACTED] as if it were inapplicable whenever he was on the property, are doing the same thing with my present restraining order, deciding unilaterally and in violation of the court's orders that the friend's apartment he sneaks into at the end of the corridor where I live is his "workplace."

Each responding officer, Officers [REDACTED], [REDACTED], [REDACTED], etc., have a variety of excuses for allowing a violent man who has repeatedly assaulted me and vandalized not just my property but that belonging to our entire building to remain on the property.

They in no particular order and despite the evidence in the court case itself, suggest that he is a tenant (he is not), that he is an employee (he is not), that I am obligated to find out his birthday (which I easily obtained from the District Attorney's office and gave to them), that I am somehow obligated to correct some misinformation in their police records regarding his birthday and/or name (which I have no legal authority to do), that the presence of his vanity-plated car under my bedroom window is not a restraining order violation, that he was never served in the first place, or that they're honestly confused (Officer [REDACTED] said this) by the existence of another man named [REDACTED] who was born in 1924. My attorney and I have repeatedly supplied the Berkeley Police Department with copies of the restraining order, with copies of the service documents, with copies of the Notice to Perform Covenant issued February 5, 2023 by our Board of Directors (we own our building) prohibiting [REDACTED] from the property entirely, which should have ended immediately any implication that he can be employed here by anyone for any reason.

Their interpretation of the current restraining order apparently has no effect, no protections for me in my home, or for my vehicle which is parked in the garage, the used vehicle I had to acquire after [REDACTED] completely destroyed my first vehicle by filling it with feces and urine, scraping off the registration tags, spraypainting "Bitch" and "CUNT" all over it, painting out the windows so that it was undriveable, smashing the windshield repeatedly. My insurance company told me that it was a total loss. [REDACTED], despite giving my apartment front door, front windows, and potted plants the same treatment, has never been arrested for any of these assaults or any of his extreme vandalism despite my pleas for help, video evidence, etc. ***The Berkeley police's decision to unilaterally and privately conclude that he is an employee means the court order of protection issued by the judge has no protection whatsoever.***

I submit that the Berkeley police takes elder abuse so lightly, or has such a discriminatory attitude toward elderly women, or toward me, or all three, that even the strongest restraining order available under the law - according to the judge - is rendered useless. I am in danger in my home, getting my mail, entering or exiting my apartment, getting safely get to my car, that I am currently having to leave - again - for another period of time staying out of state until someone somewhere in the City of Berkeley clarifies that [REDACTED] should have been arrested for the most recent assault on me (on January 3, 2023, an assault which I reported, included photos of my injuries, documentation of my concussion,

names of witnesses, etc.) and checks with the courts, not with restrained party [REDACTED], regarding any honest questions they may have about the restraining order.

I have included a portion of a chronology of contemporaneous notes with goes back six years.

----- Incidents ongoing, 2023 continuing Chronology of vandalism and incidents- ---

September 17, 2023- reported violation to BPD, who did not get [REDACTED] off property. Responding Officer [REDACTED] suggests *that I said he was an employee*. I specifically corrected him, noting the Notice to Perform Covenant, he says that [REDACTED] has some kind of proof that he is an employee, and the RO exempts him as an employee. He checks with Sgt. [REDACTED], who affirms, they leave him on the property. I convey this to [REDACTED], to [REDACTED], to [REDACTED], to [REDACTED]. It makes no sense that [REDACTED] filed to contest the restraining order, which he did, if he really believes he has an employee exemption. [REDACTED] will call this afternoon.

September 16, 2023 - reported violation to BPD, who did not get [REDACTED] off property.

September 8, 2023, Friday " Received this voicemail from Officer [REDACTED] "Hi Miss [REDACTED] it's officer [REDACTED] from Berkeley PD again calling you back I've been working with my dispatcher here and looking in the computer and I don't see that the restraining order tht the newest one you tried to get against [REDACTED] has been served yet him he does need to be served with him before I can file charges on _____ will do an incident report for you though and document everything going on but I know the paperwork you show me it said that you were president Court but I didn't see anything on there saying that he was served and then one of the dispatcher's look up all of his information they don't see a restraining order on file and I don't see it either so I hink that's because he still needs to be served for your most recent restraining order but anyways I'm still gonna do an incident report for you it's just not gonna go to the DAs office so when you see him again please call the police so we can serve them with yourrestraining order OK thank you bye..."

I called [REDACTED], who says he will take care of it. Also talked to Kaiser to document.

Thursday, September 07, 2023 4:44 pm - returned home. no police calls, or etc. yet.

Officer [REDACTED] responds by phone 9:45 pm. Officer [REDACTED] comes by with Officer _____. They look at the restraining order. They went to Apt. 1 to knock on the door.

Thursday, September 07, 2023 12:00 noon- I saw [REDACTED] exit from our back garage door through the Wells Fargo Banks' small gate into the parking lot, where he had parked his car with the [REDACTED] plates. I photographed the car while he was in it, he spoke to me and I videotaped that, while he backed out and drove off. He was wearing a grey hoodie pulled low over his head, and had gone down through the garage gate to the first floor, which, if entered through the garage door (he still has his garage door opener), can easily be left ajar.

He is in violation of the "Notice to Perform Covenant" from the board dated February 5, 2023, as well as the elder abuse Restraining Order [REDACTED] by being on the property.

Thursday, August 31, 2023: Spoke with Sergeant [REDACTED], Officer [REDACTED]'s supervisor. Sent him the Notice to Perform Covenant, the Restraining Order, and the service documents in an effort to clarify that [REDACTED] does not live here, does not work here, and was forbidden to have keys or be here five days after February 5, 2023.

Spoke to [REDACTED] at the District Attorney's office, who routed me to [REDACTED] at the charging office where I left a message. She is also giving my number to [REDACTED], another person there, in case that can be helpful. She says another advocate, [REDACTED], will call. She called, and just said, no, they can just go ahead and arrest him. I sent an email to Sgt. [REDACTED] conveying that information, cc'd [REDACTED].

August 30, 2023: [REDACTED] at the DA's charging office, says there's no discrepancy regarding [REDACTED] birthday, which is [REDACTED]. And there are no records of any reports of any assault by [REDACTED] on me on January 3rd, 2023. No photographs, no concussion medical record, nothing. I called Officer [REDACTED] and let him know that, also Officer [REDACTED] and let him know, asking him to send the records again. Sgt. [REDACTED] called me at 5:00 pm saying that the DA's office had just mixed things up, but that he had gotten confirmation that the records are there. I will call tomorrow. I am so exhausted.

August 28-30, Monday through Wednesday, vandalism and surveillance camera on window sill of Spt. 1 moved to face in different directions. Called [REDACTED] Berkeley police, and tried to leave messages on [REDACTED]'s phone but his mailbox is too full day after day. Officer [REDACTED] says there's a wrong birthday in the system, that someone named [REDACTED] from 1924 is confused with [REDACTED]. He implies that I have to figure this out and fix it.

August 22, 2023, Tuesday: Saw [REDACTED] entering Apt. #1 at 9:30 am. Reported it to [REDACTED], Building Manager [REDACTED] and the Berkeley police. Incident report # [REDACTED].

(June 6, 2023 -- New restraining order issues- elder abuse Restraining Order [REDACTED] - issued for five years with no exemptions)

May 17, 2023 - 1:30 am more smashing, same sounds as from #16 about a week ago, called 9-11

Monday, May 8, 2023 - Avenue Tow ([REDACTED]) agreed to come and tow the vehicle on Sunday, May 7, which is here now. I called to ask the police to come and assist with this, and Sgt. [REDACTED] sounds dubious about doing this, serving him if he comes out, etc. He says call him when the tow company comes.

May 7, 2023 8:13 am - [REDACTED]'s car is not in the garage. About six police officers, including Officer [REDACTED], the officer who came Friday night, came last night to try to serve him again and asked me to let them into the garage to leave a note on his car. So now he has the note

May 5, 2023 - Friday 7:15 pm - [REDACTED]'s car is here, door of #1 open, he screams at me, goes in. I called the police to serve him and evict him, his car, get our keys and garage door opener back. The police can't get him to open the door, but at least now they have the February 5, 2023 letter saying he's prohibited from the property.

April 29, 2023, Friday - I went to the market nearby in the afternoon and [REDACTED] was in the market. **When he saw me he screamed "You ruin everything!" across the whole market, startling everyone.** I had to maneuver behind the counter away from him, and videoed him so at least he would quiet down. When I left the market I spoke to a neighbor by the bus stop and he was waiting for me there and ran up to us yelling at me. I moved away and down the block, videoing him. He hadn't been waiting for the bus, as his groceries made clear; he was waiting for me. This is not illegal, but it is more proof of my need for a very strong, very protective restraining order. He finally crossed the street and went into our building. I went in after about 10 minutes up the side door stairs to avoid him and managed to get to my apartment. It was terrifying.

#4. Do something, anything, to allow people who understand the purpose of a restraining order to respond to restraining order violations instead of these officers. These officers think it is some kind of fun game, apparently do not coordinate or investigate at all, and apparently have no idea that the purpose of such documents are to protect me.

#5. Let me know if you need anything beyond the documents BPD already has; the restraining order¹, the Notice to Perform Covenant dated February 5, 2023, and the proof of service documents my attorney [REDACTED] of the Family Violence Appellate Project and I have both supplied repeatedly to the Berkeley Police.

Sincerely,

[REDACTED]

¹ (June 6, 2023 -- New restraining order - elder abuse Restraining Order [REDACTED] - issued for five years with no exemptions)

2. BPD Policy 430 “Civil Disputes”.

Civil Disputes

430.1 PURPOSE AND SCOPE

This policy provides members of the Berkeley Police Department with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

430.2 POLICY

The Berkeley Police Department recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this department will assist at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

430.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

Berkeley Police Department

Law Enforcement Services Manual

Civil Disputes

430.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an officer to make an arrest for a violation of a court order, the matter should be addressed by documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigating officer should consult a supervisor prior to making any arrest.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating officer should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

430.4.1 STANDBY REQUESTS

Officer responding to a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Officers should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

430.5 VEHICLES AND PERSONAL PROPERTY

Officers may be faced with disputes regarding possession or ownership of vehicles or other personal property. Officers may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, officers should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

430.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

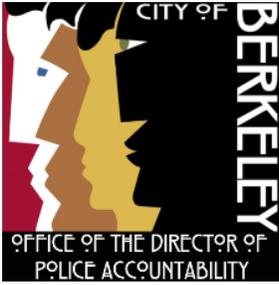
Berkeley Police Department

Law Enforcement Services Manual

Civil Disputes

Item 9.d.

ODPA Memorandum Titled “Presentation of the Proposed Outline for the
2024 ODPA-PAB Annual Report”



MEMORANDUM

Date: January 3, 2025

To: Honorable Members of the Police Accountability Board

From: Hansel A. Aguilar, Director of Police Accountability 

Subject: Presentation of the Proposed Outline for the 2024 ODPa-PAB Annual Report

Background

In accordance with Section 125(16) of the Berkeley City Charter, the Director of Police Accountability is required to produce an annual report detailing the oversight activities of the PAB and ODPa, including the policy recommendations of the PAB. This report must be presented to the Board for approval before being presented to the City Council. It serves as a critical tool for ensuring transparency, accountability, and continuous improvement in civilian oversight of law enforcement. The 2024 Annual Report will include all required elements outlined in the Charter. This memorandum outlines the proposed structure for the report, key deliverables, and the planned timeline for completion.

Proposed Report Outline

1. Executive Summary

- High-level overview of key findings, accomplishments, and recommendations.

2. Introduction

- Purpose and objectives of the Annual Report.
- Alignment with Berkeley City Charter Section 125 (16).

3. Board Activities

- Description of the Board's activities during the year, including:
 - A summary of the number, type, and disposition of complaints filed with the Board.
 - A summary of the number, type, and disposition of complaints filed with the Police Department by members of the public.
 - Policy complaints undertaken.
 - Other information requested by the Board or City Council.

4. Processes and Procedures

- Description of the Department's and the Board's processes and procedures for investigating alleged misconduct.
- Explanation of processes for determining discipline for sustained findings of misconduct.

5. Training and Education

- Summary of training and education initiatives.
- Description of any early warning systems utilized by the Department.

6. Issues from Investigations

- Training and/or policy issues identified during investigations by the Department, Director of Police Accountability, or Police Accountability Board.

7. Trends and Patterns in Stops

- Trends and patterns in vehicle and pedestrian stops, citations, arrests, searches, and seizures.
- Statistical data including demographics of complainants, reasons for stops, purposes of stops, dispositions, and locations, in compliance with the City and Police Department's Fair and Impartial Policing policies.

8. Use of Force and Officer-Involved Shootings

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

9. Comparative Analysis

- Insights from local Bay Area jurisdictions with civilian oversight models.
- Application of best practices to Berkeley's oversight model.

10. Recommendations

- Policy and operational improvements for the Berkeley Police Department.
- Recommendations for enhancing accountability and transparency.

11. Design Enhancements

- Visuals and charts to present complex data clearly.
- Accessible formatting to engage a broader audience.

12. Conclusion

- Summary of key insights and next steps.

Deliverables and Timeline

1. **January 8, 2025:** Present a preliminary outline to the PAB for review and feedback.
2. **January 22, 2025:** Present a detailed outline with finalized sections and key verbiage.
3. **March 2025 (Second Week):** Submit a draft for board review and discussion.
4. **April 2025:** Finalize and submit the Annual Report to City Council.

Key Considerations

1. **Data Accuracy and Consistency:** Address data discrepancies to ensure credibility and reliability.
2. **Comparative Insights:** Incorporate best practices and frameworks from peer Bay Area jurisdictions.
3. **Visual Presentation:** Utilize professional design resources to enhance readability and impact.

Next Steps

The ODPa team will continue to work with PAB liaisons to develop the referenced sections of the report. Feedback from the Board will be integrated into the detailed outline to ensure the report reflects the Board's priorities and addresses key oversight objectives.

Item 9.e.

ODPA Memorandum Titled “ODPA Preliminary 2025 Calendar of Events”



MEMORANDUM

Date: January 3, 2025
To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability 
Subject: ODPa Preliminary 2025 Calendar of Events

The Office of the Director of Police Accountability (ODPA) submits this preliminary calendar of events for 2025 for the Board's review. All event titles and descriptions are presented as working titles to allow for refinement based on Board input and community feedback. The calendar is designed to promote diversity, facilitate inclusive community dialogue, and enhance transparency and accountability in public safety practices.

Preliminary 2025 Calendar of Events

Q1: January – March

- **Community Visioning Session on Police Accountability**
Objective: Collaborate with the community to identify shared priorities and goals for enhancing police accountability and transparency. Discussions will focus on building trust, identifying barriers, and co-creating solutions to improve oversight and accountability mechanisms.
- **Black History Month: Policing and Public Safety Through a Black Lens**
Objective: A community forum centered on the historical and current experiences of Black individuals and communities with policing and public safety systems. Discussions may include the impact of systemic inequities and pathways toward fostering trust and justice.

- **Women’s History Month: Women in Public Safety Leadership**

Objective: A panel discussion showcasing the contributions of women in shaping inclusive and equitable public safety strategies.

Q2: April – June

- **A Conversation About Public Safety Technologies**

Objective: Facilitate a critical dialogue on the implications of emerging technologies, such as AI and surveillance tools, in public safety practices.

Proposed Timing: May 17th, aligning with World Telecommunication and Information Society Day.

- **Asian American Pacific Islander Heritage Month: Building Bridges with AAPI Communities**

Objective: Address the unique challenges and opportunities faced by AAPI communities in fostering trust and engagement with public safety systems.

- **Public Safety and Data Tools Day**

Objective: Host a collaborative event with the Berkeley Police Department (BPD) to educate the community on navigating the Transparency Hub and other public safety or data tools. The event will highlight how these resources can be used to access public safety data and promote transparency.

Q3: July – September

- **Annual Report Presentation and Community Feedback Session**

Objective: Present the ODPA’s annual report to the community, reflecting on feedback received during the Council presentation and outlining next steps.

Proposed Timing: July (Q3), after Council consideration in April.

- **State of Public Safety and Accountability in the City of Berkeley**

Objective: Provide a mid-year review of public safety initiatives and accountability measures, highlighting progress and challenges.

- **Developing a Disciplinary Matrix for Berkeley Police Accountability**
Objective: Engage the community in discussions about creating transparent, equitable, and consistent disciplinary practices for law enforcement.

Q4: October – December

- **Hispanic Heritage Month: Latino Perspectives on Public Safety and Accountability**
Objective: Explore the experiences of Latino communities with public safety systems and discuss collaborative solutions.
- **Native American Heritage Month: Honoring Indigenous Perspectives on Public Safety**
Objective: Recognize and address the public safety challenges affecting Indigenous communities in Berkeley and beyond.
- **End-of-Year Community Reflection on Public Safety Progress**
Objective: Provide a space for community reflection on progress made and identify key priorities for the coming year.

Next Steps

1. Solicit feedback from the Board to refine the proposed event schedule and working titles.
2. Collaborate with local organizations, community stakeholders, and the Berkeley Police Department to ensure broad participation and engagement.
3. Finalize the calendar based on input and prepare for implementation.

The ODPa remains committed to fostering meaningful dialogue and advancing accountability through a diverse and inclusive calendar of events.

Item 9.f.

ODPA Memorandum Titled “PAB Review of Berkeley Police Department
(BPD) Mutual Aid Agreements”



MEMORANDUM

Date: January 3, 2024
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA) *HA*
Jose Murillo, Policy Analyst *JM*
Subject: PAB Review of Berkeley Police Department (BPD) Mutual Aid Agreements

This memorandum outlines the process for reviewing the BPD's mutual aid agreements with other jurisdictions, as stipulated in Section K "Mutual Aid Agreements" of the PAB's Standing Rules.

Background:

Berkeley City Charter Section 125(3)(a)(2)¹ provides the PAB the power and/or duty to:

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

To exercise its charter-granted power, the PAB incorporated Section K: "Mutual Aid Agreements" into its standing rules², establishing an annual review process for the Berkeley Police Department's (BPD) mutual aid agreements. See Attachment 1, Section K "Mutual Aid Agreements" of the PAB's Standing Rules.

Section K establishes that the PAB will form a mutual aid subcommittee by its first February meeting each year. This subcommittee, or the Board itself, will review the list of agreements between the BPD and other law enforcement entities and decide which agreements to examine further. At the time of writing this report, the BPD has its mutual

¹ Berkeley City Charter Section 125(3)(a)(2): [https://berkeley.municipal.codes/Charter/125\(3\)\(a\)\(3\)](https://berkeley.municipal.codes/Charter/125(3)(a)(3)) :

² Police Accountability Board's Standing Rules: https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf#Page=6

aid agreements under Chapter 14 “MOUs, Manuals and Reference” of its Law Enforcement Manual³.

Recommendation:

The PAB's standing rules require the formation of a mutual aid subcommittee by the first meeting in February each year to review the compendium of agreements between BPD and other law enforcement agencies. The Board should move forward with establishing this subcommittee for the review. The Charter grants the PAB under its powers and duties the authority to review these mutual aid agreements. The PAB should decide whether to include this review in its work plan. If it does, the subcommittee should evaluate the agreements and recommend which ones should be prioritized for review, given the number of agreements.

Attachment(s):

1. Section K “Mutual Aid Agreements” of the PAB’s Standing Rules

³ BPD Law Enforcement Manual Chapter 14:
https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=993

Attachment 1, Section K “Mutual Aid Agreements” of the PAB’s Standing Rules

Section K. “Mutual Aid Agreements”

The Board shall constitute a mutual aid subcommittee no later than the first meeting in February of each year to review the compendium of agreements made between the BPD and other law enforcement entities. The Board or the subcommittee may determine which agreements to review.

Source:

Police Accountability Board’s Standing Rules https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf#Page=6

Item 9.g.

ODPA Memorandum Titled "2025 PAB Elections for Chair and Vice-Chair



MEMORANDUM

Date: January 3, 2025
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA) *HA*
Jose Murillo, Policy Analyst *JM*
Subject: 2025 PAB Elections for Chair and Vice-Chair

This memorandum provides an overview of the PAB election process for the 2025 Chair and Vice-Chair positions.

Background:

Per Chapter II, Section F, Commission Organization, 1) "Election of Officers and Terms of Office" of the Berkeley Commissioner's Manual, the chair and vice-chair are elected by a majority of the commission for a one-year term. The chair may serve no more than two consecutive years, while the vice-chair has no term limit. Elections are held annually and must be listed on the agenda. Prior to the election, commissioners are encouraged to discuss the process and timing of nominations.

The nomination process requires a motion and second, and the election must be public, with a roll call vote recommended. Results must be announced and recorded in the minutes. The election process for the PAB is outlined in Section I, "Elections," of the PAB's standing rules, attached as Attachment 1.

According to Section I of the PAB's standing rules, during the first meeting of January, the PAB will nominate candidates for Chair and Vice-Chair, beginning with the Chair nomination. Nominations require a second; if no second is made, the nomination will not proceed. At the second meeting in January, additional nominations may be made, with each nominee given two minutes to explain their interest in the position. Board

members will have the opportunity to ask questions. Following the nominations, a roll call vote will take place, and the winner will be announced. If only one nominee is presented, a vote by acclamation may occur. In case of a tie, a second round of voting will take place, and a coin toss will resolve the tie, if needed. The Board secretary will document the nominations, votes, and results. Outgoing officers will have two minutes for departing remarks before the newly elected officers assume their positions.

The presiding officer, either the chair or vice-chair in their absence, is responsible for the following duties:

- Presiding over commission meetings, ensuring productive discussions and that all viewpoints are heard.
- Ensuring commission bylaws and procedures are followed, with meeting conduct rules made by the full commission.
- Appointing commissioners to temporary subcommittees, subject to commission approval.
- Approving the meeting agenda, limited to structure and order, without the authority to remove items submitted by the established deadline.
- Signing correspondence on behalf of the commission.
- Representing the commission before the City Council, with other commissioners acting as representatives upon commission approval.
- Approving commission reports to the Council but cannot alter content already approved by the full commission.
- Calling special meetings, either by the chair or a quorum of commissioners.
- Having voting rights and the ability to make or second motions.

Election Process: Nominations

During the first meeting in January, Board members are expected to follow the nomination process for chair and vice-chair as outlined below:

1. Nomination for Chair:
 - The process begins with the nomination for chair. Any Board member may nominate another member or themselves for the role of chair. All

nominations will be documented by the PAB Secretary in the table provided in Attachment 2.

- A second to the nomination is required for it to proceed. If no second is made, the nomination will not move forward.

2. Nomination for Vice-Chair:

- After the chair nomination is complete, the nomination process for vice-chair will take place. As with the chair, any Board member may nominate someone for vice-chair, including themselves. All nominations will be documented by the PAB Secretary in the table provided in Attachment 2.
- A second to the nomination is required for it to proceed.

3. Discussion of Nominees:

- Following the completion of nominations, each nominee will be given up to two minutes to speak about their candidacy, explaining their qualifications and interest in the role.

4. Opportunity for Questions:

- Board members will have the opportunity to ask questions of the nominees to clarify their qualifications and positions.

5. Next Steps:

- Once the nominations and discussions are concluded, the election will take place during the second meeting of the month.

Attachments:

1. Section I “Elections” of the PAB’s Standing Rules
2. 2025 Nomination Tracking Table for PAB Chair and Vice-Chair

1. Section I “Elections” of the PAB’s Standing Rules

SECTION I. ELECTIONS

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

Source: Police Accountability Board's Standing Rules: https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

2. 2025 Nomination Tracking Table for PAB Chair and Vice-Chair

CHAIR NOMINEES OF THE POLICE ACCOUNTABILITY BOARD

NOMINEE	NOMINATED BY	NOMINATION SECONDED BY

VICE-CHAIR NOMINEES OF THE POLICE ACCOUNTABILITY BOARD

NOMINEE	NOMINATED BY	NOMINATION SECONDED BY

These nominations are certified by:

Hansel A. Aguilar
Director of Police Accountability
Secretary, Police Accountability Board

Date: _____

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: January 3, 2025
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

The following policies were published on the Berkeley Police Department's Knowledge Management System (KMS) for acknowledgment:

- Policy 300 "Use of Force"
 - Updates Section 300.4 "Use of Deadly Force" to comply with Penal Code Section 835a.
 - Updates Section 300.4.3 "Shooting At or From Moving Vehicles"
 - Updates Section 300.5 "Use of Vehicles" to include language on the use of Vehicle Containment Techniques.
 - Updates Section 300.6.2 "Use of Force Reporting Levels" to include Vehicle Containment Techniques as a Level 3 use of force.
 - Removes Section 300.6.4 "Report Restrictions"
 - Updates Section 300.10.1 "Training Requirements"

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

- Policy 307 “Vehicle Pursuits”
 - Replaces BPD General Order V-06 “Vehicle Pursuits”
- Policy 312 “Temporary Custody of Juveniles”
 - Updates Section 312.14 “Interviewing or Interrogating Juvenile Suspects” to comply with Welfare and Institutions Code Section 625.
- Policy 439 “Vehicle Containment Technique (VCT)” (New Policy)
 - Provides guidance on the use of VCT during vehicle pursuits.
- Policy 1506 “2025 Legislative Updates”
 - Summary of key legal changes affecting law enforcement in 2025, based on the California Peace Officers' Association's Legislative Update Manual.

City of Berkeley Council Meeting Updates

The following items are being considered by the City Council and their respective committees.

[January 6, 2025 Agenda and Rules Committee](#)

- Draft Agenda for the January 21, 2025 Regular Meeting of the City Council
 - Item 27. Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board