



**POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA PACKET
Wednesday, February 5, 2025
6:30 PM**

Board Members

Joshua Cayetano (Chair)
Kitty Calavita
John Moore III

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 February 5, 2025 PAB Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, FEBRUARY 5, 2025
6:30 P.M.

Board Members

Joshua Cayetano (Chair)
Kitty Calavita
John Moore III

Leah Wilson (Vice-Chair)
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MEETING LOCATION

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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 uncended 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 January 22, 2025
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 10 MINUTES)

- a. Discussion and action on the acquisition of fixed video surveillance cameras by the Berkeley Animal Care Services (BACS)¹ per Berkeley Municipal Code Section 2.99.030(2) (ODPA) – (15 Minutes)
- b. Presentation of Policy Review 2023-PR-0003 (Wilson) – (15 Minutes)
- c. 2025 PAB Strategic Planning Session Recap and next steps² - (10 Minutes)
- d. Discussion and Action on the PAB's proposed procedure for the BPD to submit all newly adopted and revised departmental policies to the PAB, per Section 125(17) of the Berkeley City Charter³ (Cayetano) – (15 Minutes)
- e. Discussion and action on the PAB's review of the BPD's Mutual Aid Agreements⁴ with other law enforcement agencies (ODPA) – (15 Minutes)
 - i. Development of Prioritization Method
 - ii. Identification of Agreements for Review

¹ Presented by Peter Radu, Assistant to the City Manager, and Mike St. Pierre, Animal Care Services Manager.

² The PAB's February 1, 2025 Special Meeting Materials can be found here:
https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2025-02-01%20PAB%20Special%20Meeting%20Packet_Final.pdf

³ Berkeley City Charter Section 125(17): [https://berkeley.municipal.codes/Charter/125\(17\)](https://berkeley.municipal.codes/Charter/125(17))

⁴ For a complete list of the BPD's MOUs, please visit:
<https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:3a637aa7-7359-45a1-81ed-dee245c93f83>

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 Complaints Received by the ODPa:

i.	2023-CI-0016	x.	2025-CI-0002
ii.	2024-CI-0003	xi.	2025-CI-0003
iii.	2024-CI-0004	xii.	2025-CI-0004
iv.	2024-CI-0009	xiii.	2025-CI-0005
v.	2024-CI-0025	xiv.	2025-CI-0006
vi.	2024-CI-0031	xv.	2025-CI-0007
vii.	2024-CI-0045	xvi.	2025-CI-0008
viii.	2024-CI-0046	xvii.	2025-CI-0009
ix.	2025-CI-0001	xviii.	2025-CI-0010

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/dpa>

Email: dpa@berkeleyca.gov

Item 4 Minutes for the Regular Meeting of January 22, 2025



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, JANUARY 22, 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

MINUTES

1. CALL TO ORDER AND ROLL CALL AT 6:35 PM

Present: Board Member John Moore (Chair)
 Board Member Juliet Leftwich
 Board Member Joshua Cayetano
 Board Member Leah Wilson (Vice Chair)
 Board Member Alexander Mozes
 Board Member David Williams

Absent: Board Member Kitty Calavita¹

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

¹ Board Member Calavita was granted a leave of absence.

BPD Staff: Nyia Grissam, Administrative Analyst
 Captain Schofield
 Lieutenant Rego
CAO Staff: DCA Hylas
CMO Staff: Rex Brown, DEI officer

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Leftwich/Mozes) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

3. PUBLIC COMMENT (TBD)

0 Physically Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES (5 MINUTES)

Motion to approve the minutes for the regular meeting of January 8, 2024

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

5. ODPa STAFF REPORT (10 MINUTES)

Director Aguilar presented several updates to the PAB, including the progress on the Annual Report, initial steps to secure social media consulting, and the development of a program calendar. He also shared information about a meeting with the City Mayor's Office, during which an invitation was extended for the Mayor to attend a PAB meeting, and provided updates on reports and letters to the City Council. The report also mentioned the upcoming Public Safety Committee meeting on March 17. Additionally, Director Aguilar highlighted situational awareness updates, including the retirement of BART Independent Auditor Russell Bloom², the resignation of SF OIG Terry Wiley³, and the

² Press Release: <https://mailchi.mp/bart.gov/independent-police-auditor-russell-bloom-to-retire?e=efea7dcdc9>

³ Article: <https://www.sf.gov/information--oig-newsletter-10december-2024-january-2025>

passing of City of Alexandria Independent Police Auditor Kim Neal⁴. Lastly, Investigator Wechter provided updates on NACOLE news and training opportunities⁵.

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

No updates were provided by the Chair or Board Members.

7. CHIEF OF POLICE'S REPORT

Captain Schofield provides updates to the PAB on crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

8. SUBCOMMITTEE REPORTS

PAB Subcommittees report on their activities since the PAB's last meeting on January 8, 2025.

9. OLD BUSINESS (5 MINUTES)

- a. Designation of a presenter for the PAB's reports to City Council (ODPA) - (5 Minutes)
 - i. "2024 Police Accountability Board Report: Fair and Impartial Policing Implementation"⁶

Motion to designate the Chair and Vice-Chair of the PAB to present the report titled "2024 Police Accountability Board Report: Fair and Impartial Policing Implementation" on behalf of the PAB.

Moved/Second (Wilson/Mozes) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

10. NEW BUSINESS (55 MINUTES)

⁴ AIPA Leadership Biographies: <https://www.alexandriava.gov/community-policing/aipa-leadership#:~:text=Kim%20Neal%2C%20a%20passionate%20advocate%20for%20justice%20and,were%20the%20heart%20of%20every%20room%20she%20entered>

⁵ NACOLE Webinars: <https://www.nacole.org/webinars>

⁶ 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

- a. Election 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)

Motion to elect Board Member Cayetano as the new Chair of the PAB by acclamation.

Moved/Second (Moore/Mozes) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

Motion to re-elect Board Member Wilson as Vice-Chair of the PAB by acclamation.

Moved/Second (Moore/Mozes) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

- b. Discussion and action on the proposed amendment of Section K "Mutual Aid Agreements" of the PAB's Standing Rules (ODPA) – (5 Minutes)

Motion to amend Section K, "Mutual Aid Agreements," of the PAB's Standing Rules to permit the full body, rather than solely a subcommittee, to review the BPD's Mutual Aid Agreements.

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

- c. Discussion and action on the review of the Berkeley Police Department's Memorandums of Understandings/Mutual Aid Agreements per Section K, "Mutual Aid Agreements," of the PAB's Standing Rules (ODPA)

Motion to assign the review of the BPD's Mutual Aid Agreements to the full PAB and review them at a future meeting.

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Moore, Mozes, Wilson, and Williams

Noes: None. Abstain: None. Absent: Calavita

- d. ODPA's Status Update on Ongoing Policy Reviews (ODPA)

The PAB did not take formal action. ODPa staff introduced the new policy review status report template, and the PAB provided feedback on the types of information that would be valuable for future reports.

- e. Discussion and action on the PAB's 2025 Strategic Planning Session. (ODPA)

The PAB did not take formal action. The PAB provided feedback as to what they would like to discuss at the PAB's 2025 Strategic Planning Session, scheduled for February 1st.

- f. ODPa presentation of the updated proposed outline for the PAB and ODPa's 2024 Annual Report (ODPA)

The PAB did not take formal action. Director Aguilar provides an update on the changes made on the 2024 Annual Report outline per the PAB's discussion at the last meeting.

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 ODPa:

The PAB did not take formal action. Director Aguilar provided updates on active cases to the PAB.

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announces the closed session actions.

14.ADJOURNMENT

Motion to adjourn. Moved/Second (Leftwich/Mozes). The meeting was adjourned at 8:19 by unanimous consent.

DRAFT

ITEM 5 City of Berkeley Police Accountability Newsletter

31 JANUARY, 2025

PAB AND ODPA

ISSUE #1

CITY OF BERKELEY POLICE ACCOUNTABILITY NEWSLETTER



THE POLICE ACCOUNTABILITY BOARD WAS CREATED TO PROMOTE PUBLIC TRUST THROUGH INDEPENDENT, OBJECTIVE, CIVILIAN OVERSIGHT OF THE BERKELEY POLICE DEPARTMENT.

POLICE ACCOUNTABILITY BOARD ELECTS NEW CHAIR, RECOGNIZING CHAIR MOORE'S LEGACY OF LEADERSHIP

At the January 22, 2025, Police Accountability Board (PAB) meeting, the Board elected a new Chair in accordance with the established election procedures. Chair Moore, who had served two consecutive terms leading the PAB, guided the Board and the Office of the Director of Police Accountability through a crucial developmental phase. Under his leadership, the PAB successfully submitted its Permanent Regulations, which are currently undergoing the meet and confer process.



Outgoing Police Accountability Board Chair John "Chip" Moore (left) hands over the gavel to incoming Chair Joshua Cayetano (right) after the election at the January 22, 2025 PAB Meeting
Photo Courtesy: ODPA

Additionally, Chair Moore oversaw the finalization of BERKELEY POLICE DEPARTMENT TEXTING OFFENSES: An Independent Investigation by the Police Accountability Board (commonly referred to as the Downtown Task Force Report), ensuring transparency and accountability in law enforcement oversight. His tenure was marked by significant milestones that strengthened the Board's role in police accountability, setting a strong foundation for the newly elected Chair to build upon.

SOCIAL MEDIA STRATEGY

The Office of the Director of Police Accountability (ODPA) has launched its social media program with the creation of an official LinkedIn page. As part of this initiative, ODPA is in the process of identifying a vendor to provide guidance on developing a sustainable social media strategy. This effort aims to enhance the visibility of the PAB/ODPA's work and foster stronger police-community relations through transparent and engaging communication.

MONTHLY HIGHLIGHTS

- PAB selects new leadership and date for annual retreat
- ODPA launches newsletter- social media strategy underway
- ODPA to host focus groups

CONTACT US

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Berkeley, CA 94704

FOR MORE INFORMATION VISIT: WWW.BERKELEYCA.GOV/DPA



ODPA ENHANCES TRANSPARENCY WITH REAL-TIME COMPLAINT PORTAL AND MONTHLY REPORTING

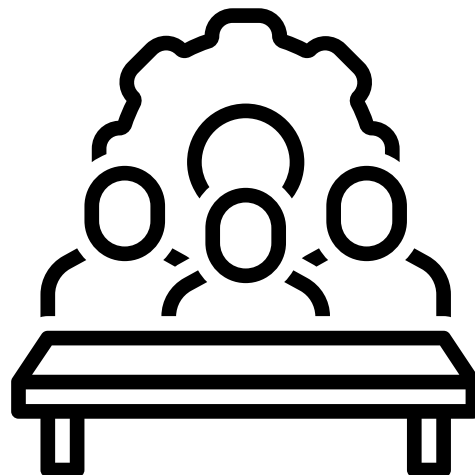
Personnel complaint activity can now be accessed in real-time through the ODPA's complaints portal page. This system provides the community with direct access to complaint filings, enhancing transparency and engagement with the police accountability process.

Moving forward, ODPA's monthly reports will include a snapshot of complaint activity and comparisons to historical trends, offering a more comprehensive understanding of patterns over time. This initiative aligns with ODPA's commitment to strengthening oversight mechanisms and fostering trust through accessible, data-driven insights.

To access our complaint portal visit:
<https://berkeleyca.siviltech.com/>

POLICY REPORT SPOTLIGHT: ODPA EXAMINES BPD RELATIONS WITH OLDER ADULTS, HOSTS COMMUNITY FOCUS GROUPS

The Police Accountability Board (PAB) is currently reviewing a policy complaint regarding the Berkeley Police Department's (BPD) interactions with older adults in the community. This complaint raises concerns about how officers engage with elderly residents, particularly in situations requiring sensitivity, de-escalation, and awareness of age-related issues. As part of this review, the ODPA, in partnership with the North Berkeley Senior Center, will be hosting two focus groups to hear directly from older adults about their experiences with the BPD. The sessions will take place on February 6th and 7th from 2:30 PM to 4:00 PM at the North Berkeley Senior Center. The feedback gathered will inform the ODPA's evaluation of existing policies and training protocols, helping to shape recommendations that promote respectful and effective police-community relations.



SUBCOMMITTEE WORK UNDERWAY

The ODPA has introduced the ODPA Policy Review Status Report, a new initiative designed to provide a snapshot of ongoing policy work at both the committee and staff levels. These reports will be included in regular meeting packets, offering transparency on the status of key policy reviews. To further enhance accessibility, the ODPA is exploring ways to model the City Auditor's recommendations dashboard, ensuring community members can easily track the progress of these reviews. This effort aims to keep the public informed and engaged in the evolution of police accountability policies.

TRAINING AND WEBINARS

As a [NACOLE](#)-affiliated agency, the PAB/ODPA actively participates in ongoing training and education through NACOLE's year-round webinar series. These sessions provide valuable insights into best practices in civilian oversight of law enforcement, with topics ranging from investigative techniques to policy development. Investigator Jayson Wechter, who serves as a NACOLE Board Member and chairs the Training, Education, and Standards Committee, plays a key role in shaping these educational initiatives. Additionally, Director of Police Accountability Hansel Aguilar contributes to the Membership Support and Development Committee, helping strengthen oversight networks nationwide. In some instances, ODPA staff develop and lead webinars, sharing expertise with the broader oversight community. NACOLE continues to expand its offerings, so be sure to check their website regularly for upcoming events and new learning opportunities.

OUTREACH EFFORTS

In honor of Black History Month, the ODPA is organizing a community event. Stay tuned for more information!

FOR MORE INFORMATION VISIT: WWW.BERKELEYCA.GOV/DPA

Item 8 List of Current PAB Subcommittees

Updated on 1/31/2025



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
Policy Reviews Formed 11-08-2023 Scope Expanded 12-11-2024 to include BWC Policy Review	Leftwich Cayetano <u>Public members:</u> Kitt Saginor	Leftwich	Deputy Chief Tate Sgt. Rafferty
Budget & Metrics Formed 11-08-2023	Wilson Cayetano	N/A	N/A

Updated on 1/31/2025

Scope Expanded 03-02-2024			
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Moore Mozes	N/A	N/A
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-0003	Vice-Chair Wilson
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 "Surveillance Technology Acquisition
- Fixed Cameras at Berkeley Animal Care Services"

AMENDED MATERIAL: This memorandum was amended to clarify that BACS is not seeking to acquire a new fixed camera surveillance system but instead, acquire a new server to access footage from a pre-existing camera system.



MEMORANDUM

Date: January 31, 2025

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel Aguilar, Director of Police Accountability (DPA)
 Jose Murillo, Policy Analyst
 Syed Mehdi, Data Analyst

Subject: Surveillance Technology Acquisition - Fixed Cameras at Berkeley Animal Care Services

This memorandum presents the PAB with an acquisition report and surveillance use policy for Berkeley Animal Care Services' (BACS) acquisition of a new server for their existing fixed camera system. This submission is being presented to the PAB per the requirements of Berkeley Municipal Code Section 2.99.030, "City Council Approval Requirements."

Background:

On January 27, 2025, the Office of the Director of Police Accountability (ODPA) received a referral for review by Peter Radu, Assistant to the City Manager.¹ Pursuant to that referral, the PAB is being presented with a proposal regarding the acquisition of fixed surveillance cameras for the Berkeley Animal Care Services (BACS) facility. This review is required under Berkeley Municipal Code (BMC) 2.99.030(2), which requires the City Manager to submit a Surveillance Use Policy and corresponding Acquisition Report to the PAB, granting it 30 days from the submission date to review and act. The ordinance requires that all new surveillance technology acquisitions undergo review and recommendation by the PAB before proceeding to the City Council. The PAB must vote to recommend approval of the policy, object to the proposal, recommend modifications, or take no action.

Summary of the Surveillance Technology Proposal

¹ Cite of Berkeley. 2024. *Email from Peter Radu with the Subject Line "Per Surveillance Ordinance - External Fixed Video Surveillance Camera Policies for PAB review."* See Attachment 1.

AMENDED MATERIAL: This memorandum was amended to clarify that BACS is not seeking to acquire a new fixed camera surveillance system but instead, acquire a new server to access footage from a pre-existing camera system.

Description of the Technology²

The proposed surveillance system consists of Avigilon cameras, which include the following components:

- Fixed surveillance cameras that record high-resolution video without audio.
- A local server to securely store footage within the City's network.
- The Avigilon Control Center (ACC) Client Application for authorized personnel to access and manage stored footage.

Purpose of the Cameras

The existing cameras ~~will be installed to~~ serve the following functions:

1. Support active criminal investigations.
2. Assist in the enforcement of City policies and local/state laws.
3. Prevent and identify individuals involved in animal abandonment.
4. Protect animals and staff from theft or harm.

Location & Deployment

The cameras are located ~~will be installed~~ at 1 Bolivar Drive, Berkeley, CA (Dona Spring Animal Shelter). The system is ~~will be fully~~ owned and operated by the City of Berkeley, with no third-party access.

Access & Data Management³

- Only authorized BACS personnel will have access to the footage.
- The Berkeley Police Department (BPD) may access footage for specific criminal investigations.
- No facial recognition or license plate reader technology will be employed.
- Data will be securely stored with automated retention and deletion policies, ensuring compliance with privacy regulations.
- Audit trails will be maintained to track system access and use.

Fiscal Impact

- The estimated purchase cost for the system is \$57,908.08.
- All maintenance and operation costs will be managed within the existing City of Berkeley infrastructure.

ODPA Preliminary Assessment

² City of Berkeley. 2025. *BACS Surveillance Acquisition Report – Draft for PAB*. See Attachment 2.

³ City of Berkeley. 2025. *BACS Surveillance Use Policy – Draft for PAB*. See Attachment 3.

AMENDED MATERIAL: This memorandum was amended to clarify that BACS is not seeking to acquire a new fixed camera surveillance system but instead, acquire a new server to access footage from a pre-existing camera system.

The current draft policy includes a provision for THIRD-PARTY-DATA-SHARING, specifically listing three entities (or categories of entities): the District Attorney's Office, the City Attorney's Office, and BPD or other law enforcement agencies, while excluding the PAB/ODPA. Based on the ODPA's assessment, Charter authority under section 125(3)(a) allows for obtaining surveillance footage and other relevant records through general records request provisions⁴ and subpoena authority when there is a clear connection to matters within the PAB/ODPA's purview⁵. However, the lack of explicit recognition of the PAB/ODPA as entities eligible to receive this data may create unnecessary ambiguity.

Next Steps for PAB Consideration

Per BMC Section 2.99.030(2), the PAB can vote to proceed in the following manner:

1. **Recommend Approval of the Policy:** If the Board determines the proposed use aligns with public safety needs while maintaining privacy safeguards.
2. **Recommend Modifications to the Proposal:** If there are concerns regarding access, oversight, or implementation.
3. **Object to the Proposal:** If the Board finds that the technology poses risks outweighing its proposed benefits.
4. **Take No Action**

Upon review and discussion, the PAB's recommendation will be forwarded to the City Council for final consideration.

Attachments

- 1: Email from Peter Radu with the Subject Line "Per Surveillance Ordinance - External Fixed Video Surveillance Camera Policies for PAB review"
- 2: Berkeley Animal Care Services Surveillance Acquisition Report
- 3: Surveillance Use Policy – Fixed Video Surveillance Cameras a 1 Bolivar Drive

⁴ Berkeley City Charter Section 125(3)(a): [https://berkeley.municipal.codes/Charter/125\(20\)](https://berkeley.municipal.codes/Charter/125(20))

⁵ Berkeley City Charter Section 125(3)(a): [https://berkeley.municipal.codes/Charter/125\(3\)\(a\)](https://berkeley.municipal.codes/Charter/125(3)(a))

Attachment 1

Email from Peter Radu with the Subject Line “Per Surveillance Ordinance - External Fixed Video Surveillance Camera Policies for PAB review”

From: Radu, Peter <pradu@berkeleyca.gov>

Sent: Monday, January 27, 2025 1:19 PM

To: Aguilar, Hansel <HAguilar@berkeleyca.gov>

Cc: Buddenhagen, Paul <PBuddenhagen@berkeleyca.gov>; Tervalon, Tasha <TTervalon@berkeleyca.gov>; St Pierre, Mike <MStPierre@berkeleyca.gov>

Subject: Per Surveillance Ordinance - External Fixed Video Surveillance Camera Policies for PAB review

Internal

Dear Director Aguilar:

Footage from the pre-existing fixed security cameras at the Berkeley Animal Shelter (1 Bolivar Drive)—which were first installed many years ago—recently become inaccessible because of the need to replace a defunct server. After some review, we have determined the need to comply with the STO in purchasing a replacement server in order to begin using these cameras again. This is amidst growing concern for staff and volunteer safety at the shelter after a number of recent violent incidents, including a physical assault on the manager and, just over the MLK holiday weekend, an arrest made against someone who was following and threatening one of our volunteers with a pick axe in the shelter parking lot.

Accordingly, attached to this email are final drafts of the following documents for PAB review:

1. BACS Surveillance Use Policy, the document which will establish the parameters for using and accessing the footage from these cameras.
2. Surveillance Acquisition Report for the server.

Both documents have received City Attorney Office review with Neighborhood Services staff being the primary author of both reports.

Pursuant to the Surveillance Ordinance, BMC Section 2.99.030.2, the Police Accountability Board (PAB) has a 30-day deadline “to recommend approval of the policy, object to the proposal, recommend modifications, or take no action.”

Can you please forward these documents to the PAB for review? I look forward to hearing back from you and the board, and our Animal Services Manager Mike St Pierre (copied here) and I are available to answer any questions that you or the PAB may have related to the proposed use policy.

Respectfully,

Peter Radu

Assistant to the City Manager - Neighborhood Services

City of Berkeley

2180 Milvia St, 5th Floor | Berkeley, CA 94704

Desk: 510-981-7045 | Cell: 510-853-2368

Email: pradu@berkeleyca.gov

Attachment 2**Berkeley Animal Care Services Surveillance Acquisition Report**

SURVEILLANCE CAMERAS

A. DESCRIPTION

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. Cameras already exist at the Animal Shelter and will not be acquired here.

The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application.¹



The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female or male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839

B. PURPOSE

The cameras shall only record video images and not sound. Recorded images may be used and video surveillance may be monitored to support specific and active criminal or administrative investigations.

Surveillance cameras will be utilized for the following business purposes:

1. To support specific and active criminal investigations.
2. To support the enforcement of City policies and State and local laws.
3. To prevent, deter, and identify individuals who intentionally abandon animals.
4. To protect and safeguard the animals in our care from theft or harm.

C. LOCATION

Surveillance cameras impacted by this report are located at 1 Bolivar Dr, Berkeley CA (the Dona Spring Animal Shelter).

D. IMPACT

The primary intent of these cameras is described in Section B, above. Animal Care Services will work to ensure that the video recordings are secured and only accessible to authorized personnel (namely, authorized Animal Care Services personnel trained on the uses and data security components of the camera, and the Berkeley Police Department for the investigation of criminal cases, such as animal cruelty). The right to maintain someone's anonymity versus the need to collect information to maintain safety is of paramount concern. Animal Care Services recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

Animal Care Services will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.

E. MITIGATION

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, Animal Care Services will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

BERKELEY ANIMAL CARE SERVICES SURVEILLANCE ACQUISITION REPORT

Employees are prohibited from retaining, duplicating, or distributing video recordings except for business purposes in accordance with the use policy.

F. DATA TYPES AND SOURCES

The surveillance camera system's use is limited to capturing non-audio, video recordings affixed to City property at 1 Bolivar Drive. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

G. DATA SECURITY

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from the Animal Services Manager. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.
2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.
5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

H. FISCAL COST

Costs (fixed and ongoing) for the purchase of the servers is below. All camera servers are purchased and wholly owned and operated by City of Berkeley.

Purchase Cost: \$57,908.08

I. THIRD PARTY DEPENDENCE AND ACCESS

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or

BERKELEY ANIMAL CARE SERVICES SURVEILLANCE ACQUISITION REPORT

external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.

J. ALTERNATIVES

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol the Animal Shelter.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities and maintaining staff and animal safety.

K. EXPERIENCE OF OTHER ENTITIES

Many municipal shelters use security camera systems for the enforcement of animal welfare codes and to maintain staff and animal safety.

Attachment 3

Surveillance Use Policy – Fixed Video Surveillance Cameras a 1 Bolivar Drive

Surveillance Use Policy - Fixed Video Surveillance Cameras at 1 Bolivar Drive

1. PURPOSE

- a. This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by Berkeley Animal Care Services (BACS).
- b. This policy only applies to fixed, overt, marked external and internal video surveillance systems utilized by BACS. Department personnel shall adhere to the requirements for Fixed Video Surveillance Cameras covered in this policy.
- c. This Surveillance Use Policy is legally enforceable pursuant to BMC 2.99.

2. AUTHORIZED USE

- a. Only BACS members who receive training on this policy, who are then granted access by an administrator ("authorized BACS personnel") may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate use purpose, as listed in this Policy.
- b. The cameras shall only record video images and not sound. Recorded images may be accessed, reviewed, and used for specific law enforcement or BACS administrative investigations, and video surveillance may be accessed and reviewed by authorized BACS personnel for the following purposes:
 - i. To support specific and active law enforcement investigations.
 - ii. To support the enforcement of City policies and State and local laws.
 - iii. To prevent, deter, and identify individuals who intentionally abandon animals.
 - iv. To protect and safeguard the animals in our care from theft or harm.
- c. Unauthorized recording, viewing, reproduction, dissemination, or retention of video footage is prohibited.
- d. The following are prohibited uses of the video surveillance system:
 - i. Unauthorized recording, viewing, reproduction, dissemination, or retention of video footage is prohibited.
 - ii. Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.
 - iii. Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.
 - iv. Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
 - v. Video surveillance systems and recordings shall not be shared with federal immigration enforcement officials.

3. DATA COLLECTION

- a. The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras and may not be installed or used unless approved by the City Council. Audio is a standard feature of the camera, but is deactivated by the system administrator and may not be activated or used unless approved by the City Council. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

4. DATA ACCESS

- a. Access to video surveillance cameras data shall be limited to authorized BACS personnel utilizing the camera database for uses described above, with necessary technical assistance from Public Works Department and Department of Information Technology personnel. Information may be shared in accordance with #9 below. BACS members seeking access to the video surveillance system shall obtain the approval of the Animal Services Manager, or their designee.
- b. The Animal Services Manager should monitor camera access and usage to ensure BACS members are complying with this policy, other applicable City policy, and applicable laws, and to ensure such use and access is appropriately documented.

5. DATA PROTECTION

- a. All data transferred from the cameras and the servers shall be encrypted. Only authorized BACS personnel shall have access to data for the Authorized Uses identified in this policy.
- b. For instances of specific and active criminal investigations in which camera data is implicated as evidence (see Authorized Use 2(b)(i) above), authorized BACS personnel will alert the Berkeley Police Department, who will access and handle data pursuant to BPD Use Policy 1304. For all other Authorized Uses of data, access to the data must be obtained by authorized BACS personnel through the Public Works Department according to this policy and published regulations that limit access and use of data by Public Works and other City Departments and personnel. All system access including system log-in, access duration, and data access points is accessible and reportable and shall be documented by the Public Works Department's authorized administrator. All relevant recordings that are utilized will be preserved pursuant to applicable record retentions policies.

6. CIVIL LIBERTIES AND RIGHTS PROTECTION

- a. BACS recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including # 4 Data Access, #5 Data Protection, #7 Data Retention, #8 Public Access and #9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

7. DATA RETENTION

- a. Video surveillance recordings are not government records pursuant to California Government Code 34090 in and of themselves. Except as otherwise permitted in this section, video surveillance recordings shall be purged within one hundred and eighty (180) days of recording. Recordings of incidents involving use of force by a police officer or involving detentions, arrests, or recordings relevant to a formal or informal complaint against a police officer shall be retained for a minimum of two years and one month. Recordings relating to court cases and complaints against BACS staff that are being adjudicated will be manually deleted at the same time other evidence associated with

the case is purged. Any recordings related to BACS administrative proceedings pursuant to this section shall be maintained until such matter is fully adjudicated, at which time it shall be deleted. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

- b. Any recordings needed as evidence in a criminal proceeding shall be copied to a suitable medium and booked into evidence in accordance with current BPD evidence procedures.

8. PUBLIC ACCESS

- a. Requests for recorded video images from the public or the media shall be processed in the same manner as requests for public records pursuant to the California Public Records Act and any applicable Berkeley Police Department Records Release policies.
- b. Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established BPD subpoena process.

9. THIRD-PARTY DATA-SHARING

- a. Requests for recorded video from other law enforcement agencies shall be referred to the Berkeley Police Department, and must be related to a specific active criminal investigation to be eligible for release.
- b. Data collected from the video surveillance system may be shared with the following:
 - i. The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
 - ii. The City Attorney's Office for all other legal proceedings, as necessary;
 - iii. Berkeley Police Department and other law enforcement personnel as part of an active criminal investigation;
 - iv. Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established BPD subpoena process.

10. TRAINING

- a. All BACS members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy as well as review of relevant City of Berkeley laws and regulations.
- b. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

11. AUDITING AND OVERSIGHT

- a. The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Animal Services Manager on a regular basis, at least annually.
- b. The City Manager shall enforce against any prohibited use of the cameras by BACS staff and/or access to data by other City of Berkeley personnel pursuant to City employee disciplinary processes.
- c. The audit shall be documented in the form of an internal memorandum to the City Manager and/or her designee. The memorandum shall include any data errors found so that such errors can be corrected. After review by the City Manager and/or her

designee, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d. and published on the City of Berkeley website in an appropriate location.

12. MAINTENANCE

- a. It shall be the responsibility of the Public Works Department to facilitate and coordinate any updates and required maintenance with access limited to that detailed in the City Manager's promulgated policies.

Item 9.b. Policy Review Report for ODPA No. 2023-PR-0003



MEMORANDUM

Date: January 29, 2025
To: Honorable Members of the Police Accountability Board (PAB)
From: Leah Wilson, Vice-Chair of the PAB
Cc: Hansel Aguilar, Director of Police Accountability (DPA)
Subject: Response to Policy Complaint 2023-PR-0003

The purpose of this memorandum is to present the PAB with the findings from the review of Policy Complaint 2023-PR-0003 per Section G of the PAB's Standing Rules.¹

Background:

Policy Complaint 2023-PR-0003 was received by the Office of the Director of Police Accountability (ODPA) on May 29, 2023 and later presented to the PAB on June 21, 2023. ODPA staff had contacted the complainant to understand the scope of the requested review. Upon review, three primary concerns were identified:

- **Dispatch Response and Call Prioritization** – The complainant asserts that a dispatcher responded in an unprofessional manner, posed challenging questions given the circumstances, and disconnected a follow-up call. Additionally, they state they were not informed that higher-priority calls were being addressed.
- **BPD's Policy on Responding to Property Crimes in Progress** – The complainant contends that BPD lacks a clear policy for responding to property crimes, citing an officer's limited ability to provide assistance following the incident.
- **Access to Dispatcher Call Transcripts** – The complainant submitted a public records request for call transcripts but was informed that the records were exempt from disclosure and could only be obtained through a subpoena.

See Attachment 1, Policy Complaint Form 2023-PR-0003.

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

The PAB voted to accept this policy review² and assign it to a subcommittee consisting of former Vice-Chair Regina Harris and then-Board Member Wilson. Following Board Member Harris's departure, Vice-Chair Wilson continued the review.

The present report presents the following recommendations for the PAB's consideration:

- **Dispatch Response and Call Prioritization** – Increased transparency in call prioritization is recommended through the publication of the E-CAD list.
- **BPD Policy on Property Crimes in Progress** – Rather than drafting a new policy, publishing the E-CAD list would provide greater clarity on how property crimes in progress are prioritized.
- **Access to Dispatch Call Transcripts** – No changes are recommended, as release considerations for call recordings are already outlined in Policy 804.

See Attachment 2, Response to Policy Complaint 2023-PR-0003.

Recommendation:

The PAB should accept the recommendations outlined in the presented report.

Attachments:

1. Policy Complaint 2023-PR-0003
2. Response to Policy Complaint 2023-PR-0003

² The motion passed with a vote of 5 Ayes, 0 Nays. June 21, 2023 Regular Meeting Minutes: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-06-21%20RegMtg.Min_Approved.pdf

Attachment 1
Policy Complaint 2023-PR-0003



POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

1947 Center Street, 5th Floor, Berkeley, CA 94704

Web: www.cityofberkeley.info/dpa

E-mail: dpa@cityofberkeley.info

Phone: (510) 981-4950 TDD: (510) 981-6903 Fax: (510) 981-4955

Date Received:

May 29, 2023

DPA Case # 2023-PR-0003

1

Name of Complainant: [REDACTED]

Mailing Address: [REDACTED]
Street City State Zip

Primary Phone [REDACTED] Alt Phone: ()

E-mail address [REDACTED]

Occupation: N/A Gender: N/A Age: N/A

Ethnicity: ☐ Asian ☐ Black/African-American ☐ Caucasian

☐ Latino/Hispanic ☐ Multiethnic: N/A ☐ Other: N/A

2

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

Dispatch call handling

Police policy on property crimes in progress

3

Location of Incident (if applicable) [REDACTED]

Date & Time of Incident (if applicable) 0030 5/4/2023

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.

[REDACTED] called 911 about catalytic converter theft - process. Alleges dispatcher insolent + asked color of car is dark. Asked how caller knew perpetrators were sometimes armed + hung up on him. [REDACTED] called again after hitting his car's panic button. Car squealed away. Stopped at [REDACTED] Called 911 again. Alleges dispatcher angrier + more hostile + hung up on caller. I spoke with [REDACTED] who said he remembered 1st call. He denied 2nd call. At no time did dispatch say there were more urgent calls to attend to. 6-24-21

4

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

City website says, "If you see someone suspiciously tampering with a vehicle, please report it immediately."

As dispatcher did not take calls for medical emergencies or more pressing crime, he could have done his job, not hung up, + behaved professionally.

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.)

I spoke with [REDACTED] in the days after the 911 calls for property crime in process for which [REDACTED] alleges he hung up on him twice. I have called [REDACTED] the supervisor. [REDACTED] attitude to me was, "there were 6 calls for catalytic converters that day." This is immaterial to his performance as dispatcher. After speaking with [REDACTED], it doesn't sound like the department has a crime policy for property crime. [REDACTED] has never returned my call after we spoke + she said she would clarify events + call me.

6

CERTIFICATION

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

Signature of Complainant

Date

5/25/2023

7

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

☒ Internet

☒ Berkeley Police Dept.

☐ Newspaper:

☐ Referred by:

☐ Other:

Attachment 2
Response to Policy Complaint 2023-PR-0003



POLICY REVIEW REPORT

ODPA No. 2023-PR-0003

Dispatch Response & Call Prioritization

Prepared by:

Leah Wilson

Vice-Chair of the PAB

Presented to the PAB on
February 5, 2025

Contents

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Summary of Scope and Process

On May 29, 2023, the Office of the Director of Police Accountability (ODPA) received a policy complaint addressing three primary issues:

1. Dispatch's call handling, including call prioritization.
2. The Berkeley Police Department's (BPD) policy on property crimes in progress.
3. The ability to access Dispatch call transcript records pursuant to a public records request.

The complaint was assigned to board member Leah Wilson for review on June 21, 2023¹.

This report summarizes Ms. Wilson's findings and recommendations as related to the complaint.

Information Reviewed

Berkeley Police Department²

- [Captain's Instruction: Call-Taking \(CICT\)](#)
- [Policy 309, Officer Response to Calls](#)
- [Policy 321, Standards of Conduct](#)
- [Policy 801, The Communications Center](#)
 - Policy 801.5.1, Emergency Calls
- [Policy 804, Records Maintenance and Release](#)
- [Policy 1010, Personnel Complaints](#)
- [Policy 1034, Complaint Review Board](#)
- E-CAD Activity Codes List (See Appendix A)

Other Police Departments³

ODPA staff reviewed the policies of comparator agencies to assess parallel approaches to call prioritization and property crime in progress handling in particular:

¹ PAB June 21, 2023 Meeting Minutes: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-06-21%20RegMtg.Min_Approved.pdf

² Berkeley Police Department Policy Manual: https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf

³ Comparator agencies have been selected in alignment with the methodology employed in the 2024 Citygate report: Concord, Fremont, Hayward, Richmond, and Santa Clara Police Departments

Department	Policy Manual Link	Call Prioritization	Responses to Property Crime
Santa Clara PD	Policy Manual	Policy 801 "The Communication Center"	No publicly available procedure outlining the department's response to property crime.
Richmond PD	Policy Manual	Policy 802 "Communications Center"	No publicly available procedure outlining the department's response to property crime.
Hayward PD	Policy Manual	Policy 801 "Communication Operations" (Page 685 of the Manual)	No publicly available procedure outlining the department's response to property crime.
Concord PD	Policy Manual	Policy 801 "The Communications Center"	Policy 801.5.4 "Communications Log" mentions property crime (Page 513), but no detailed policy is available.
Fremont PD	Policy Manual	Policy 802 "Communication Operations" (Under POLICIES AND PROCEDURES > 8 Support Services)	No publicly available procedure outlining the department's response to property crime.

Interviews

- Captain Schofield: November 29, 2024
- Complainant: January 2, 2025

Key Findings and Recommendations

1. Adequacy of Dispatch's Response and Call Prioritization

Assuming the complainant's recitation of her neighbor's interactions with dispatch is accurate, dispatch personnel did not adhere to the CICT during the subject call for service. The CICT memorandum itself is not deficient, and no policy or guidance change is recommended.

There is a lack of transparency about how calls are prioritized. Publication of the E-CAD list is recommended as an initial step.

2. Police Department Policy and Practice Regarding Property Crimes in Progress

While there is a policy whose title, Officer Response to Calls (Policy 309), suggests that it might address call response generally, the scope of that policy is limited to Code-3 or emergency call responses. There are no written policies governing police response to property crimes in progress. The E-CAD list which, as noted above is not publicly available, provides some indication of how a property crime in progress might be prioritized, though not definitively so. A review of other jurisdiction's policies does not show widespread existence of policies governing property crimes in progress.

Rather than ask the department to draft a policy specifically on this issue, the City Council should direct publication of the E-CAD list, as noted above.

3. Access to Dispatch Call Transcripts

The department does not transcribe calls for service. The attachment to policy 804 outlines release considerations for call recordings.

No policy changes are recommended at this time.

Analysis

1. Adequacy of Dispatch's Response and Call Prioritization

Dispatch Response

The complainant is the neighbor of an individual who called 911 to report a catalytic converter theft in progress. The complainant alleges that the dispatcher was rude and insolent towards the neighbor; concerning behaviors/interactions included: asking the caller about the color of the car in question even though it was dark when the call was placed; challenging the caller's assertion that sometimes perpetrators of car theft are armed; and hanging up on the caller.

While there are no departmental policies that address dispatch response to calls for service generally, a 2021 memorandum, the CICT, applies. According to the CICT, dispatchers are required to⁴:

- Maintain control of calls to "receive the answers to the most important questions in the shortest period of time" while following the "Where, What, When, Weapons, Who" format
- Demonstrate "Compassion and Patience" and help callers understand what is happening using "a firm yet reassuring tone"
- Verify details through active listening and repeat back information to confirm accuracy
- Commit the caller to staying on the line and working with you as long as it is safe to do so...direct caller not to hang up during periods of silence or side conversations.

Dispatchers should "not demonstrate an argumentative demeanor" and "not use sarcasm or diminish the caller's perceived importance/urgency." All callers must be "treated with understanding and dignity."

Findings: Assuming the complainant's recitation of her neighbor's interactions with dispatch is accurate, it would appear that dispatch personnel did not adhere to the CICT during the call in question (demonstrated combativeness and hung up on caller). The instructions themselves are not deficient, and no policy or guidance change is recommended accordingly.

Call Prioritization

The complainant also alleges that her neighbor was not informed that any calls might take priority over his. Based on this fact, the complainant seeks additional information about call prioritization.

⁴ Captain's Instruction - Call Taking 2021, "CALL TAKER EXPECTATIONS" sections 1-3 and 5.

Relevant excerpts from BPD policies and guidelines regarding call prioritization include:

Policy 309.2: Officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately.

Policy 801 and 801.5.1: A call is considered an emergency when there is an immediate or potential threat to life or serious property damage, and the timely arrival of public safety is of the utmost importance. Emergency calls should be dispatched immediately.

Policy 801.5.2: A call is considered a non-emergency call when there is no immediate or potential threat to life or property. A person reporting a non-emergency may be placed on hold, if necessary, to allow the dispatcher to handle a higher priority or emergency call...The reporting person should be advised if there will be a delay in the...response for service.

Beyond specifying emergency vs. non-emergency responses, the policies do not describe or explain call prioritization, nor do the policies define serious property damage.

CICT section 3: Call takers are required to determine when the incident in question occurred. Incidents are categorized as follows:

- In Progress incidents (occurring now or within past 2 minutes)
- Just Prior incidents (2-10 minutes prior or incidents where suspect is still on scene)
- Cold reports: incidents occurring more than 10 minutes prior and the responsible party is no longer in the area.
- If the call type is a priority 1 or 2 and the incident is in-progress, just prior, or if the suspect is still on scene, the call taker will make the call "ready for dispatch: as soon as practicable after the incident location is verified and the call type is determined.

Although priority levels are referenced in the CICT, there is no description of these priority levels in that document.

E-CAD: The E-CAD list identifies a stolen vehicle as a Priority 2 or 3; the basis for the distinction between Priority 2 or 3 designation is unclear. Catalytic converter theft is not specifically addressed.

Conversation with Captain Schoefield, November 29, 2024

On November 29, 2024, Captain Schofield provided an overview of dispatch call prioritization as follows:

- a. Everything entered into the system has a priority attached to it, 1-4
 - i. 1 = emergency
 - ii. 4 = low priority
 - iii. Priority assignment factors include type of crime (property, life safety, etc.) and assessment of other concurrent activity in the city at the time of the call.

- b. System assigns priorities based on call taker⁵ input.
 - i. Call takers do not exercise judgment in this process. The classification code they enter has a predetermined priority code associated with it.
- c. Dispatcher reviews all of the notes in the system as well as computer automated priority assignment and decides about how to dispatch officers. Based on the facts, including if a crime is “in progress”, regardless of the priority, the dispatcher can immediately dispatch units to a particular call.

Findings: Currently, the public does not have a way of reasonably understanding how calls for service are prioritized. A read of the CICT and Policy 801.5 suggests that a call regarding a catalytic converter theft in progress could be treated as a priority or emergency call, which should result in immediate dispatch. The E-CAD list on the other hand indicates that stolen vehicle calls are assigned priority level 2 or 3.

In response to this finding, BPD notes that callers often report an issue or crime when under stress. Adding information to calls about priority levels and potential response times may be more overwhelming than helpful and could also take valuable dispatcher time that could be better used gathering relevant information or moving on to other callers. In addition, call response times may change after disconnecting with a caller due to changing circumstances or other calls for service. These variables can prevent the department from providing a set response time.

To provide the public with greater visibility into how calls for service are handled, and recognizing the concerns articulated by the department, as a first step, the E-CAD list should be made available to the public.

Of the comparable jurisdictions reviewed, only one, Concord, has a publicly facing policy outlining how calls are prioritized; as an alternative to/complementary action to publication of the E-CAD list, the BPD could adopt a parallel version of [Concord's policy 801.5.4](#), excerpted in relevant part below:

(a) Priority 1 calls are incidents in which a person's safety is in jeopardy, the crime is in

progress, or is an RRES⁶ related crime.

(b) Priority 2 calls generally include property crimes not in progress, and other non-

emergency calls which require an officer's response.

(c) Priority 3 calls are miscellaneous service requests, which may be handled as officers

are available.

⁵ A call taker is the person who takes the initial information from a caller and determines how a call should be classified. The dispatcher (referred to by BPD as "Control", receives the call takers information and decides about when to dispatch officers.

⁶ “RRES” related crimes are crimes motivated by race, religion, ethnicity, or sexual orientation.

(d) Callback- When a lower Priority call (2 or 3) has been pending for over thirty minutes an

on-duty dispatcher, whenever possible, will call the reporting party back to ascertain

if the problem is still occurring or has resolved itself.

1. If the problem is still occurring then the updated information will be put in the call

history and an officer will be sent as soon as practical.

2. If the problem had resolved itself, the call can be discontinued without the

necessity of sending a mobile unit.

2. Police Department Policy and Practice Regarding Property Crimes in Progress

There is no specific department policy regarding property crimes. Policy 309 is the most relevant, though it primarily addresses Code 3 calls which, though not defined, seem to relate to threats of serious injury or death.

Findings: The PAB reviewer was unable to assess the adequacy of BPD policy in this area given that no such policy exists. As noted above, adoption of a version of policy 801.5.4 would address the general need for greater transparency regarding call prioritization as well as the specific request to understand the prioritization of property crimes in progress.

3. Access to Dispatch Call Transcripts

In her written complaint, the complainant stated that BPD declined to release dispatch call transcripts pursuant to a public records request. During an interview with the author, the complainant stated that BPD also declined to release the dispatch recording to her, indicating that she was not authorized to receive it.

Calls for service are not transcribed; call recordings are kept for two years. An attachment to Policy 804 governs the release of these recordings, essentially nothing that release is authorized except if: 1) prohibited by the penal code; 2) release would result in an unwarranted invasion of a citizen's privacy; or 3) the recording/s are lengthy and are the subject of continuing communications.

When asked why the department declined to release the call recording to the complainant, Captain Schofield stated that the basis for the denial was that the recording was considered to be an investigative record. This particular exception is not noted in the attachment.

Findings: The attachment to Policy 804 indicates that call records are generally releasable and provides a reasonable overview of the factors considered by the department when determining whether or not to authorize a specific release. The reason cited for not releasing the recording to the complainant is not outlined in the attachment. As the PAB has previously discussed, at some point a broader review of BPD response to public records requests may be appropriate; no policy changes are recommended in the interim.

Appendix A. Berkeley Police Department Communication Center's E-CAD Activity Code List



BERKELEY POLICE DEPARTMENT COMMUNICATION CENTER



E-CAD Activity Codes List

Listed by Code, Text, Police & Fire Priority Code (In Progress/Cold Report)

<u>Code</u>	<u>Text</u>	<u>Priority Code</u>	<u>Code</u>	<u>Text</u>	<u>Priority Code</u>
10 5	Posted No Parking	P4	1181P	Injury Accident Inv Ped or Bicyclist	P1 & F1*
1033A	Audible Alarm	P3	1181R	Injury Accident Report	P3
1033G	GPS Tracker Alarm	P1	1182	Non-Injury Accident	P3
1033S	Silent Alarm	P1	1183	Unknown Injury Accident	P1
1033T	Pronet Alarm	P1	1194	Pedestrian Stop	P0
1033V	Video Alarm	P1	1194B	Bike Stop	P0
1042	Welfare Check	P2	1196	Suspicious Vehicle	P0
1053	Person Down	P1	1198	Priority Code Assist	P1
1056	Suicide w/ Ambulance	P1 & F1	1199	Officer Needs Help	P1
1056A	Suicide Attempt	P1 & F1	20001	Hit & Run w/ Injuries	P1
1056T	Threat of Suicide	P1	20001R	Hit & Run w/ Injuries Report	P2
1057	Missing Person	P3	20002	Hit & Run Non-Injury	P2/P3
1057AR	Missing Person at Risk	P1	207	Kidnap	P1/P2
1057J	Missing Juvenile	P1	211	Robbery	P1/P2
1062B	Civil Standby	P3	212 5	Home Invasion	P1/P2
1067	Person Calling For Help	P1	215	Carjacking	P1/P2
1070	Prowler	P1/P3	220	Attempted Rape	P1/P2
1071	Shooting w/ Ambulance	P1 & F1*	22500E	Vehicle Blocking Driveway	P4
1071R	Shooting Cold Report	P2	22500F	Vehicle Blocking Sidewalk	P4
1079	Bomb Threat	P1/P3	22500H	Vehicle Double Parking	P4
1080	Explosion	P1	22651I	5 or More Unpaid Parking Tickets	P4
10851	Stolen Vehicle	P2/P3	22651J	No Vehicle Identification	P4
10852	Vandalism to Vehicle	P2/P3	22651O	Expired Vehicle Registration	P4
10855	Stolen Rental Vehicle	P4	22669D	Inoperable Vehicle	P4
1091B	Barking Dog	P4	23103	Reckless Driver	P2
1091E	Dog Bite	P2	23109	Speeding Vehicle	P2/P3
1091V	Vicious Dog	P2	23110	Throwing Object(s) at Vehicle	P2/P3
111	Fire Information	F9	23152	DUI Driver	P2
1124	Abandoned Vehicle	P4	242	Battery	P1/P3
1148	Transportation	P3	243	Battery w/ GBH	P1 & F1
1180	Major Injury Accident	P1 & F1	243E1	Spousal Abuse w/o Injury	P1/P2
1181	Injury Accident	P1 & F1*	243R	Battery w/ GBH Report	P2
1181C	Injury Accident Complaint of Pain	P1	244	Assault w/ Caustic Substance	P1 & F1

<u>Code</u>	<u>Text</u>	<u>Priority Code</u>	<u>Code</u>	<u>Text</u>	<u>Priority Code</u>
244R	Assault w/ Caustic Substance Report	P2	647I	Peeper	P2/P3
245	Assault w/ Deadly Weapon	P1 & F1	653M	Annoying Phone Calls	P4
245A	Attempt Assault w/Deadly Weapon	P1/P2	92D	Red Zone Cite	P4
245R	Assault w/ Deadly Weapon Report	P2	92F	Obstructing Traffic	P4
246	Shot At Dwelling	P1/P2	92G	Construction Zone	P4
261	Rape	P1/P2	A911	Ascertain 911	P1
273 5	Spousal Abuse	P1/P2	AA	Service Agency Assist	F1
273A	Child Abuse	P1/P2	ADVICE	Advice	P4
288	Child Molest	P2/P3	AID	Aid to Citizen	P4
288A	Oral Copulation	P2	AIDBFD	Aid to BFD	P1
300WI	Child Neglect	P3	ANIMAL	Animal Matter	P4
314	Incident Exposure	P2/P4	AUTOAID	Automatic Aid	F1
330	Gambling	P4/P5	BAIT	Bait Bike	P9
415	Disturbance	P2/P4	BART	Bart Fire	F1
415E	Noise Disturbance	P4	BMCVIO	BMC Violation	P4
415F	Family Disturbance	P1/P2	BOAT-FR	Boat Fire	F1 & P1
417	Brandishing	P1/P3	BOMB	Bomb Tech	P1
4390	Forged RX	P2/P4	BPVIO	Business & Professions Violation	P6
451	Arson	P1/P3	CAR	Car Alarm	P4
459	Burglary	P1/P3	CM	City Manager Report	P9
459A	Auto Burglary	P1/P3	CRTRPT	Court Order Report	P4
470	Forgery	P2/P3	CRTVIO	Court Order Violation	P1/P3
484	Petty Theft	P2/P4	DAMAGE	Property Damage	P9
484C	Shoplifter In-Custody	P1/P2	DBF	Dead Body Found	P1 & F1
487	Grand Theft	P2/P3	DEBFIRE	Debris Fire	F1
496	Possession of Stolen Property	P3/P4	DEMO	Demonstration	P9
5150	Mental Illness	P2/P3	DRUGS	Drug Activity	P3/P4
530 5	Identity Fraud	P4	ENCAMP-FIRE	Encampment Fire	F1 & P1
537	Defraud Hotel/Restaurant	P2/P4	ENCAMP-MED	Encampment Medical	F1 & P1
594	Malicious Damage	P2/P4	EXSUR	Extra Surveillance	P9
597	Animal Cruelty	P2/P3	FA-CO	Carbon Monoxide Alarm	F1
601	Runaway	P3	FA-COM	Commercial Fire Alarm	F1
601I	Incorrigible	P3/P4	FADEST	Firearm Destruction	P3
602L	Trespassing	P3/P4	FALL	Fall On City Property	P2/P3
647AB	Prostitution	P4/P6	FA-RES	Residential Fire Alarm	F1
647E	Lodging in Public	P4/P6	FA-RST	Fire Alarm Reset	F1
647F	Under the Influence	P3	FLAG	Officer Flagged Down	P1

<u>Code</u>	<u>Text</u>	<u>Priority Code</u>	<u>Code</u>	<u>Text</u>	<u>Priority Code</u>
FNDJUV	Found Juvenile	P2	REPO	Repossession	P9
FNDPER	Found Person	P2	RESCUE	Retrieval of a Patient	F1 & P1
FOOT	Foot Chase	P1	RES-ELEV	Elevator Rescue	F1
FOUND	Found Property	P4	RES-WR	Water Rescue	F1 & P1
FREEWAY	Vehicle Accident on Freeway	F1	SB-LAW	Stand By Police Agency	F1
FREEWAY-EX	Vehicle Accident on Freeway w/ Extrication	F1	SEARCH	Search Warrant	P3
GASLEAK	Gas Leak	F1	SEC	Security Check	P4
GUN	Person w/ a Gun	P1	STORMML	Storm Log	P9
HATE	Hate Crimes	P2/P3	STRFIRE	Structure Fire	F1 & P1
HAZMAT	Hazardous Material	F1 & P1	SUBP	Subpoena Service	P9
HC	Hazardous Condition	F1	SURVE	Surveillance	P9
HOT	Vehicle Pursuit	P1	SUSCIR	Suspicious Circumstance	P2/P3
ILLDMP	Illegal Dumping	P4/P9	SUSPER	Suspicious Person	P2/P3
INFO	Information	P9	SUSVEH	Suspicious Vehicle	P2/P3
INV	Investigation	F1	T	Vehicle Stop	P0
KNOCK	Knock & Talk	P1	TEST	Test Call	P9
LDRPT	Loud Report	P1/P3	TIX	Ticket Sign Off	P3
LJ	LoJack Stolen Car	P2/P3	TRFHAZ	Traffic Hazard	P3
LOST	Lost Property	P9	TRKFIRE	Large Truck Fire	F1
MCI	Multiple Causality Incident	F1 & P1	TROL	Temporary Restraining Order Log	P9
MED2	5150 Transport	F1	TROV	Temporary Restraining Order Violation	P1/P4
MEDICAL	Medical Emergency	F1	UNK	Unknown Problem	P2
MEDICAL-GSW	Medical Emergency with Gun Shot	F1 & P1*	VCVIO	Misc Vehicle Code Violation	P3/P9
MH	Mental Health	P9	VEGFIRE	Vegetation Fire	F1 & P1
MRA	Mutual Response Area	F1	VEHACC	Vehicle Accident	F1 & P1*
MUTAID	Mutual Aid Fire	F1	VEHACC-EX	Vehicle Accident w/ Extrication	F1
MUTMED	Mutual Aid Medical	F1	VEHFIRE	Vehicle Fire	F1
NEW	Create New Call	P2	VEHPED	Vehicle vs Ped or Bike	F1 & P1*
OUTAID	Outside Agency Assist	P2	VREL	Vehicle Release	P9
PA	Public Assist	F1	VVER	Vin Verification	P4
PCVIO	Misc Penal Code Violation	P3/P4	W911	Wireless 911	P2
PRKVIO	Parking Violation	P4	WARARR	Warrant Arrest	P6
RECOVR	Stolen Vehicle Recovery	P3			

Call Priority Times

0 – 0 Minutes
 1F – Fire Response,
 Immediately
 1 – 1 minute
 2 – 20 minutes
 3 – 60 minutes
 4 – 90 minutes
 5 – 90 minutes
 6 – 90 minutes
 9 – 90 minutes

Item 9.d. Memorandum titled “Proposed procedure for the BPD to submit all newly adopted and revised departmental policies to the PAB, per Section 125(17) of the Berkeley City Charter”

AMENDED MATERIAL: Attachment 2, “Proposed Policy Notification Protocol,” has been updated to reflect the latest version of the PAB’s proposed protocol.



MEMORANDUM

Date: January 31, 2025
 To: Honorable Members of the Police Accountability Board (PAB)
 From: PAB Policy Subcommittee
 Cc: Hansel Aguilar, Director of Police Accountability (DPA)
 Subject: Proposed Policy Submission Process for PAB Review Under Berkeley City Charter Section 125(17)

This memorandum outlines a proposed policy submission process for PAB review under Berkeley City Charter Section 125(17) “Policy review and approval.”¹ This process will be presented to BPD to help improve communication and establish clear expectations for the review of future policies.

Background

Under the Berkeley City Charter Section 125(17)(a), the Chief of Police must submit all new or revised departmental policies to the Board within 30 days of implementation². The Charter does not specify the method of notification, only that the Board must be informed. Currently, BPD notifies the Office of the Director of Police Accountability (ODPA) of policy changes via the Lexipol KMS system, which sends an email whenever a BPD policy is modified. However, these notifications do not indicate whether a change is substantive and they are often triggered by minor edits, such as grammar corrections. In 2024 alone, there were 90 KMS notifications sent out, a majority of which were minor edits. An example of the KMS notification is included as Attachment 1.

The current notification system presents challenges for ODPA, as it generates a high volume of emails without distinguishing between substantive policy changes and minor edits. This lack of differentiation makes it difficult to efficiently identify and prioritize meaningful updates, requiring staff to review numerous notifications, many of which are inconsequential. Additionally, the large volume of notifications increases the risk of overlooking significant policy revisions, which may result in delays in communicating

¹ Berkeley City Charter Section 125(17): [https://berkeley.municipal.codes/Charter/125\(17\)](https://berkeley.municipal.codes/Charter/125(17))

² Berkeley City Charter Section 125(17): [https://berkeley.municipal.codes/Charter/125\(17\)\(a\)](https://berkeley.municipal.codes/Charter/125(17)(a))

AMENDED MATERIAL: Attachment 2, "Proposed Policy Notification Protocol," has been updated to reflect the latest version of the PAB's proposed protocol.

important updates to the PAB. Implementing a system that differentiates between substantive and minor changes would enhance efficiency and ensure that ODPA is promptly informed of impactful policy updates.

The limitations of relying solely on the KMS system for policy notifications have already impacted the PAB, as seen in its review of the Vehicle Pursuit Policy. BPD issued KMS notices on December 12 and 13, 2024, informing BPD officers and ODPA staff of significant changes to the Vehicle Pursuit Policy, Vehicle Containment Techniques, and Use of Force. It was only after the DPA sought clarification from the Chief on January 3rd that it was confirmed KMS was intended to serve as the required formal notice.

The subcommittee interprets that a KMS notification alone does not fulfill the Charter's requirement to notify the PAB, a position with which the City Attorney concurs. The procedure outlined in Attachment 2 is intended to provide guidance to both BPD and the PAB, establishing clear expectations for future policy reviews to ensure an efficient evaluation of significant policy changes. Additionally, the procedure aims to improve communication between BPD and the PAB, fostering a more streamlined and effective review process.

Recommendation

The PAB should approve the proposed procedure and transmit it to BPD for review and either acceptance or feedback. Upon acceptance, this procedure will serve as a memorandum of understanding, outlining the process for fulfilling the Charter requirements of Section 125(17).

Attachments

1: Lexipol KMS Notification

2: Proposed Policy Notification Protocol

AMENDED MATERIAL: Attachment 2, "Proposed Policy Notification Protocol," has been updated to reflect the latest version of the PAB's proposed protocol.

Attachment 1

Lexipol KMS Notification



Tue 12/31/2024 12:09 PM

noreply@lexipol.com

KMS Notifications

To  Murillo, Jose

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless

Berkeley Police Department
12-31-2024

KMS Notification

Hello Jose Murillo:

Your agency has issued 1 new user acknowledgement and it is now available for you to review.
Please click on the following URL or open a browser and navigate to <https://policy.lexipol.com>.

Thank you,
Lexipol **KMS**

*****PLEASE DO NOT REPLY.*****

This message was automatically generated by the Lexipol Knowledge Management System. Please do not reply to this email, as it is unattended.

If you are having trouble logging into your account, please contact your **KMS** Administrator or contact our Customer Service.
Customer Service is available Monday through Friday, 6:00 AM - 5:00 PM (Pacific Time)

Phone: (949) 309-3894

Email: CustomerSupport@Lexipol.com

AMENDED MATERIAL: Attachment 2, "Proposed Policy Notification Protocol," has been updated to reflect the latest version of the PAB's proposed protocol.

Attachment 2

Proposed Policy Notification Protocol

Relevant Code. Section 125(17): "The Chief of Police shall submit all newly adopted Departmental policies and revisions to the Board within thirty (30) days of implementation."

Charter Duties. As interpreted by the CAO, the Charter requires the Chief to submit to the Board any substantive or significant changes to BPD Policy to the Board, not to the Director. That duty is not satisfied by an automated Lexipol KYS notification. What is a "substantive or significant change" is fact-specific and at the Chief's discretion in the first instance.

Protocol. Going forward, the Chief will affirmatively notify the Board of "substantive or significant changes to BPD Policy" at the earliest opportunity, but no later than 30 days prior to the date of implementation (i.e. the date of the Lexipol KYS notification). The PAB will have a standing agenda item for the Chief to report on any substantive policy changes. If the Chief is not available, then her representative may do so. The method of notification shall be an oral or written report that is submitted in time to be included in the public agenda packet

What is a substantive or significant change to BPD Policy? According to the CAO, "Whether a revision to a BPD policy is substantive enough to require submission to ODPA/PAB is a fact-specific question that the Chief would have to determine in the first instance." Based on that advice, the PAB recommends that the Chief submit any policy or revision that:

- is being actively reviewed by the PAB under its policy review powers and duties. (Berkeley City Charter Section 125(17))
- changes, revises, amends, or deletes any policy that BPD and the PAB/PRC previously reviewed within the last 10 years
 - Note: ODPA will maintain and regularly provide BPD a list of policies that (1) are actively under review, and (2) have been reviewed in the last 10 years to assist with BPD's duties under the Charter.
- is a result of a substantive change in federal, state, or municipal law
- requires new training for BPD sworn officers
- changes, revises, amends, or deletes any language in Policy 300. Use of Force.

Item 9.e. List of BPD Mutual Aid Agreements



MEMORANDUM

Date: January 31, 2025
 To: Honorable Members of the Police Accountability Board (PAB)
 From: Hansel Aguilar, Director of Police Accountability (DPA)
 Jose Murillo, ODPa Policy Analyst
 Subject: PAB Review of the Berkeley Police Department's (BPD) Mutual Aid Agreements

This memorandum outlines potential methodologies to support the PAB in efficiently reviewing BPD's mutual aid agreements with other jurisdictions.

Background:

Berkeley City Charter Section 125(3)(a)(2) grants the PAB the authority to "review and recommend for City Council approval all agreements, letters, memoranda of understanding, or policies that outline the terms and conditions of mutual aid, information sharing, cooperation, and assistance between the Berkeley Police Department and other local, state, and federal law enforcement, intelligence, and military agencies, as well as private security organizations."¹ The PAB's Standing Rules include a commitment to annually review whether BPD's mutual aid agreements should be examined.² On January 22, 2025, the PAB amended these rules to authorize the full Board, rather than a subcommittee as originally contemplated, to conduct the review.³ The amendment was

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

² PAB Standing Rules: https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityBoard_StandingRules.pdf

³ See Item 10.b.. PAB Meeting minutes for January 22, 2025: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-01-22%20Regular%20Meeting%20Minutes.pdf>

unanimously approved, ensuring that future mutual aid agreement reviews will be undertaken by the Board as a whole.⁴

Recommendation

The PAB should prioritize reviewing all mutual aid agreements using one or a combination of the following approaches:

1. **Chronological Order** – Review agreements from oldest to newest to identify outdated provisions and ensure consistency with current policies.
2. **Geographic Proximity** – Start with agreements involving nearby jurisdictions (e.g., Albany, Oakland, UC Berkeley) before expanding to regional, state, or federal partnerships.
3. **Operational Significance** – Prioritize agreements based on their frequency of activation or direct impact on Berkeley residents.
4. **Recent or Pending Updates** – Focus on agreements that are up for renewal or modification to provide timely input before renegotiation.
5. **Type of Agreement** – Group agreements into categories such as emergency response, tactical assistance, and joint investigations to review similar agreements together for consistency and trends.

Using one or a mix of these approaches would help the PAB systematically assess agreements while ensuring that the most relevant and impactful ones are reviewed first.

⁴ See Item 10. c.. PAB Meeting minutes for January 22, 2025: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-01-22%20Regular%20Meeting%20Minutes.pdf>

**BERKELEY POLICE DEPARTMENT
AGREEMENTS AND UNDERSTANDINGS WITH OTHER LAW ENFORCEMENT,
MILITARY ENTITIES, AND PRIVATE ORGANIZATIONS**

2018

CITY COUNCIL REVIEW / APPROVAL BINDER

REVISED / NEW ITEMS IN RED

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Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: January 31, 2025
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA)
 Jose Murillo, ODPa Policy Analyst
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

The California Legislature reconvened its regular session on January 6, 2025. The bill introduction deadline is February 21, 2025. There have been no state legislative updates since the PAB's meeting on January 22, 2025.

Lexipol Policy Updates

There have been no additional updates to Lexipol policies since the PAB's meeting on January 22, 2025.

City of Berkeley Council Meeting Updates

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

Agenda and Rules Committee

January 27, 2025 Regular Meeting

- The PAB's presentation of the Fair and Impartial Policing Report was referred to the Public Safety Policy Committee for further review before presentation to Council

February 11, 2025 Regular Meeting

There are currently no items directly related to the PAB.

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

Other Relevant Updates

- **Supreme Court Docket**²
 - Barnes v. Felix: Whether courts should apply the moment of the threat doctrine when evaluating an excessive force claim under the Fourth Amendment.
- **Ninth Circuit**³
 - Smith v. Agdeppa: Whether officers are entitled to qualified immunity after shooting a naked, non-compliant and violent trespasser, whether officers are required to provide additional warnings prior to changing from intermediate force to deadly force, and whether a lack of warning affects the decision of granting qualified immunity
 - Puente v. City of Phoenix: Whether the use of airborne and auditory irritants for crowd dispersal constitutes excessive force, requiring the application of the Fourteenth Amendment's "purpose to harm" standard, and whether such irritants constitute a "seizure" under the Fourth Amendment

² Questions Presented: <https://www.supremecourt.gov/qp/23-01239qp.pdf>

³ <https://www.fletc.gov/informer>

Policy Review Status Updates

Updated January 31, 2025



POLICY REVIEW STATUS REPORT

Guiding Authority

Section 125(3)(a)(1) and Section 125(17)(a) of the Berkeley City Charter¹

Case Load Overview

As of January 31, 2025, the Police Accountability Board (PAB) has 14 open policy reviews. No new policy reviews have been submitted since the last PAB regular meeting on January 22, 2025.

Note: ODPa staff is assessing expected completion timelines in alignment with PAB priorities for 2025.

Policy Review Number	2487
Policy Topic	Involuntary Injections/Medical Care
Relevant Policy	BPD 431 "Medical Aid and Response"
Status	Records Obtained; Review in Progress (Voluminous Records requires time consuming review; De-prioritized during low staffing)
Date Presented to the PAB	1/12/2022
Anticipated Completion	TBD
Assigned To	ODPA
Summary	
A personnel complaint alleging improper force by officers, resulting in minor injuries, led to a policy review initiated by the PAB at ODPa's request. Despite the personnel complaint being closed due to the complainant's non-cooperation, the review proceeded after body-worn camera footage suggested an officer directed paramedics to inject a substance into the complainant.	

¹ Berkeley City Charter: <https://berkeley.municipal.codes/Charter/125>

Updated January 31, 2025

Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2488
Policy Topic	Standards of Use of Force During an Arrest
Relevant Policy	BPD Policy 300 "Use of Force"
Status	Records Obtained; Review in Progress (Voluminous Records requires time consuming review; De-prioritized during low staffing)
Date Presented to the PAB	1/31/2024
Anticipated Completion	TBD
Assigned To	ODPA

Summary

The policy review began from a complaint alleging excessive force by BPD during an arrest, which was paused for a criminal matter. After the complainant's release on April 15, 2022, the investigation resumed, leading to the complaint being closed and a policy review initiated to further verify and specify the use of force incident.

Activity Report

No updates since the January 22, 2025, report.

Policy Review Number	17
Policy Topic	Use of Force During a Mental Health Response
Relevant Policy	BPD Policy 300 "Use of Force" BPD Policy 409 "Crisis Intervention"
Status	Records Obtained; Review in Progress (Voluminous Records requires time consuming review; De-prioritized during low staffing)
Date Presented to the PAB	7/27/2022
Anticipated Completion	TBD
Assigned To	ODPA

Summary

The policy review began from a self-initiated complaint about an individual's death at Alta Bates Summit Medical Center, alleging improper use of force or handcuffs by BPD. The complaint was closed administratively, and while the ODPA has not verified the allegations, Berkeleyside reported that BPD stated the DA's office found no force was used and did not classify it as an in-custody death.

Activity Report

Updated January 31, 2025

No updates since the January 22, 2025, report.

Policy Review Number	19
Policy Topic	Detention of Inebriated Individuals
Relevant Policy	BPD Policy 900 "Temporary Custody of Adults"
Status	Records Obtained; Review in Progress (Voluminous Records requires time consuming review; De-prioritized during low staffing)
Date Presented to the PAB	1/31/2023
Anticipated Completion	TBD
Assigned To	ODPA
Summary	
On January 8, 2022, Berkeley Police responded to a call about an intoxicated individual, aiding but ultimately releasing them without a medical evaluation due to a rash. Later found in distress and pronounced dead, the incident prompted the Police Accountability Board to convert their investigation into a review of BPD's policies on medical treatment for arrestees and the release of intoxicated individuals.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2023-PR-0003
Policy Topic	Dispatch Operations & Responses to Property Crime
Relevant Policy	BPD Policy 309 "Officer Response to Calls" BPD Policy 801 "The Communication Center"
Status	Report Completed
Date Presented to the PAB	1/21/2023
Anticipated Completion	February 5, 2025
Assigned To	PAB – Assigned to Vice-Chair Wilson
Summary	
The complainant expressed concerns about Dispatch's response to a property crime, including poor communication and unclear call prioritization. They also questioned the BPD's response policy for property crimes in progress and were dissatisfied with the minimal assistance received after the incident. Additionally, the complainant was unable to obtain dispatcher call transcripts through a public records request, as they were exempt from disclosure without a subpoena.	
Activity Report	
Review completed. Item to be presented at the February 5, 2025 PAB regular meeting.	

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Policy Review Number	2023-PR-0006
Policy Topic	Parking Enforcement Practices
Relevant Policy	BPD Policy 500 "Traffic Function and Responsibility" BPD Policy 502 "Vehicle Towing and Release" BPD Policy 507 "72-Hour Parking Violations"
Status	Review In Progress
Date Presented to the PAB	10/11/2023
Anticipated Completion	TBD
Assigned To	PAB – Assigned to Board Member Moore
Summary	
The complainant raised concerns about the Berkeley Police Department's inconsistent parking enforcement, specifically the failure to ticket out-of-state vehicles for violations. They allege that officers dismiss issuing citations for such vehicles due to difficulty in collecting fines, particularly during the UC Berkeley academic year, causing neighborhood inconveniences.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2023-PR-0007 ²
Policy Topic	Restraining Orders & Interactions with the Elderly
Relevant Policy	BPD Policy 313 "Senior and Disability Victimization" BPD Policy 430 "Civil Disputes"
Status	Records Obtained; Review In Progress (Final report pending completion of personnel investigation)
Date Presented to the PAB	7/24/2024
Anticipated Completion	February 19, 2025
Assigned To	ODPA
Summary	
The complainant reports ongoing disturbances, harassment, and restraining order violations by a neighbor's caretaker, raising concerns about enforcement by the Berkeley Police Department. This policy review will examine BPD's handling of interactions with elder adults and its practices regarding restraining orders, as the complainant indicates possible misunderstandings of order terms. Despite multiple encounters and existing orders, the complainant reports continued issues with enforcement.	
Activity Report	

² On December 11, 2024, the PAB voted to divide this review in two parts. The first looking at the issue of restraining orders and the second into BPD's interactions with the elderly. The PAB was presented with part one on January 8, 2025.

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ODPA is coordinating two focus groups at the North Berkeley Senior Center. The sessions are tentatively scheduled for February 6 and February 7.

Policy Review Number	2023-PR-0008
Policy Topic	Off-Duty Conduct
Relevant Policy	BPD Policy 321 "Standard of Conduct" BPD Policy 401 "Fair and Impartial Policing" BPD Policy 344 "Off-Duty Law Enforcement Actions"
Status	Review in Progress; Assigned to Policy Review Subcommittee
Date Presented to the PAB	10/11/2023
Anticipated Completion	TBD
Assigned To	PAB – Assigned to Policy Review Subcommittee
Summary	
The complainant expresses concerns about off-duty police officers exhibiting harmful behavior and recommends improving the Police Accountability Board's oversight of off-duty conduct, including anti-racist hiring practices, stronger discipline measures, and increased transparency on racial profiling. They highlighted relevant policies and noted that the PAB is considering a subcommittee dedicated to off-duty law enforcement actions.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2023-PR-0009
Policy Topic	Use of Force – Handcuffing
Relevant Policy	BPD Policy 300 "Use of Force"
Status	Review in Progress
Date Presented to the PAB	1/5/2024
Anticipated Completion	TBD
Assigned To	ODPA
Summary	
This policy complaint concerns an incident on October 7, 2023, at University Avenue and California Street, where a BPD officer stopped, handcuffed, interrogated, and then released a cyclist.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2024-PR-0003
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Policy Topic	Computer Voice Stress Analyzers (CVSA)
Relevant Policy	BPD Policy 807 "Computer Voice Stress Examinations"
Status	Review in Progress (Obtaining data)
Date Presented to the PAB	5/22/2024
Anticipated Completion	TBD
Assigned To	PAB
Summary	
The policy review examines the Berkeley Police Department's use of CVSA and evaluates the effectiveness of this technology.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2024-PR-0004
Policy Topic	Artificial Intelligence (AI) Assisted Report Writing
Relevant Policy	BPD Policy 323 "Report Preparation"
Status	Review in Progress (Obtaining data)
Date Presented to the PAB	6/5/2024
Anticipated Completion	TBD
Assigned To	ODPA
Summary	
This review aims to assess the feasibility of AI-assisted report writing and identify potential benefits and concerns associated with its use by law enforcement.	
Activity Report	
No updates since the January 22, 2025, report.	

Policy Review Number	2024-PR-0005
Policy Topic	BPD Relationship with Downtown Berkeley Ambassadors
Relevant Policy	BPD Policy 300 "Use of Force" BPD Policy 425 "Body Worn Cameras"
Status	Preliminary Review
Date Presented to the PAB	10/30/2024
Anticipated Completion	TBD
Assigned To	ODPA
Summary	
The complaint alleges BPD failed to report improper force, destroyed evidence, and allowed a citizen to use a chokehold, raising concerns about the practice of "deputizing	

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citizens." The complainant requests an investigation, disciplinary action, policy review, public transparency, and restitution.

Activity Report

No updates since the January 22, 2025, report.

Policy Review Number	2024-PR-0006
Policy Topic	BPD's Use of the Specialized Care Unit
Relevant Policy	BPD Policy 409 "Crisis Intervention" BPD Policy 410 "Mental Illness Commitments"
Status	Tolled until further movement of prior cases
Date Presented to the PAB	11/13/2024
Anticipated Completion	TBD
Assigned To	ODPA

Summary

The complaint details an October 5, 2024, incident where a young woman in a mental health crisis was handcuffed after a domestic violence report. The complainant expressed concern over her distress and the absence of a mental health response, with officers allegedly stating they lacked time for such resources.

Activity Report

No updates since the January 22, 2025, report.

Policy Review Number	2024-PR-0008
Policy Topic	Records Retention
Relevant Policy	BPD Policy 804 "Record Maintenance and Release"
Status	Tolled until further movement of prior cases
Date Presented to the PAB	1/8/2025
Anticipated Completion	TBD
Assigned To	ODPA

Summary

The ODPA received a complaint regarding BPD's inability to provide past officer rosters in response to a PRA request, as the records are no longer maintained. The complainant recommended that BPD adopt a policy to retain and provide such rosters upon request.

Activity Report

No updates since the January 22, 2025, report.

Correspondences from the Public

Murillo, Jose

From: [REDACTED]
Sent: Thursday, January 30, 2025 9:58 AM
To: Office of the Director of Police Accountability
Subject: BHS Student groped in Civic Center Park going to school

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

I am writing to express my strong concern about the homeless encampment outside the high school. Recently a student was groped in Civic Center Park while walking to school.

While I sympathize with the people lacking homes, I do not feel allowing them to create a tent community outside our high school is appropriate. It creates safety concerns such as this. I have seen men peeing in corners when dropping my daughter off for school and picking her up from the YMCA teen centers.

People who live on the streets are the most entrenched of the unhoused population. Often they have addictions and severe mental health problems. There are many other unhoused folks that couch surf and stay in shelters but when you get to the point of living on the street, you've burned most of your bridges for some reason.

I have a daughter. I do not want her groped or fear walk around outside her own high school.

Can you please pass this on to the Chief of Police and advocate for our students with mayor's office??? This set up with a homeless encampment right out our high school is not okay with most parents and students. The mayor's office needs to find an alternative such as putting these folks up in hotels or something.

Thank you for helping our students.

Sincerely

[REDACTED]

On Jan 29, 2025, at 3:58 PM, [REDACTED] > wrote:

Hello BHS Community,

I would like to make you aware that today we received a report that an unidentified adult community member inappropriately touched a BHS student at Civic Center Park on their way to school.

Upon receiving the report, we immediately notified our BPD School Resource Officer who began an investigation.

In circumstances like these when a student reports an incident of sexual harassment or assault to and from school, we notify law enforcement and provide supportive measures to our student, and issue an advisory alert to the community.

As always, we rely on our BHS community to say something when they see something in order to keep our students safe.

ODPA OLDER ADULTS FOCUS GROUP FLYER

THE OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY
INVITES YOU TO...



OLDER ADULTS FOCUS GROUP

OLDER ADULTS PERCEPTION OF LAW ENFORCEMENT

Help us better understand your concerns, experiences, and suggestions to help improve police-community relations in Berkeley.

Date & Time

Thursday,
February 6 & 7, 2025
2:30PM-4PM

Location

North Berkeley Senior Center
1901 Hearst Avenue,
Berkeley, CA 94709

Light Refreshments will be provided

PROMOTING PUBLIC TRUST THROUGH INDEPENDENT, OBJECTIVE,
CIVILIAN OVERSIGHT OF THE BERKELEY POLICE DEPARTMENT



dpa@berkeleyca.gov



510-981-4950



<https://berkeleyca.gov/dpa>