



## **POLICE ACCOUNTABILITY BOARD**

REGULAR MEETING

**Draft Minutes**

**Wednesday, May 24, 2023**

**6:30 P.M**

### **MEETING LOCATION**

North Berkeley Senior Center  
1901 Hearst Avenue  
Berkeley, CA 94709

- 1. CALL TO ORDER BY CHAIR MOORE AT 6:35 P.M.**
- 2. ADMINISTER OATH OF OFFICE & CONFIDENTIALITY TO NEW MEMBERS**

Director Aguilar administers the Oath of Office & Confidentiality to Leah Wilson, the newly appointed board member representing District 5.

### **3. ROLL CALL**

**Present:** Board Member John Moore (Chair)  
Board Member Regina Harris (Vice-Chair)  
Board Member Kitty Calavita  
Board Member Juliet Leftwich  
Board Member Deborah Levine  
Board Member Leah Wilson

**Absent:** None

**ODPA Staff:** Hansel Aguilar, Director of Police Accountability  
Jose Murillo, Associate Management Analyst

**BPD Staff:** Cpt. Durbin  
Lt. Reece

**CAO Staff:** None Present.

### **4. APPROVAL OF AGENDA**

#### **Motion to approve the agenda.**

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

Ayes: Calavita, Harris, Leftwich, Levine, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

## 5. PUBLIC COMMENT

1 speakers.

- In-Person Public Comment (1 Speaker)
  - o Speaker 1 (Councilmember Harrison): States that she is there to welcome newly appointed Board Member, Leah Wilson. She states that she is very familiar with Board Member Wilson's work and gratified to see her serving. Furthermore, she notes that she is happy about the ODPa's implementation of a therapy dog and acknowledges the importance of advancing mental health efforts in the community. The City Council passed a proclamation in honor of mental health awareness month on May 23<sup>rd</sup>.
- Virtual Public Comment (0 Speakers)

## 6. APPROVAL OF MINUTES

### **Motion to approve Regular Meeting Minutes of April 26, 2023**

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

Ayes: Calavita, Harris, Leftwich, Levine, Moore, and Wilson.

Noes: None

Abstain: None

Absent: None

## 7. INTRODUCTION OF NEW MEMBERS

Board Member Wilson introduces herself and provides a background as to her work.

## 8. ODPa STAFF REPORT

ODPA Director reported:

- Director Aguilar was present at the City Council's May 23<sup>rd</sup> meeting to witness the appointment of Board Member Wilson and William Williams<sup>1</sup>. He also notes that the City Council had an extensive debate on the surveillance technology policies that the Board had worked on several weeks ago but no decision was made. The items were postponed to June 13<sup>th</sup>. Notes that the PAB's material did not make it to the packet as a result of a procedural miscommunication.
- Director Aguilar announces that there will be a specialized care unit community dialogue on May 31<sup>st</sup> from 6-7 pm by zoom. The topic will be a discussion on the City of Berkeley's new 24.7 crisis response unit.
- Director Aguilar announces that there will be a NACOLE webinar on June 7<sup>th</sup> on Use of Force. He welcomes all Board Members to participate and to let staff know if they would like to sign up.
- Director Aguilar announces that the annual NACOLE conference will take place in November and reminds members to contact the ODPa if they are interested in attending.

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<sup>1</sup> The ODPa was informed that William Williams would not be joining the PAB as a result of sudden circumstances that would impede his participation.

## 9. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore reported:

- Chair Moore reports that he participated in an interview with Berkeleyside, where he discussed the current challenges that the PAB is facing.

## 10. CHIEF OF POLICE'S REPORT

Cpt. Durbin reported:

- He would like to welcome Board Member Wilson and Lucky, the ODP's new therapy dog.
- Cpt. Durbin reports that staffing has dropped slightly to 148 sworn officers and 21 dispatchers. The slight drop is a result of anticipated separations from the department. However, there is optimism about staff numbers increasing due to recent success in recruiting.
- Cpt. Durbin reports that there is some progress towards a recruitment and retention program for the police department. He hopes the program will be up and running by this summer.
- Cpt. Durbin reports on the following cases of interest:
  - o An Officer developed some leads in connection to a string of sexual assaults around the UC Berkeley campus. The suspect in those crimes has been arrested and charged.
  - o Detectives investigated an identity theft case where the suspect purchased a \$70,000-dollar car using someone else's information. Detectives identified the suspect and arrested them. The search resulted in the recovery of a ghost gun, drugs, and the identity information of a couple hundred other victims.
  - o On May 17<sup>th</sup> there was shooting on the 3100 block of Adeline. The injury was non-life threatening and is currently being investigated.
  - o On May 22<sup>nd</sup>, Bike Officers saw a group of men on the 2800 block of Adeline standing around the vehicle. The officers noticed one of the individuals had a gun in his hand. The group scattered but officers were able to arrest the individual with the gun and recover the firearm.
- Cpt. Durbin provides the following items:
  - o The 2022 Police Controlled Equipment Annual Report is on the agenda for June 6<sup>th</sup>. The PAB has already reviewed this report and provided recommendations.
  - o On June 13<sup>th</sup>, the City Council will revisit the surveillance technology items surrounding fixed cameras and drones after their lengthy discussion on May 23<sup>rd</sup>.
  - o A quarterly update on the Fair & Impartial policing program will be provided to the City Council soon on June 27<sup>th</sup>. Once that is finalized, the PAB will receive a copy.

- The BPD is currently working on its Annual Military Equipment report as pursuant to AB 481 and BPD Policy 709. That report is expected to go to the City Council on July 11<sup>th</sup> and a copy will be forwarded to the PAB.

Question and Answers:

- Q: Vice-Chair Harris asks about the current level of officers assigned to patrol.
- A: Lt. Reece reports that there are currently 60 officers.
- Q: Board Member Wilson asks a procedural question about the timelines for policy reviews.
- A: Policy Analyst Murillo states that it depends on the type of policy review and whether it is mandated by the Charter, local ordinance, or self-initiated by the Board.

**11. 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: No Chair at this time)
  - Director Aguilar reports that the subcommittee needs a Chair and that no action has been taken at this time. He states that the Chair can appoint a new chair during the current meeting or postpone it for a later time.
  - PAB Chair Moore states that he would like to postpone the action until the PAB has time to reorganize and restructure their current subcommittees at their June 7<sup>th</sup> meeting.
- b. Body-Worn Camera Policy
  - Chair Harris reports that the subcommittee met before the meeting and that the conversations have been very productive with BPD staff. The subcommittee plans to meet on June 8<sup>th</sup> for further discussion.
- c. Conflict of Interest
  - Chair Leftwich reports that there has not been much activity and that the subcommittee will meet the following week.

*\* When used under the subcommittee reports section, "Chair" refers to the Chairperson of the respective subcommittee, not the PAB Chair. \**

**12. OLD BUSINESS (DISCUSSION AND ACTION)**

**a. Training on *Graham v. Connor* – FLETC-TALKS**

- i. *Graham v. Connor* is a United States Supreme Court case that established the standard for evaluating claims of excessive force by law enforcement officers under the Fourth Amendment's "unreasonable seizures" clause. You can watch this video to learn more: <https://youtu.be/zhtQovjR2C0>.

- Board members watched the training video on *Graham v. Connor*.

**\*\*\* The Board takes a 5-minute break\*\*\***

### **13. NEW BUSINESS (DISCUSSION AND ACTION)**

- a. Continued discussion on the ODPAs proposed procedure for internal/external communications between the Board and other parties.
  - The Director clarifies that the previously presented documents were a reference and not a proposal. He invites the Board to provide any ideas as to what might work for them to co-collaborate a method that works for the PAB, ODPAs, and other stakeholders.
  - Board Member Calavita states that she prefers to receive less emails and would prefer to have all relevant information in as little emails as possible.
  - Chair Moore clarifies that there is an interest in improving the security of communications and ensure the confidentiality of privileged documents.
  - Board Member Leftwich states that she believes the PAB needs more clarity around the distribution of labor with communications. However, she would like to expedite certain communications to avoid bottlenecks of general communications that does not need staff.
  - Board Member Wilson ask the Director for clarification on the need for this communication protocol. Director Aguilar explains that there have been bottlenecks with the communications and would like to make the process more efficient.
  - Board Member Wilson suggest that the PAB and ODPAs have a meeting to discuss the best way to communicate with each other so that we have a system that sets expectations for all stakeholders.
- b. Discussion and action regarding the processing of commendations for BPD officers.
  - Policy Analyst Murillo provides a brief summary as to the current procedures for processing commendations. He informs the Board that the purpose of the item is to start the conversation on how they can better process commendations.
  - Board Member Calavita suggest that the office develop a procedure a present it to the Board. Policy Analyst Murillo agrees to do so and will present the item at a future meeting.
- c. Presentation on the incorporation of Animal Assisted Intervention (AAI) program in oversight work.
  - Director Aguilar provides a presentation on Animal Assisted Intervention and formally introduces Lucky, the ODPAs new therapy dog, as the new addition to the ODPAs team.
- d. Policy Review Case Status Updates

- Director Aguilar and Policy Analyst Murillo provide an overview of current policy complaints. He states that the office will be working on a detailed report for these complaints which will be presented to the Board at a following meeting.

**14. PUBLIC COMMENT**

1 speakers.

- In-Person Public Comment (0 Speakers)
- Virtual Public Comment (1 Speakers)
  - o Speaker 1 provides input on the implementation of the Animal Assisted Intervention program and provides additional resources that the PAB and ODPa can look into.

**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 act on the following matter(s):*

**15. CASE UPDATES**

- Director Aguilar provides case updates on the complaints currently being investigated by the ODPa.

**END OF CLOSED SESSION**

**16. ANNOUNCEMENT OF CLOSED SESSION ACTIONS**

- Chair Moore reports that Director Aguilar provided case updates to the board of the cases currently being investigated by the ODPa.

**17. ADJOURNMENT**

**Motion to adjourn the meeting.**

Moved/Second (Harris, Wilson) **By general consent, the meeting was adjourned at 9:13 p.m.**

Minutes Approved on: \_\_\_\_\_

Hansel Aguilar, Commission Secretary: \_\_\_\_\_