



OFFICE OF THE DIRECTOR
OF POLICE ACCOUNTABILITY

APPROVED
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POLICE ACCOUNTABILITY BOARD
REGULAR MEETING
MINUTES

(approved)

Wednesday, February 08, 2023, 6:30 P.M.

No physical location; the meeting was held exclusively through videoconference and teleconference.

1. CALL TO ORDER & ROLL CALL BY CHAIR MOORE AT 6:30 P.M.

- Present: Board Member John Moore (Chair)
Board Member Regina Harris (Vice-Chair)
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member Cheryl Owens
Board Member Ismail Ramsey
- Absent: Board Member Kitty Calavita
- ODPA Staff: Hansel Aguilar, Director of Police Accountability
Beneba Thomas, ODPA Investigator
Jose Murillo, ODPA Policy Analyst¹
- BPD Staff: Interim Chief Louis

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Leftwich/Harris) **Motion Carried.**

Ayes: Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: Calavita

3. PUBLIC COMMENT

1 Speaker

¹ Note: To provide clarity on the role, this position is now being referred to as the "ODPA Policy Analyst," although the classification within the City of Berkeley is "Associate Management Analyst."

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of January 31, 2023

Moved/Second (Owens/Leftwich) **Motion Carried.**

Ayes: Harris, Leftwich, Levine, Moore, Owens, and Ramsey.

Noes: None

Abstain: None

Absent: Calavita

5. ODPa STAFF REPORT

ODPA Policy Analyst reported:

- Staff is exploring the possibility of a press release page for the PAB and ODPa to be able to post off-agenda communications and other reports.
- Staff continues to work on compiling a list of any pending inquiries made by the PAB to the BPD, CAO, or ODPa.
- Staff will provide the updated training hours for Board members and updates are being made to the training curriculum. More details on the Board retreat and training will be provided later on in the meeting.
- Regarding pending policy reviews and complaints, the staff is currently working hard on the pending reviews and is working towards improving internal procedures to make the review process more transparent. More detailed updates will be provided to the Board at a later date.
- Regarding the PAB's annual report, Staff has made considerable progress and is currently waiting for additional data from the BPD to continue.

Director reported:

- Physical meeting locations are being secured. The Judge Henry Ramsey Jr South Senior Center will be the main location. However, the meetings in March and one meeting in April will be at a different location due to center availability. An updated list will be provided.
- Staff is working out the logistics to be able to allow for hybrid participation for members of the public. Guidance from the city clerk regarding in-person meetings is still pending but once that becomes available, staff will circulate it to the Board.
- The Director met with members of the Berkeley Police Association for a meet-and-greet meeting as required by the Charter.
- The ODPa was invited to provide a presentation to the "Cop Watch" DeCal class at UC Berkeley. Once more information is available, we will inform the Board.

Board member questions:

Q: Board member Leftwich asks if the ODPa has received further guidance from the Clerk regarding hybrid meetings and Board member participation. She notes that the Counsel for Alameda County released a memo that provided detailed information²

² See the attached memorandum written by the Alameda County Office of the County Counsel.

A: ODPa Staff informs the Board that they have not received detailed guidance but that they plan on following up on that topic. Once available, they will circulate that information to the Board.

Q: Board member Owens ask for an update on staffing and hiring for the ODPa.

A: Director Aguilar informs the Board that the search for the permanent ODPa investigator is in progress. He is also currently looking into the classifications for the Policy Analyst and Data Analyst so that the positions are reflective of the needs of the PAB and ODPa. Hopes to fill those positions by the first quarter and no later than the second.

Q: Board member Owens inquired about the status of the request for the contract of the independent investigator and whether the office has received it.

A: Director Aguilar informs the Board that the ODPa has not received it but that staff was informed that the Board may request specific sections for review. The reason for the delay in the production of the fully executed contract has been administrative. Staff will follow up on that request.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore reported: Reserves his comments and reports for the next meeting. Notes that he and the Director have tentative plans to meet with the CAO and Interim Chief.

7. CHIEF OF POLICE'S REPORT

Interim Chief Louis reported:

- Staffing levels for sworn officers are currently at 144 sworn officers. One officer has submitted a 3-week notice of departure. 4 officers are in field training and 3 officers are currently in the academy.
- Recruitment and retention remain a priority for the BPD and they have been recently approved by the council to start a recruitment incentive program.
- Updates on cases of interest.
- BPD staff is working on providing the data requested by the ODPa for the annual report.
- Reports that a set of policies regarding fixed surveillance cameras have been sent to the ODPa for transmission to the full Board for review.

Board member questions:

Q: Vice-Chair Harris asks if the BPD knows why the officer who submitted a 3-week notice is leaving the department.

A: Interim Chief Louis states that the reason is still not clear but that anecdotal information suggests that there may be frustrations with challenges in the profession. An update will be provided to the Board as to the reasons in the next update.

Q: Board member Leftwich asks if body-worn camera (BWC) footage is used for training purposes and whether BWC footage is analyzed. She cites NACOLE's 2020

Webinar Series: Situating Body Worn Cameras (BWC) within Civilian Oversight (July 11, 2022)³

A: Interim Chief Louis states that BWC footage is indeed used as a training tool. Their current BWC contractor is working on a system that would allow for mass BWC footage analysis. The department would be interested in that technology when available and tested.

Q: Board member Owens inquires if the BPD conducts random audits of BWC footage to see what officers are doing out in the field.

A: Interim Chief Louis explains that the current BWC policy is the initial rollout policy. It is the policy that was developed through a meet-and-confer process with the Berkeley Police Association (BPA) and with input from the Police Review Commission (PRC). As is, the policy defines very specific instances where that BWC footage can be viewed and does not allow for random audits without a purpose.

Q: Vice-Chair Harris ask what the retention period for BWC footage is and seeks clarification if any type of audit of BWC footage is done at all.

A: Interim Chief Louis explains that the retention period can vary as there are different timelines but notes that there is a chart with all of the respective timelines that can be provided to the PAB and ODP. The Interim Chief further adds that the department is exploring BWC reviews as part of the random audits for the Early Warning System (EWS).

8. SUBCOMMITTEE REPORTS (DISCUSSION AND ACTION)

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

- a. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Owens)
 - Board Member Owens reports that there are no significant updates at this time. The subcommittee and staff are still gathering information.

9. NEW BUSINESS (DISCUSSION AND ACTION)

- a. Update on the plans for a PAB retreat & Board training.
 - Director Aguilar updates the Board on the status of the proposed PAB retreat. He states that the day of that retreat is being contemplated on March 11th or March 25th.
 - Board members provide feedback on preferred methods of communication.

³ See 2022 Webinar Series: Situating Body Worn Cameras (BWC) within Civilian Oversight (July 11, 2022)

- b. Discussion on the timeline for review of BPD's proposed drone policy and appointment of Board members to the relevant subcommittee.
- Chair Moore and Board member Levine volunteer to review the proposed BPD drone policies.

c. Notice of Policy Complaint No. 2023-PR-0001 (ODPA Staff)
(Per Section G "Policy Complaints and Reviews" of the PAB's standing rules, the policy complainant(s) will be allowed to speak for five minutes. Other members of the public will be allowed up to three minutes with the time allotted subject to the discretion of the chair, who will consider the number of persons wishing to speak.)

Motion to table the matter until the complainant provides more information about their policy complaint.

Moved/Second (Owens/Levine) **Motion Carried.**
Ayes: Harris, Leftwich, Levine, Moore, Owens, and Ramsey.
Noes: None Abstain: None Absent: Calavita

10. PUBLIC COMMENT

2 speakers.

CLOSED-SESSION

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 take action on the following matter(s):

11. PRESENTATION OF RECOMMENDATIONS REGARDING CASE NO. 25.

Motion to accept the findings and recommendations of the ODPA regarding Case No. 25

Moved/Second (Owens/Leftwich) **Motion Carried.**
Ayes: Harris, Leftwich, Levine, Moore, Owens, and Ramsey.
Noes: None Abstain: None Absent: Calavita

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED-SESSION ACTION

- Chair Moore announces the closed-session actions.

13. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Second (Owens, Leftwich) **By general consent, the meeting was adjourned at 8:05 p.m.**

ATTACHMENT 1