



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA PACKET  
April 23, 2025  
6:30 PM**

**Board Members**

Joshua Cayetano (Chair) Leah Wilson (Vice-Chair)  
Kitty Calavita Juliet Leftwich  
David Williams Randy Wells  
Macharia Edmonds

**MEETING LOCATION**

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

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Item 2

Oath of Office and Confidentiality for Board Member Macharia Edmonds



## **Oath of Office & Confidentiality**

### **Police Accountability Board**

I, **MACHARIA EDMONDS**, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

I further swear (or affirm) that I will abide by and maintain the confidentiality of the personnel files of sworn employees of the Police Department and all other matters that are confidential under state and federal law.

---

**Macharia Edmonds**  
**Police Accountability Board**

The oath above was affirmed and sworn in front of me on this \_\_\_\_ day of April, 2025.

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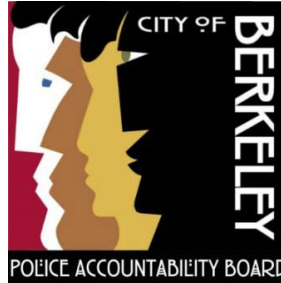
**Hansel A. Aguilar**  
**Secretary, Police Accountability Board**  
**Director of Police Accountability**

Item 3

April 23, 2025 PAB Regular Meeting Agenda

Public

1



**POLICE ACCOUNTABILITY BOARD**  
**REGULAR MEETING AGENDA**  
**WEDNESDAY, APRIL 23, 2025**  
**6:30 P.M.**

**Board Members**

|                         |                          |
|-------------------------|--------------------------|
| Joshua Cayetano (Chair) | Leah Wilson (Vice-Chair) |
| Kitty Calavita          | Juliet Leftwich          |
| David Williams          | Randy Wells              |
| Macharia Edmonds        |                          |

**MEETING LOCATION**

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

**PUBLIC NOTICE**

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/89174589069>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **891 7458 9069**. 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 uncaded 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. ADMINISTERING OATH OF OFFICE & CONFIDENTIALITY TO NEW BOARD MEMBER (ODPA) – (3 MINUTES)**

- a. District 3 - Macharia Edmonds (nominated by Vice-Mayor Bartlett)

- 3. APPROVAL OF AGENDA (2 MINUTES)**

- 4. 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.*

- 5. APPROVAL OF MINUTES (5 MINUTES)**

- a. Minutes for the Regular Meeting of April 9, 2025

- 6. ODPA STAFF REPORT (10 MINUTES)**

Announcements, updates, and other items.

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

The Chair and Board Members report on their activities.

## **8. CHIEF OF POLICE'S REPORT (10 MINUTES)**

Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

## **9. 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.

## **10. DISCUSSION AND ACTION ITEMS (1 HOUR 20 MINUTES)**

- a. Discussion regarding the BPD's Mutual Aid Agreements with other law enforcement agencies<sup>1</sup> (continued discussion) (Cayetano) – (15 Minutes)
- b. Discussion and action on the ODPa's presentation of Policy Complaint #19 concerning the detention and release of inebriated individuals. (ODPA) – (20 Minutes)
- c. Discussion and action on the list of pending PAB request to City stakeholders (ODPA) – (15 Minutes)
- d. Recap, discussion, and action on the next steps after the PAB's presentation to City Council and the Public Safety Policy Committee (Cayetano) – (15 Minutes)
  - i. Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board<sup>2</sup>
  - ii. Fair and Impartial Policing Implementation Report<sup>3</sup>
- e. Update, Discussion, and action on the BPD's 2024 Police Equipment and Community Safety Ordinance Report (Cayetano) – (15 Minutes)

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<sup>1</sup> BPD Agreements, Understandings, and Policies Existing between the Berkeley Police Department and Other Law Enforcement Agencies: <https://acrobat.adobe.com/link/review?uri=urn%3Aaid%3Aascds%3AUS%3A3a637aa7-7359-45a1-81ed-dee245c93f83>

<sup>2</sup> PAB Report "Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board": [https://berkeleyca.gov/sites/default/files/documents/2024-08-29%20BPD%20Texting%20Offenses\\_PAB%20Investigation%20Report\\_Final.pdf](https://berkeleyca.gov/sites/default/files/documents/2024-08-29%20BPD%20Texting%20Offenses_PAB%20Investigation%20Report_Final.pdf)

<sup>3</sup> PAB Report "Fair and Impartial Policing Implementation": [https://berkeleyca.gov/sites/default/files/documents/2024%20PAB%20Report\\_FIP%20Implementation\\_Final.pdf](https://berkeleyca.gov/sites/default/files/documents/2024%20PAB%20Report_FIP%20Implementation_Final.pdf)



**11. PUBLIC COMMENT (TBD)**

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

**12. CLOSED SESSION****CLOSED SESSION ITEMS**

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

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPA:

- |                    |                    |
|--------------------|--------------------|
| i. 2023-CI-0016    | x. 2025-CI-0006    |
| ii. 2024-CI-0003   | xi. 2025-CI-0007   |
| iii. 2024-CI-0004  | xii. 2025-CI-0008  |
| iv. 2024-CI-0009   | xiii. 2025-CI-0009 |
| v. 2024-CI-0025    | xiv. 2025-CI-0010  |
| vi. 2025-CI-0001   | xv. 2025-CI-0013   |
| vii. 2025-CI-0002  | xvi. 2025-CI-0014  |
| viii. 2025-CI-0003 | xvii. 2025-CI-0015 |
| ix. 2025-CI-0004   |                    |

**END OF CLOSED SESSION****13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)****14. ADJOURNMENT (1 MINUTE)****Off Agenda Reports**

1. Policy, Practice, and Procedure Review Status Report
2. 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

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### **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>

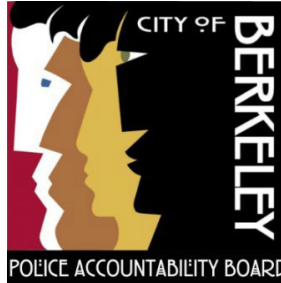
Email: [dpa@berkeleyca.gov](mailto:dpa@berkeleyca.gov)

Item 5

Minutes for the Regular Meeting of April 9, 2025

Public

1



**POLICE ACCOUNTABILITY BOARD**  
**REGULAR MEETING AGENDA**  
**WEDNESDAY, APRIL 9, 2025**  
**6:30 P.M.**

**Board Members**

|                         |                          |
|-------------------------|--------------------------|
| Joshua Cayetano (Chair) | Leah Wilson (Vice-Chair) |
| Kitty Calavita          | Juliet Leftwich          |
| David Williams          | Randy Wells              |

**MEETING LOCATION**

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

**Meeting Recording:** <https://youtu.be/HNdbV36FvB4?si=tfDWubewpNZ8HkO7>

**AGENDA**

**1. CALL TO ORDER AND ROLL CALL**

|                    |                                                    |
|--------------------|----------------------------------------------------|
| <b>Present:</b>    | Board Member Joshua Cayetano (Chair)               |
|                    | Board Member Leah Wilson (Vice Chair) <sup>1</sup> |
|                    | Board Member Kitty Calavita                        |
|                    | Board Member Juliet Leftwich                       |
|                    | Board Member Randy Wells                           |
| <b>Absent:</b>     | Board Member David Williams <sup>2</sup>           |
| <b>ODPA Staff:</b> | Hansel Aguilar, Director of Police Accountability  |
|                    | Syed Mehdi, Data Analyst                           |
|                    | Jose Murillo, Policy Analyst                       |
|                    | Nyia Grissam, Administrative Analyst               |
| <b>BPD Staff:</b>  | Chief Louis                                        |
|                    | Lieutenant Bonaventure                             |

<sup>1</sup> Vice-Chair Wilson arrived after roll call at 6:44 pm

<sup>2</sup> Board Member Williams is on an extended leave of absence until June 19, 2025.

**2. APPROVAL OF AGENDA****Motion to approve the agenda.**

Moved/Second (Leftwich/Calavita) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, and Wells.

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

**3. PUBLIC COMMENT**

*1 Physically Present Speakers*

*0 Virtually Present Speakers*

**4. APPROVAL OF MINUTES**

a. Minutes for the Regular Meeting of March 19, 2025

**Motion to approve the minutes for the regular meeting of March 19, 2025.**

Moved/Second (Leftwich/Calavita) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, and Wells.

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

**5. ODPa STAFF REPORT**

Director Aguilar provides the PAB with updates on the annual report, the response to BPD's Controlled Equipment report, items forwarded to City Council, and upcoming NACOLE webinars on:

- Understanding Civilian Oversight's Fast-Changing Legal Landscape (April 25, 2025)<sup>3</sup>
- The New World of Artificial Intelligence: Opportunities for Police Oversight Practitioners? (June 12, 2025)<sup>4</sup>
- Hate Crimes, Explicit Bias, and Implicit Bias: Evolution of Standards for Decertification of Police Officers in California (August 6, 2025)<sup>5</sup>

**6. CHAIR AND BOARD MEMBERS' REPORTS**

Chair Cayetano reports that he met with former PAB Member and Chair, Ismail Ramsey.

**7. CHIEF OF POLICE'S REPORT**

Chief Louis updates the PAB on a pending request from the Board, upcoming Early Intervention System updates, and BPD's involvement in recent protests throughout the City.

**8. SUBCOMMITTEE REPORTS**

The PAB Subcommittees provided updates on their activities since the previous meeting.

**9. DISCUSSION AND ACTION ITEMS**

a. Discussion and action on new Policy Complaint 2025-PR-0002 in accordance

<sup>3</sup> April 25, 2025 NACOLE Webinar Link: [https://www.nacole.org/2025\\_nacole\\_webinar\\_series\\_april](https://www.nacole.org/2025_nacole_webinar_series_april)

<sup>4</sup> June 12, 2025 NACOLE Webinar Link: [https://www.nacole.org/2025\\_nacole\\_webinar\\_series\\_june](https://www.nacole.org/2025_nacole_webinar_series_june)

<sup>5</sup> August 6, 2025 NACOLE Webinar Link: [https://www.nacole.org/2025\\_nacole\\_webinar\\_series\\_august](https://www.nacole.org/2025_nacole_webinar_series_august)

with Section G “Policy Complaints and Reviews” of the PAB’s Standing Rules

**Motion to accept the ODPa’s recommendation to reject Policy Complaint 2025-PR-0002 and direct staff to forward it to the Homeless Response Team (HRT) for review and further action.**

Moved/Second (Calavita/Wilson) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, Wells and Wilson

Noes: None. Abstain: None. Absent: Williams

- b. Discussion and action on the PAB’s review of the BPD’s Mutual Aid Agreements with other law enforcement agencies (continued discussion)

The PAB takes no action. Chair Cayetano provides an update on his conversation with BPD. The PAB expresses interest in adding an agenda item to ask BPD questions about their MOUs, particularly those related to federal agencies responsible for immigration enforcement and the MOU with UC Berkeley.

- c. Discussion and action on the PAB’s proposed response to the BPD’s 2024 Annual Report

The PAB discusses the summary provided by ODPa staff of their commentary from the March 19, 2025, meeting and the recommendations presented. The PAB decides not to act on the memorandum, pending a consolidation of the discussed topics by the Chair and Vice Chair with the BPD.

#### 10. PUBLIC COMMENT (TBD)

0 Physically Present Speakers

0 Virtually Present Speakers

#### 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:

**Motion to accept the ODPa’s recommendation to administratively close ODPa Complaint Numbers 2024-CI-0045, 2024-CI-0046, 2024-CI-0049, 2024-CI-0050, 2024-CI-0051, and 2025-CI-0012.**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, Wells and Wilson

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Noes: None. Abstain: None. Absent: Williams

**Motion to not accept the ODPa's recommendation to administratively close ODPa Complaint Number 2025-CI-0011 and continue with the investigation.**

Moved/Second (Wilson/ Calavita) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, Wells and Wilson

Noes: None. Abstain: None. Absent: Williams

**Motion to accept the ODPa's recommendation to administratively close ODPa Complaint Number 2025-CI-0005.**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, Wells and Wilson

Noes: None. Abstain: None. Absent: Williams

**Motion to administratively close ODPa Complaint Number 5.**

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Calavita, Leftwich, Wells and Wilson

Noes: None. Abstain: None. Absent: Williams

|                              |
|------------------------------|
| <b>END OF CLOSED SESSION</b> |
|------------------------------|

**12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS**

Chair Cayetano announces closed session actions.

**13. ADJOURNMENT**

Motion to adjourn. Moved/Second (Cayetano/Wilson). The meeting was adjourned at 9:00 PM by unanimous consent.

Item 9

## PAB Subcommittee List



Updated on 4/18/2025



## SUBCOMMITTEES LIST

| Subcommittee                                                                                                                                                 | Board Members                                                      | Chair    | BPD Reps                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|----------|------------------------------------|
| <b>Regulations</b><br>Formed 7-7-21<br>Renewed 6-7-2023                                                                                                      | Calavita<br>Leftwich<br><br><u>Public members:</u><br>Kitt Saginor | N/A      | Chief Louis                        |
| <b>Policy Reviews</b><br>Formed 11-08-2023<br>Scope Expanded 12-11-2024 to<br>include BWC Policy Review                                                      | Leftwich<br>Cayetano<br><br><u>Public members:</u><br>Kitt Saginor | Leftwich | Deputy Chief Tate<br>Sgt. Rafferty |
| <b>Metrics &amp; Operations</b><br>Formed 02-05-2025 after the<br>Budget & Metrics and Operations &<br>Processes Subcommittees were<br>consolidated into one | Wilson<br>Wells                                                    | N/A      | N/A                                |
| <b>Outreach &amp; Engagement</b><br>Formed 11-08-2023<br>Scope Expanded 03-02-2024<br>Formally "Commendations"                                               | Cayetano<br>Wells                                                  | N/A      | N/A                                |
| <b>Berkeley Police Department<br/>Policies 1010 and 1034<br/>Review</b><br>Formed 9-25-2024                                                                  | Williams<br><b>[Vacant]<sup>1</sup></b>                            | TBD      | TBD                                |

<sup>1</sup> Board Member Moore was previously assigned but is no longer on the Board

Updated on 4/18/2025

**LIAISON LIST<sup>2</sup>**

| <b>Liaison Name</b> | <b>Assignment</b>                           |
|---------------------|---------------------------------------------|
| Cayetano            | Represent the PAB in the EIS Update Process |
| Wilson              | Represent the PAB in FIP-related matters    |

**POLICY COMPLAINTS ASSIGNED TO INDIVIDUAL BOARD MEMBERS<sup>3</sup>**

| <b>Policy Review Number</b> | <b>Assigned Board Member</b>  |
|-----------------------------|-------------------------------|
| 2023-PR-0006                | <b>Unassigned<sup>4</sup></b> |
| 2024-PR-0003                | <b>Unassigned<sup>5</sup></b> |
| 2025-PR-0001                | <b>Calavita</b>               |

<sup>2</sup> Liaison list does not include topics that were originally assigned to a Board Member but later assigned to a subcommittee.

<sup>3</sup> This list does not include policy complaints that were originally assigned to an individual Board Member but later assigned to a subcommittee.

<sup>4</sup> Board Member Moore was previously assigned but is no longer on the Board

<sup>5</sup> Board Member Moore was previously assigned but is no longer on the Board

Item 10.a.

ODPA Memorandumt Titled "Status Update Regarding the Berkeley Police Department's (BPD) Mutual Aid Agreements with USCIS and Other Law Enforcement Agencies"



## MEMORANDUM

Date: April 18, 2025

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

From: Hansel A. Aguilar, Director of Police Accountability (DPA) *Ha*  
 Jose D. Murillo, ODPA Policy Analyst *Jm*

Subject: Status Update Regarding the Berkeley Police Department's (BPD) Mutual Aid Agreements with USCIS and Other Law Enforcement Agencies

The purpose of this memorandum is to provide the PAB with an update on the BPD's Memorandums of Understanding (MOUs) and Mutual Aid Agreements (MAAs) since the PAB's meeting on April 9, 2025.

### Background:

Berkeley Municipal Code Sections 2.04.150–2.04.210<sup>1</sup> establish the public review and City Council approval process required for any agreements between the Berkeley Police Department (BPD) and external law enforcement or security agencies. Agreements must include written justification, cost projections, and undergo a public hearing with Council approval before taking effect or being renewed annually.

At its March 5, 2025 meeting, the Police Accountability Board (PAB) discussed the status of BPD's MOUs and MAAs, particularly with the Department of Homeland Security and UC Berkeley.<sup>2</sup> ODPA staff reported that the last known public review occurred on July 23, 2018, when the City Council approved a compendium of BPD's agreements.<sup>3</sup> Confirmation from BPD was pending. On March 6, 2025, Chair Cayetano contacted BPD to verify whether the 2018 hearing was the most recent approval. BPD acknowledged the

<sup>1</sup> Berkeley Municipal Code Section 2.04.150 – 2.04.210: <https://berkeley.municipal.codes/BMC/2.04.150>

<sup>2</sup> March 5, 2025 PAB Regular Meeting Minutes: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2025-03-05%20Regular%20Meeting%20Minutes.v2.pdf>

<sup>3</sup> BPD Agreements, Understandings, and Policies Existing between the Berkeley Police Department and Other Law Enforcement Agencies: <https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3AAscds%3AUS%3A3a637aa7-7359-45a1-81ed-dee245c93f83>

request and indicated a response would follow their annual report presentation to the Council.

At the PAB's April 9, 2025 meeting, BPD again acknowledged the pending request and informed the Board that additional information would be provided later that week. On April 12, 2025, Deputy Chief Tate provided the requested information.

**Update:**

On April 12, 2025, Deputy Chief Tate responded to Chair Cayetano's inquiry, confirming that BPD maintains a compendium of MOUs to document formal agreements with external law enforcement and security agencies. This compendium serves as a centralized record, ensuring that all agreements remain current, transparent, and compliant with Berkeley Municipal Code Sections 2.04.150–2.04.210. The last City Council approval of the compendium occurred in 2018.

In her response, Deputy Chief Tate also addressed questions regarding verbal or general understandings, explaining that these informal arrangements, many dating back to the 1970s, are currently under review. She clarified that these understandings are not formal agreements but rather statements outlining how BPD has historically interacted with or what it might request from certain agencies. These informal arrangements were often shaped by past political or policy directives from the City Council. BPD is actively working to clarify these understandings with the relevant federal agencies.

Following this, Chair Cayetano requested a meeting with Deputy Chief Tate, which was scheduled for April 22, 2025. During this meeting, Chair Cayetano and Vice-Chair Wilson plan to discuss the following topics with the BPD:

1. The timeline and steps required to renew MOUs with federal agencies such as DHS, ICE, and Border Patrol.
2. Clarification of what constitutes a "verbal understanding" and whether any such informal arrangements currently exist.
3. Whether BPD currently requests or has previously requested assistance from USCIS to locate noncitizen criminal suspects, and if so, whether records are created in such cases.

**Relevant Documents:**

- BPD Agreements, Understandings, and Policies Existing between the Berkeley Police Department and Other Law Enforcement Agencies:  
<https://acrobat.adobe.com/link/review?uri=urn%3Aaaid%3Aascds%3AUS%3A3a637aa7-7359-45a1-81ed-dee245c93f83>

Item 10.b.

Policy Review Report – ODPa No. 19 “Detention and Release of Inebriated  
Individuals”



## MEMORANDUM

Date: April 18, 2025  
 To: Honorable Members of the Police Accountability Board (PAB)  
 From: Hansel A. Aguilar, Director of Police Accountability (DPA) *Ha*  
 Jose D. Murillo, ODPA Policy Analyst *Jm*  
 Subject: Policy Review No. 19 – Detention & Release of Inebriated Individuals

The purpose of this memorandum is to provide the PAB with an overview of Policy Review Report Number 19 and to summarize its findings and recommendations.

### **Procedural Background:**

Policy Review Number 19 commenced as a personnel investigation on January 28, 2022.<sup>1</sup> The investigation, which was self-initiated by the PAB, was converted to a policy review on January 31, 2023 after it was determined that the PAB could not initiate a misconduct investigation without a complaint filed by a member of the public.<sup>2</sup>

### **Incident Summary:**

This incident concerned the detention and subsequent death of a 75-year-old man following his arrest for public intoxication. On January 8, 2022, at approximately 8:40 p.m., the Berkeley Police Department (BPD) received a call from an employee at Saul's Deli reporting an individual with an open container who was refusing to leave the restaurant's parklet. Two BPD officers responded around 10 minutes later. After speaking with the reporting party and assessing the man's condition, officers determined he was unable to

<sup>1</sup> January 28, 2022 PAB Regular Meeting Minutes: <https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-01-26%20Agenda.pdf>

<sup>2</sup> January 31, 2023 PAB Regular Meeting Minutes: [https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-01-31.RegMtg.Min Approved.pdf](https://berkeleyca.gov/sites/default/files/legislative-body-meeting-minutes/2023-01-31.RegMtg.Min%20Approved.pdf)

care for himself and placed him under arrest for public intoxication under Penal Code §647(f).<sup>3</sup>

Officers initially transported the man to the Grayson Street Shelter, but were informed that the shelter was not accepting walk-ins. They then brought him to the BPD jail for processing around 10:00 p.m. However, a Community Services Officer (CSO) noticed signs of a possible communicable skin condition and declined to proceed with booking until the man received medical clearance. After consulting with a supervisor, officers opted to release the man under Penal Code §849(b),<sup>4</sup> which allows for release without arraignment if the only offense is public intoxication and the individual is able to care for themselves.

The man was released at approximately 11:00 p.m. near the corner of Addison Street and McKinley Avenue, behind the Public Safety Building. He remained outside the police station overnight. At approximately 1:00 a.m., an officer returning from patrol observed him still at the location and provided blankets. By around 5:30 a.m., another officer found the man lying shirtless on the sidewalk and appearing unresponsive. Berkeley Fire Department personnel responded and found that he was cold to the touch and visibly shaking. He was transported to Alta Bates Hospital, where he was pronounced dead at 6:55 a.m. on January 9, 2022.

Toxicology testing revealed a blood alcohol concentration of 0.128. The Alameda County Coroner determined that the man died of natural causes due to hypertensive cardiovascular disease.

### **Policies Reviewed:**

This report reviews several Berkeley Police Department (BPD) policies and practices that are pertinent to the incident in question. The objective of the analysis is to evaluate whether the current protocols adequately support officer decision-making, particularly in situations involving individuals who are intoxicated, medically vulnerable, or at risk. The report examines the following policies:

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<sup>3</sup> California Penal Code Section 647(f):

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=647.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=647.&lawCode=PEN)

<sup>4</sup> California Penal Code Section 849(b):

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=849](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=849)



- **BPD Policy 313 – Senior and Disability Victimization (Updated 3/17/2025)<sup>5</sup>:** Guidelines for investigating and reporting abuse of vulnerable adults, including elders and individuals with disabilities, and ensuring their safety in accordance with state law.
- **BPD Policy 431 – Medical Aid and Response (Updated 02/10/2025)<sup>6</sup>:** Guidelines for responding to individuals in need of medical assistance, emphasizing EMS coordination and the safety and health of individuals, especially those in custody.
- **BPD Policy 440 – Sobering and Detoxification Center (Updated 11/30/2022)<sup>7</sup>:** Protocols for referring individuals to the Cherry Hill Detoxification Program for alcohol and drug-related issues, including eligibility criteria and referral procedures.
- **BPD Policy 900 – Temporary Custody of Adults (Updated 08/07/2024)<sup>8</sup>:** Guidelines for ensuring the health and safety of adults in temporary custody, including screening, placement, and considerations for medical and mental health concerns.

### **Recommended Action:**

The ODPa is presenting the following recommendations for the PAB to consider adopting and recommending to the BPD and other relevant stakeholders:

#### **1. Revise Policies to Require Medical Clearance and Incorporate Objective Tools for Safe Release Determinations**

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<sup>5</sup> Berkeley Police Department Policy 313 “Senior and Disability Victimization:”

[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=144](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=144)

<sup>6</sup> Berkeley Police Department Policy 431 “Medical Aid and Response:”

[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=473](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=473)

<sup>7</sup> Berkeley Police Department Policy 440 “Sobering and Detoxification Center:”

[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=502](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=502)

<sup>8</sup> Berkeley Police Department Policy 900 “Temporary Custody of Adults:”

[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=712](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=712)

Revise BPD Policy 900 to require medical clearance before releasing individuals detained solely for public intoxication, particularly when jail intake is denied or the individual is medically vulnerable. Incorporate optional breathalyzer tests with specific BAC thresholds to support objective and consistent release decisions, especially for older adults.

## **2. Expand Diversion Options Beyond Cherry Hill Sobering Center**

BPD should explore additional local sobering alternatives since the Cherry Hill Sobering Center has limited capacity and cannot always accept eligible individuals. A locally operated sobering center could offer officers more flexibility and ensure individuals receive appropriate care outside the criminal justice system.

## **3. Review the Use of Technology for Public Welfare**

The PAB should consider the potential use of AI-enabled surveillance cameras to identify medical emergencies in public spaces. Such technology could help ensure faster intervention and improve outcomes for individuals in distress, especially following police release from custody.

## **4. Call on the California Legislature to Establish Statewide Protective Custody Standards Mirroring Massachusetts General Law Chapter 111B, Section 8**

Urge the California Legislature to adopt protective custody procedures similar to Massachusetts law, including a right to breath testing and BAC-based release guidelines. This would create consistent, medically informed standards for handling public intoxication cases statewide.



# POLICY REVIEW REPORT

ODPA No. 19

Detention and Release of Inebriated  
Individuals

## Prepared by:

The Office of the Director  
of Police Accountability

Presented to the PAB on  
April 23, 2025

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## Introduction

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This report, prepared by the Office of the Director of Police Accountability (ODPA), examines a series of events following a public intoxication detention involving a medically vulnerable community member and focuses specifically on the policies and procedures of the Berkeley Police Department (BPD). The incident raises important questions about BPD's current protocols related to arrest, custody, medical assessment, and release decisions under California Penal Code §849(b).<sup>1</sup> To guide this examination, the report centers around the following key research questions:

- What policies guide law enforcement responses to public intoxication involving individuals with potential medical or physical vulnerabilities?
- How do law enforcement agencies coordinate with health care providers and shelter services when managing cases involving public intoxication?
- What procedures are in place for determining release decisions under public intoxication statutes, and how are those procedures implemented in practice?
- What effective practices exist for ensuring the safety and well-being of individuals released from custody following detention for public intoxication, and how might they inform future policy development?
- Do existing policies account for treatment of vulnerable populations in these scenarios or were there gaps that need to be addressed?

These questions frame the analysis and inform recommendations for improving BPD policies and practices aimed at protecting community members while supporting effective and accountable policing.

## Review Methodology

To ensure a comprehensive and objective evaluation, staff from the ODPA adopted a multi-method approach grounded in both qualitative and documentary analysis. The review encompassed a close examination of incident reports, coroner's records, and available jail surveillance footage. To provide further context and supplement these materials, ODPA reviewed past interviews conducted with the involved officers surrounding the event in question<sup>2</sup>. Furthermore, a comparative policy analysis was conducted, drawing upon policies and practices from peer jurisdictions, as referenced

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<sup>1</sup> California Penal Code 849(b):

[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=849](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=849).

<sup>2</sup> Policy Review No. 19 began as a self-initiated personnel investigation by the PAB on January 28, 2022, and was converted to a policy review on January 31, 2023, after it was determined the PAB could not investigate misconduct without a public complaint.

throughout the report. Collectively, these methods were employed to facilitate a robust assessment of the incident in relation to established standards and evolving effective practices.

## Relevant Policies

This report presents an analysis of several Berkeley Police Department (BPD) policies and practices that were either directly or indirectly relevant to the incident in question. The goal of this analysis is to evaluate whether current protocols adequately support officer decision-making, particularly in situations involving individuals who are intoxicated, medically vulnerable, or otherwise at risk. The policies examined include:

- **BPD Policy 313 – “Senior and Disability Victimization (Updated 3/17/2025):** The purpose of this policy is to establish guidelines for investigating and reporting suspected abuse of vulnerable adults, including elders and individuals with disabilities. It outlines mandatory reporting requirements for Berkeley Police Department personnel in accordance with state law, provides standards for ensuring the safety of elders and dependent adults, and reaffirms the department’s commitment to equal protection and the enforcement of all relevant criminal laws.
- **BPD Policy 431 – “Medical Aid and Response” (Updated 02/10/2025):** The purpose of this policy is to establish clear guidelines for BPD personnel when responding to individuals in need of medical assistance. It outlines responsibilities for providing emergency aid, coordinating with EMS, and ensuring officers are appropriately trained and equipped to act within their certification levels. The policy emphasizes prioritizing safety, proper EMS coordination, and protecting the health and rights of individuals—especially those in custody or experiencing medical crises.
- **BPD Policy 440 – “Sobering and Detoxification Center” (Updated 11/30/2022):** The purpose of this policy is to outline the protocols for referring individuals to the Cherry Hill Detoxification Program, which offers sobering and detoxification services to help individuals address alcohol and drug-related issues. It provides eligibility criteria and procedures for officer referrals to either the short-term Sobering Center or the longer-term Detoxification Program.
- **BPD Policy 900 – “Temporary Custody of Adults” (Updated 08/07/2024):** This policy provides guidelines for ensuring the health and safety of adults taken into temporary custody by the BPD. It outlines screening, placement, and separation procedures to minimize risk, including considerations for medical, mental health, and safety concerns. It also sets standards for determining fitness for incarceration and handling individuals with minor injuries prior to booking.

This report assesses whether these policies (or associated practices and procedures) offer clear and sufficient guidance to officers in the field and identifies opportunities for improving their effectiveness in future, comparable scenarios.

## Incident Review & Analysis

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On January 8, 2022, at approximately 8:40 p.m., the BPD received a call from an employee at local restaurant reporting that a community member with an open container of alcohol was sitting in the business's parklet and refused to leave. At least two BPD officers responded to the call about 10 minutes later.<sup>3</sup> One of the officers spoke with the reporting party and assessed the situation, while another officer remained with the community member. After speaking with the reporting party and assessing the Community Member's condition, the BPD Officers determined that the community member was unable to care for himself.<sup>4</sup> Given the circumstances, one of the officers placed the community member under arrest for public intoxication, in violation of Penal Code 647(f).<sup>5</sup> The community member was identified as a 75-year old white male.<sup>6</sup>

Following the detention of the community member, the responding officers transported him to the Grayson Street Shelter in an effort to secure a safe location for him to sober up. Upon arrival, they were informed that the shelter was not accepting walk-ins and that vouchers were required.<sup>7</sup> The officers transported the community member to the Berkeley Police Department for processing at around 10 p.m. During the interview with ODPa, some officers stated that they were unfamiliar with the Cherry Hill Sobering Center and, as a result, did not consider it as an option.<sup>8</sup> During the booking process, a Community Service Officer (CSO) observed that the community member exhibited signs of a potentially communicable skin condition on his arm and back. Based on these

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<sup>3</sup> Call for Service Detail Report – CFS 865

<sup>4</sup> ODPa Interview with BPD Officer and Arrest Report for Case No. 2022-00001164

<sup>5</sup> Penal Code 647(f):

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=647.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=647.&lawCode=PEN)

<sup>6</sup> Incident Report Number 2022-00000017

<sup>7</sup> ODPa Interview with BPD Officers

<sup>8</sup> ODPa Interview with BPD Officers

observations, the CSO declined to proceed with booking until the community member received medical clearance deeming him fit for incarceration.<sup>9</sup>

The community member was assisted back into the police vehicle by the BPD officers and a CSO. A few minutes later, he was removed from the vehicle and seated in a chair within the sally port area<sup>10</sup>, where he was provided with food.<sup>11</sup> During this time, one of the responding officers consulted with a supervision officer regarding the reason for the booking rejection and potential next steps. The supervising officer advised that the options were to either: 1) transport the community member to Alta Bates Hospital to obtain medical clearance for incarceration; or 2) to release him pursuant to California Penal Code §849(b)<sup>12</sup>, which allows officers to release individuals without arraignment when the sole offense is public intoxication. The supervising officer further noted that by the time medical clearance was obtained, the community member may have already sobered up. Accordingly, the supervising officer recommended considering an §849(b) release if the community member appeared sober and able to care for himself.<sup>13</sup>

As noted in the surveillance camera,<sup>14</sup> while in the sally port, the community member appeared to be in physical discomfort and showed signs of anxiety, such as repeatedly rubbing his knees and arms. He also seemed to have difficulty standing from his chair and walking without assistance<sup>15</sup>. Prior to his release, the community member visibly struggled to put on his jacket and stand up<sup>16</sup>. He used the wall for support as he slowly walked in the direction he was being guided. At approximately 11:00 p.m., the community member was released from BPD custody under a California Penal Code §849(b) release to the corner of Addison Street and McKinley Avenue, located behind the

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<sup>9</sup> Incident Report Number 2022-00000017

<sup>10</sup> A sally port is a secure entryway (as at a prison) that consists of a series of doors or gates

<sup>11</sup> CCTV Footage from the BPD Jail Sally Port – January 8, 2022

<sup>12</sup> California Penal Code 849(b):

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=849](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=849).

<sup>13</sup> Interviews with the Primary Officer and Supervising Sergeant

<sup>14</sup> CCTV Footage from the BPD Jail Sally Port – January 8, 2022

<sup>15</sup> Ibid

<sup>16</sup> Ibid



Public Safety Building.<sup>17</sup> The community member remained where he was released for the remainder of the incident.<sup>18</sup>

On January 9<sup>th</sup>, 2022, at approximately 1:00 a.m., at least one patrol officer noticed the community member sitting outside the police station where he had been left earlier that night. Finding the situation unusual, the situation was elevated to the supervising officer. The supervising officer—who had earlier provided guidance regarding the §849(b) release—relayed that the community member had been in custody earlier that night but had since been released by another BPD.

Concerned about the cold weather, one of the BPD officers entered the jail to request blankets for the community member. After receiving them, the officer approached the community member, who allegedly yelled at her in an agitated manner.<sup>19</sup> The officer left the blankets with the community member and concluded the interaction.<sup>20</sup>

Around 5:30 a.m., at least one other BPD patrol officer encountered the community member in the same location. The community member was now noted to be lying shirtless on the sidewalk gutter and appeared unresponsive. Though he was mumbling what seemed like responses, he was not answering the BPD's questions clearly. The BPD requested a Berkeley Fire Department (BFD) medical evaluation noting that the community member appeared to "be suffering a medical issue due to alcohol intoxication, cold weather and not having weather appropriate clothing."<sup>21</sup> BFD arrived within minutes and found the community member cold to the touch and visibly shaking.

The community member was transported by ambulance to Alta Bates Hospital with lifesaving measures in progress. According to the Alameda County Coroner's investigation, the community member became unresponsive in the ambulance on the way to the hospital.<sup>22</sup> He arrived at the emergency room at approximately 5:55 a.m. and was treated for about an hour before being pronounced dead at 6:55 a.m. on January 9, 2022.

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<sup>17</sup> Ibid

<sup>18</sup> Incident Report Number 22-1193

<sup>19</sup> ODPa Interview with Officer and Incident Report Number 22-1193

<sup>20</sup> Ibid

<sup>21</sup> Incident Report Number 22-1193

<sup>22</sup> Coroner's Investigation Report Case Number 2022-00135

A toxicology report later showed the community member had a blood alcohol concentration (BAC) of .128—60% over the legal threshold of .08<sup>23</sup> to be considered impaired.<sup>24</sup> However, the Coroner’s investigation concluded that he died of natural causes related to hypertensive cardiovascular disease, and that alcohol intoxication was not a contributing factor.<sup>25</sup> A forensic autopsy revealed that the community member had an enlarged, globally dilated heart weighing 630 grams—more than double the average heart weight of approximately 331 grams.<sup>26</sup>

## Incident Analysis

This incident raised several questions regarding the department’s handling of public intoxication, particularly when dealing with vulnerable individuals. While the BPD officers appeared to have followed standard procedure for arresting the community member for public intoxication under penal code §647(f), several critical issues related to medical assessment, the decision to release the individual, and the subsequent handling of the situation suggest areas for improvement in BPD’s policies and procedures.

## Gaps in Alternatives to Detention

A significant issue illuminated by this incident is the lack of viable alternatives to jail-based detention for individuals detained under public intoxication laws. In this case, officers attempted to transport the community member to the Grayson Street shelter in lieu of jail, a decision that aligns with effective practices for diverting individuals from the criminal legal system when possible.<sup>27</sup> However, that shelter was not accepting walk-ins, leaving officers with limited options beyond detention at the BPD jail.

Since the occurrence of this incident, BPD has adopted Policy 440, “Sobering and Detoxification Center,” which identifies the Cherry Hill Detoxification Program as an alternative to jail for individuals willing to be transported there for a 24-hour period. It is

<sup>23</sup> California Department of Motor Vehicle BAC Limits: <https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/alcohol-and-drugs/>

<sup>24</sup> Toxicology Report Conducted by NMS Labs

<sup>25</sup> Coroner’s Investigation Report Case Number 2022-00135

<sup>26</sup> Molina, D. K. (n.d.). Typical organ weights. Duke University Department of Pathology. Retrieved April 16, 2025, from <https://pathology.oit.duke.edu/siteParts/Typical%20Organ%20Weights.pdf>

<sup>27</sup> International Association of Chiefs of Police. (2023). Sobering centers: Practical implementation guidelines. [https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers\\_Practical%20Implementation%20Guidelines\\_0.pdf](https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers_Practical%20Implementation%20Guidelines_0.pdf)

important to note that the Cherry Hill program is a shared resource, accessible to all law enforcement agencies, hospitals, and community organizations across Alameda County. The program includes a 50-bed sobering unit that operates 24/7 and provides short-term (up to 23 hours) sobering services for individuals under the influence of alcohol or other substances.<sup>28</sup> Horizon Treatment Services, which operates the Cherry Hill Sobering Center, reported that from July 2023 to June 2024, the facility operated at an average of 80% capacity and served a total of 7,642 individuals.<sup>29</sup>

This resource was available at the time of the incident; however, some of the responding officers appeared to be unaware of this resource. A least one of the BPD officers indicated that had known about the center, they would have considered and looked into that option.<sup>30</sup>

According to BPD crime data, from January 1, 2018, to April 11, 2025, the department made 837 arrests under Penal Code §647(f) for public intoxication alone—averaging about 10 arrests per month.<sup>31</sup> While this may not appear to be a large number relative to the volume of overall police encounters, the cumulative demand placed on sobering centers like Cherry Hill—by law enforcement agencies across Alameda County as well as hospitals—can exceed their capacity.<sup>32</sup> As a result, in the absence of readily available alternatives, the BPD continues to rely on its jail facilities to serve as default sobering spaces.

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<sup>28</sup> Horizon Treatment Services – Cherry Hill (San Leandro, CA): <https://www.horizonservices.org/cherry-hill/>

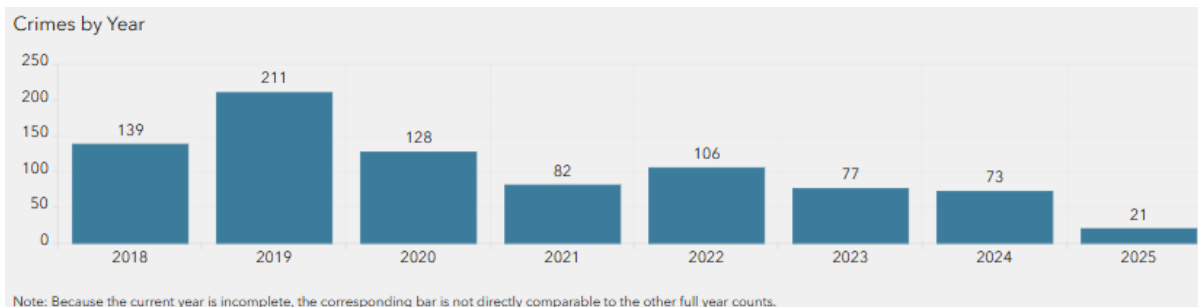
<sup>29</sup> Horizon Treatment Services. (2025, March 26). Cherry Hill Programs presentation. Alameda County Health Care for the Homeless. [https://www.achch.org/uploads/7/2/5/4/72547769/horizon\\_treatment\\_services\\_-\\_cherry\\_hill\\_programs\\_presentation\\_03262025.pdf](https://www.achch.org/uploads/7/2/5/4/72547769/horizon_treatment_services_-_cherry_hill_programs_presentation_03262025.pdf)

<sup>30</sup> ODPa Interview with BPD Officers

<sup>31</sup> BPD Crime Data January 1, 2018 to April 11, 2025: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/pages/crimes>

<sup>32</sup> The number of arrests made under Penal Code §647(f) was not publicly available from other comparator law enforcement agencies that prioritize reporting through the National Incident-Based Reporting System (NIBRS), as the available data did not allow for filtering these specific violations and arrests.

Figure 1. PC 647 (F) Crimes in Berkeley



Source: BPD Crime Data January 1, 2018 to April 11, 2025

## Evaluation of Vulnerability in Release Decision

Throughout the booking process, the community member exhibited several objective signs of vulnerability that warranted closer attention (i.e. ODP staff noted that the individual visibly struggled to stand, walk, and put on his jacket, suggesting that he may not have been fit for release without a more comprehensive assessment). At intake, he was observed wearing a hospital wristband and a leg brace, along with showing visible symptoms of a potentially communicable skin condition. Although the CSO appropriately paused the booking process in response to these concerns, there was no documented follow-up to confirm the individual's medical clearance or assess whether he was in stable condition for release.

Despite these indicators of physical distress and possible medical need, the community member was released under California Penal Code §849(b), which allows for discretionary release without arraignment in cases of public intoxication. While §849(b) authorizes discretionary release, it also provides alternative avenues that prioritize care and safety. Notably, under §849(b)(3), officers may release an individual into the custody of a medical facility or hospital for treatment when further legal proceedings are deemed unnecessary. This provision underscores the importance of considering health-based alternatives when signs of possible medical vulnerability are present.”<sup>33</sup>

An important consideration that appears to have been overlooked is the community member's age and their status as an older adult—a population with distinct and often heightened vulnerabilities. While BPD's Policies 900, 441, and 431 do not specifically address vulnerable populations such as older adults, it is important to acknowledge that aging individuals frequently have greater health and safety needs than other age groups. In this case, the community member was 75 years old, reportedly intoxicated, showing

<sup>33</sup> California Penal Code §849(b)(3):

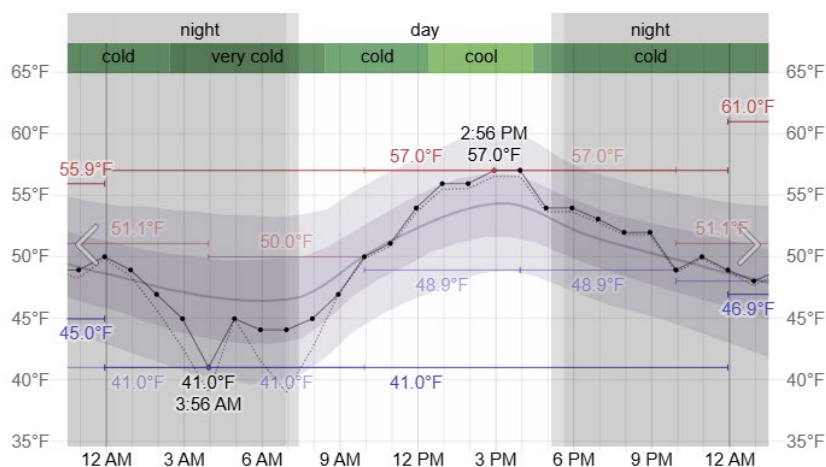
[https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=849](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=849)

signs of limited mobility, and wearing light clothing. These factors combined suggest a heightened level of vulnerability and a potential inability to care for themselves.

Research from the National Institute on Alcohol Abuse and Alcoholism (NIAAA) reinforces these concerns, noting that older adults are more sensitive to the sedative effects of alcohol and its impact on balance, coordination, attention, and motor skills. This increased sensitivity places them at greater risk of falls, motor vehicle accidents, and other alcohol-related injuries.<sup>34</sup> Furthermore, age-related changes in body composition—such as reduced muscle mass and body water—can result in higher blood alcohol concentrations in older adults compared to younger individuals consuming the same amount.

Compounding these risks, the National Institute on Aging emphasizes that older adults are also more susceptible to cold weather.<sup>35</sup> On the date of the incident, January 9, 2022, historical weather records show that temperatures in the City dropped below 50°F, with a low of

Figure 2 Temperature on Sunday, January 9, 2022 in Berkeley, CA



Source: Weather Spark

41°F during the time of the incident.<sup>36</sup> As noted by the NIAAA, such conditions pose a serious health threat to older adults, who are at increased risk of hypothermia—a condition that occurs when the body's core temperature falls below 95°F. Even at temperatures above 40°F, hypothermia can develop if an individual becomes chilled by

<sup>34</sup> National Institute on Alcohol Abuse and Alcoholism. (n.d.). Aging and alcohol. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.niaaa.nih.gov/alcohols-effects-health/aging-and-alcohol>

<sup>35</sup> National Institute on Aging. (n.d.). Cold weather safety for older adults. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.nia.nih.gov/health/safety/cold-weather-safety-older-adults>

<sup>36</sup> Data obtained from WeatherSpark.com which offers detailed reports of the typical weather for 145,479 locations worldwide. <https://weatherspark.com/about>

rain, sweat, or damp clothing. In addition to causing serious complications such as arrhythmia, heart failure, and organ damage, hypothermia impairs cognitive function, making it difficult for individuals to recognize the danger or seek help. Early symptoms—such as shivering, pale skin, slurred speech, and confusion—can escalate quickly to slow breathing, unconsciousness, and death if not addressed.

The Coroner's report indicated that the community member died from hypertensive cardiovascular disease and, although intoxicated, alcohol did not appear to be a factor in his death. However, as NIAAA notes, it is important to highlight that older adults with hypertensive cardiovascular disease are particularly vulnerable to complications from both alcohol consumption and cold weather exposure. Alcohol can raise blood pressure, interfere with hypertension medications, and disrupt heart rhythm—factors that can worsen cardiovascular conditions in older individuals.<sup>37</sup> Additionally, the aging body metabolizes alcohol more slowly, amplifying its effects. Cold temperatures further increase cardiovascular risk by causing blood vessels to constrict, placing added strain on the heart and potentially triggering serious health events in those with preexisting hypertension.<sup>38</sup>

In this incident, the community member was released at the discretion of the BPD officers, who, after consulting with a supervising officer, determined that the individual was suitable for release given the amount of time that had elapsed since the initial detention. The community member was released without any medical attention or further evaluation despite the impediments that the community member displayed in the sally port and the potential vulnerabilities that come with being an elder adult. Notably, there appears to have been a lack of consideration for the heightened vulnerabilities associated with being an older adult, particularly the increased health risks that can follow alcohol consumption and exposure to cold weather. BPD Policy 900.11.2 notes that no person shall be released from custody in an intoxicated condition and to be eligible for release, the individual must be sober to the extent they can care for themselves in public. To that extent, Section 900.11.2.c states that for an arresting officer to request a §849(b) release, the individual in custody must be sober. The coroner's report indicates that the community member's blood alcohol concentration (BAC) remained at .128 several hours after initial

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<sup>37</sup> National Institute on Alcohol Abuse and Alcoholism. (n.d.). Aging and alcohol. U.S. Department of Health and Human Services, National Institutes of Health. <https://www.niaaa.nih.gov/alcohols-effects-health/aging-and-alcohol>

<sup>38</sup> American Heart Association. (2025, January 3). What cold weather does to the body—and how to protect yourself this winter. <https://www.heart.org/en/news/2025/01/03/what-cold-weather-does-to-the-body-and-how-to-protect-yourself-this-winter>

contact with the arresting officer—well above California’s legal threshold of .08 for intoxication.<sup>39</sup> This elevated BAC strongly suggests that the individual was still significantly impaired at the time of his release.

## Post-Release Monitoring and Safety

The community member’s physical decline in the hours following his release—culminating in his eventual unresponsiveness—reveals a critical gap in post-release monitoring and safety practices. He was released from BPD custody in a visibly impaired state, with no apparent mechanisms in place to assess or support his condition afterward. At approximately 1:30 a.m.—two hours after his release—at least one BPD officer observed that the individual remained outside the police station and, finding it unusual, offered him blankets. Several hours later, around 5:30 a.m., the same individual was again found at the station, this time in visible distress and significant medical decline.

Although post-release monitoring is not legally required, the circumstances surrounding this release arguably created a foreseeable and preventable danger. The individual’s condition at the time of release suggested the need for further medical evaluation. This risk might have been mitigated had officers exercised the option under California Penal Code §849(b)(3), which allows for individuals arrested for public intoxication to be transported to a medical facility and released without further legal proceedings, if no criminal charges are pursued.

Legal precedent establishes that law enforcement may be held liable under the *state-created danger* doctrine when their actions affirmatively place individuals in foreseeable danger, particularly when releasing them in a compromised state. In *Kneipp v. Tedder* (95 F.3d 1199, 3rd Cir. 1996), the court allowed a claim under 42 U.S.C. § 1983 to proceed after officers allowed an intoxicated woman to walk home alone on a freezing night, despite previously separating her from her sober husband. She later collapsed and suffered severe injuries. Similarly, in *Riordan v. City of Joliet* (3 F. Supp. 2d 889, N.D. Ill. 1998), the court denied qualified immunity where officers released a visibly intoxicated man into freezing weather while inadequately dressed and unable to care for himself. In *Davis v. Brady* (143 F.3d 1021, 6th Cir. 1998), the court held that officers could be liable for releasing an intoxicated man along a busy highway at night, where he was later struck by a car. In each of these cases, the courts declined to grant qualified immunity, allowing the plaintiffs’ constitutional claims to proceed to trial. These cases highlight the potential liability officers and agencies may face when they release impaired individuals into environments where foreseeable harm may result.

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<sup>39</sup> California Department of Motor Vehicle BAC Limits: <https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/alcohol-and-drugs/>



By contrast, *Lane v. City of Kinston* (544 S.E.2d 810, N.C. App. 2001) the court found no liability after officers left an intoxicated man on the street and he was later attacked by third parties. The court concluded that the harm resulted from unforeseeable criminal acts, rather than the officers' conduct. These cases collectively underscore the importance of evaluating the foreseeable risks associated with releasing individuals in compromised conditions.

Discretionary release without consideration of these factors can lead to preventable tragedies—and expose departments to ethical and legal scrutiny. At the same time, it is important to acknowledge the operational limitations law enforcement agencies face. BPD personnel may not have the capacity to monitor every individual post-release, particularly during late-night hours when staffing is minimal and demands are high. These constraints highlight the need for innovative, non-enforcement-based strategies to enhance public safety.

One promising avenue lies in the responsible use of emerging technologies—such as fixed surveillance cameras equipped with Artificial Intelligence (AI) enabled monitoring features—which can detect signs of distress among individuals lingering near police facilities or other public spaces. When thoughtfully implemented with appropriate privacy and civil rights safeguards, these tools can support early intervention efforts and improve post-release safety. Rather than functioning solely as enforcement mechanisms, such technologies could be integrated into a broader public safety strategy—serving as compassionate tools to help prevent harm when human oversight is limited.

A 2023 study published in *Current Problems in Cardiology* found that AI-enabled public surveillance cameras can effectively detect out-of-hospital cardiac arrests (OHCA) and rapidly activate emergency medical services.<sup>40</sup> This study evaluated the performance of an AI-enabled video surveillance system designed to detect falls, with potential applications in identifying unwitnessed medical emergencies such as sudden cardiac arrest. The system demonstrated strong results, accurately identifying 95% of actual falls, with high precision and overall accuracy. Detection was more effective when individuals were closer to the camera. Unlike wearable devices, which require user interaction and may be ineffective if the individual is unconscious, this video-based approach allows for passive, continuous monitoring in public spaces. The findings suggest that such technology could support faster emergency response times. However, the use of video raises important privacy and data security considerations that must be

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<sup>40</sup> Darginavicius, L., Vencloviene, J., Dobozinskas, P., Vaitkaitiene, E., Vaitkaitis, D., Pranskunas, A., & Kriksionaitiene, A. (2023). AI-enabled public surveillance cameras for rapid emergency medical service activation in out-of-hospital cardiac arrests. *Current Problems in Cardiology*, 48(11), 101915. <https://doi.org/10.1016/j.cpcardiol.2023.101915>



addressed in future implementations. The study's limitations include testing under simulated conditions and a small, non-representative sample, indicating the need for further research and validation in real-world environments. Nonetheless, the results highlight the promise of AI-assisted monitoring tools in enhancing public health and safety.

Image 1. Visualization of AI-Powered Fall Detection in Public Areas



Source: 1 *Current Problems in Cardiology*

AI-enabled surveillance cameras are currently being offered by various companies and are being pitched as systems that can help law enforcement by using AI to monitor environments in real time and flag potential criminal or suspicious activity. Vendors such as Flock Safety,<sup>41</sup> Verkada,<sup>42</sup> and Clearview AI<sup>43</sup> are among those promoting this

<sup>41</sup> Flock Safety AI Video Analytics: <https://www.flocksafety.com/articles/new-ai-video-analytics-features-24-7-security-coverage-no-extra-staff-needed>

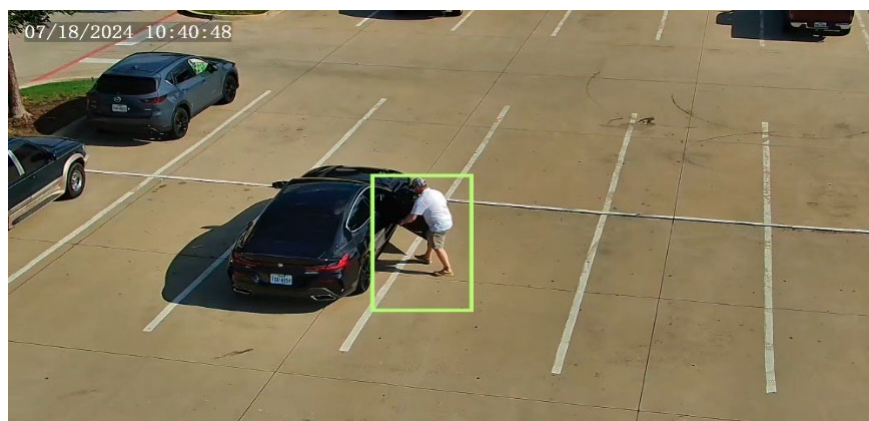
<sup>42</sup> Verdaka AI CCTV:

[https://www.verkada.com/demo/?utm\\_source=bing&utm\\_medium=search&utm\\_campaign=7012T0000022amEQAQ&utm\\_content=LP\\_nontm\\_US\\_videosecurity&utm\\_term=Ai%20Cctv&msclkid=cef0ff6edd56158f7b4e976f99c77198](https://www.verkada.com/demo/?utm_source=bing&utm_medium=search&utm_campaign=7012T0000022amEQAQ&utm_content=LP_nontm_US_videosecurity&utm_term=Ai%20Cctv&msclkid=cef0ff6edd56158f7b4e976f99c77198)

<sup>43</sup> Clearview AI Video Analytics: [https://go.clearview.ai/law-enforcement?utm\\_term=crime%20scene%20investigation%20software&utm\\_campaign=Law+Enforcement&utm\\_source=bing&utm\\_medium=ppc&hsa\\_acc=1137892768&hsa\\_cam=18779890797&hsa\\_grp=1232552844893287&h](https://go.clearview.ai/law-enforcement?utm_term=crime%20scene%20investigation%20software&utm_campaign=Law+Enforcement&utm_source=bing&utm_medium=ppc&hsa_acc=1137892768&hsa_cam=18779890797&hsa_grp=1232552844893287&h)

technology as a way to enhance response times and improve investigative outcomes. Although these tools have not traditionally been marketed for broader public welfare purposes, the technology holds potential for such applications if developed and implemented with that intent. If this type of surveillance technology is considered for adoption, factors such as its intended use, capabilities, and impact should be carefully evaluated. Privacy and data security implications will also need to be addressed, but the technology can be developed to serve public welfare goals as noted in the aforementioned study.

Image 2. Flock Safety 24-Hour Guardian Mode



Source: 2 Flock Safety

## Effective practices for the Detention and Release of Intoxicated Individuals

As part of our review, we analyzed policies from nearby jurisdictions to understand how other departments handle the arrest and release of intoxicated individuals, with a particular focus on measures intended to safeguard their well-being. Our review concentrated on departmental-level policies to identify practices that either align with or differ from those of the Berkeley Police Department. The jurisdictions included in this analysis were Fremont, Hayward, Concord, Santa Clara, Richmond, San Francisco, and Oakland. In addition to this regional policy scan, we reviewed relevant literature and professional guidance to identify established effective practices concerning the detention and release of intoxicated individuals. This included standards related to medical

[sa\\_ad=&hsa\\_src=o&hsa\\_tgt=kwd-77034807109378:loc-4084&hsa\\_kw=crime%20scene%20investigation%20software&hsa\\_mt=b&hsa\\_net=adwords&hsa\\_ver=3&msclkid=53fca8994e4c1a05ded9c0980add4e88](https://www.flock.com/sa_ad=&hsa_src=o&hsa_tgt=kwd-77034807109378:loc-4084&hsa_kw=crime%20scene%20investigation%20software&hsa_mt=b&hsa_net=adwords&hsa_ver=3&msclkid=53fca8994e4c1a05ded9c0980add4e88)

screening, risk assessment, and post-release support, all of which informed our analysis and recommendations.

## Policy Review of Neighboring Jurisdictions

The goal in reviewing the policies of other jurisdictions was to identify common patterns and general approaches, as well as the considerations involved in arresting and releasing intoxicated individuals within the community. This regional scan revealed a range of practices, from proactive diversion efforts to procedures focused primarily on custodial care. The ODPa observes that none of the reviewed policies specifically address the treatment of older adults or other vulnerable populations.

### Fremont Police Department – Policy 905 “Public Intoxication”<sup>44</sup>

Fremont’s Public Intoxication Policy takes a non-criminal, care-based approach by emphasizing protective custody and alternatives to arrest. The policy outlines detailed documentation procedures and introduces the Cherry Hill Detoxification Services Program as a voluntary alternative to jail for eligible individuals. This program allows cooperative, ambulatory persons without active warrants to be transported to a detox facility instead of being booked into jail. The policy also allows officers to issue field citations for certain warrants, further expanding access to diversion. Individuals who require medical or psychiatric care are referred to hospitals rather than detox or jail. Fremont’s policy underscores a clear preference for non-incarceration responses when safely possible.

### Hayward Police Department – Policy 900 “Detention Facility”<sup>45</sup>

While Hayward does not have a dedicated public intoxication policy, relevant guidance is included in Policy 900, which governs the use of the city’s detention facility. Section 900.12.1 prohibits the acceptance of incoherent individuals into the jail without prior medical evaluation and possible hospitalization. Section 900.15.3 establishes protocols for placing individuals in sobering cells, including supervisor approval, 30-minute welfare checks, and medical evaluation after six hours, with clearance required for stays beyond 12 hours. The policy prioritizes safety, ensuring individuals are not released until they are able to care for themselves, and requires immediate medical attention for those in withdrawal or distress.

<sup>44</sup> Fremont Police Department Policy 905 “Public Intoxication”:

<https://public.powerdms.com/FremontPD/tree/documents/3209035>

<sup>45</sup> Hayward Police Department Policy 900 “Detention Facility”: <https://www.hayward-ca.gov/sites/default/files/documents/HPD-Policy-Manual-April-2025.pdf#Page=763>

## Concord Police Department – Policy 900 “Temporary Custody of Adults”<sup>46</sup>

Concord does not have a standalone public intoxication policy, instead relying on sobering cell procedures aligned with Berkeley Police Department’s Policy 900. The policy follows the requirements of 15 CCR 1056, including documented cell logs, safety checks every 30 minutes, supervisor reviews, and medical evaluation after six hours. Individuals are held until they no longer pose a risk to themselves or others. While the policy provides clear custodial procedures, it does not reference diversion or alternatives to arrest, although officers retain discretion to release individuals under California Penal Code § 647(f).

## Santa Clara Police Department – Policy 900 “Temporary Custody of Adults”<sup>47</sup>

Santa Clara’s policy mirrors Concord’s approach, focusing on temporary custody procedures and sobering cell use in accordance with 15 CCR 1056. There is no standalone public intoxication policy, and no reference to diversion or alternative response programs, though the same statewide discretion under Penal Code § 647(f) applies.

## Richmond Police Department – Policy 901 “Temporary Custody of Adults”<sup>48</sup>

Richmond similarly follows a custodial approach aligned with the policies of Berkeley, Concord, and Santa Clara. The focus is on the safe temporary holding of intoxicated individuals using sobering cells, with no mention of non-custodial alternatives.

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<sup>46</sup> Concord Police Department Policy 900 “Temporary Custody of Adults:”

<https://www.cityofconcord.org/DocumentCenter/View/11150/Concord-Police-Department-Policy-Manual#Page=556>

<sup>47</sup> Santa Clara Police Department Policy 900 “Temporary Custody of Adults”:

<https://www.santaclaraca.gov/home/showpublisheddocument/86758/638797885007830000#Page=629>

<sup>48</sup> Richmond Police Department Policy 901 “Temporary Custody of Adults”:

<https://www.ci.richmond.ca.us/DocumentCenter/View/67365/Richmond-Police-Department-Policy-Manual?bidId=#Page=651>

## Oakland Police Department – No Available Policy<sup>49</sup>

The Oakland Police Department does not have a policy specifically dedicated to public intoxication. However, procedures related to the temporary detention and release of individuals may fall under broader custody or detention protocols. Based on a review of the department's publicly available policy manual, there is no clear guidance addressing how intoxicated individuals should be handled in terms of arrest alternatives, use of sobering cells, or protective custody. As such, decisions regarding temporary detention and release in public intoxication cases appear to be left to officer discretion or governed by general custody policies, with no documented reference to diversion programs or non-custodial options.

## Policy Review Beyond the Neighboring Jurisdictions

While our policy scan concentrated on neighboring jurisdictions within California, it is instructive to consider how other states address the detention and release of intoxicated individuals, particularly where additional tools or statutory frameworks assist officers in determining fitness for release. Although we did not identify a local jurisdiction outside California with a directly comparable policy ready for adoption, Massachusetts offers a compelling example of a system where legal precedent provides more defined mechanisms for release determinations.

In Massachusetts, public intoxication is not treated as a criminal offense. Instead, individuals found to be intoxicated in public may be placed into civil protective custody under state law. Notably, Massachusetts General Law Chapter 111B, Section 8 provides that individuals taken into protective custody due to intoxication have the *right to request a breathalyzer test*. The statute further establishes BAC-based presumptions to guide release decisions:

- BAC  $\geq$  0.10%: Presumed intoxicated; the individual is held in protective custody.
- BAC  $\leq$  0.05%: Presumed not intoxicated; the individual is released immediately.
- BAC between 0.05% and 0.10%: No presumption; further assessment through coordination or speech tests is required.

These provisions offer a structured and measurable framework that supports officer discretion with objective tools, enhancing both individual safety and operational

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<sup>49</sup> Oakland Police Department Policy, does not have a policy  
<https://public.powerdms.com/oakland/tree/documents/816>

clarity. Multiple municipal police departments across Massachusetts have implemented these statutory requirements in their own policies. Examples include the:

- Cambridge Department<sup>50</sup>
- Lancaster Police Department<sup>51</sup>
- Lexington Police Department<sup>52</sup>
- Medfield Police Department<sup>53</sup>
- Stow Police Department<sup>54</sup>, and
- Yarmouth Police Department<sup>55</sup>

Each of which includes BAC-based custody and release procedures in alignment with state law.

Unlike Massachusetts, California does not have a state-level mandate or statutory guidance requiring or authorizing the use of chemical testing to determine whether a person detained for public intoxication is fit for release. Instead, individual officers or departments rely on behavioral observation, discretion, and general custodial guidelines without reference to specific BAC thresholds.

Though California does not currently mandate or widely adopt the use of breathalyzers to determine release eligibility for individuals detained under Penal Code § 647(f), the Massachusetts example demonstrates that structured tools can be used to support officer judgment while reinforcing safeguards for individuals who may still be

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<sup>50</sup> Protective Custody Policy No. 670

<https://www.cambridgema.gov/-/media/Files/policedepartment/Policies/670protectivecustody.pdf>

<sup>51</sup> Policy 5.07: Protective Custody

[https://www.ci.lancaster.ma.us/sites/g/files/vyhlif16016/f/pages/5.07\\_lancaster\\_protective\\_custody.pdf](https://www.ci.lancaster.ma.us/sites/g/files/vyhlif16016/f/pages/5.07_lancaster_protective_custody.pdf)

<sup>52</sup> Policy 72-C: Protective Custody

<https://lexingtonma.gov/DocumentCenter/View/1256/72-C---Protective-Custody-PDF>

<sup>53</sup> Policy 3.05: Protective Custody

<https://town.medfield.net/DocumentCenter/View/6384/305-Protective-Custody-MPD>

<sup>54</sup> Policy 3.06: Protective Custody

[https://www.stow-ma.gov/sites/g/files/vyhlif11851/f/uploads/protective\\_custody.pdf](https://www.stow-ma.gov/sites/g/files/vyhlif11851/f/uploads/protective_custody.pdf)

<sup>55</sup> Policy and Procedure 2016-1A: Protective Custody

<https://yarmouthpolice.com/wp-content/uploads/2020/07/Protective-Custody.pdf>

impaired. While such approaches may require legal or regulatory changes to implement in California, they serve as a model for how more structured, health- and safety-oriented responses could be incorporated into local policy frameworks moving forward.

## Research on Alternatives to Incarceration

The implementation of sobering centers as an alternative to arrest for public intoxication has gained widespread support from law enforcement organizations, including the International Association of Chiefs of Police (IACP) and the National Policing Institute. These centers provide a non-criminal environment for intoxicated individuals to recover safely, easing the strain on emergency rooms and jails while connecting individuals to supportive services.

The IACP's "Sobering Centers: Practical Implementation Guidelines" (2023)<sup>56</sup> emphasize the role of sobering centers as a diversionary tool that reduces arrests and promotes public safety. Successful implementation requires clear policies, officer training, and community partnerships. Policies should define eligibility criteria, such as ensuring individuals are non-violent, medically stable, and able to recover safely. Additionally, intake and release procedures must be clear, and documentation should ensure accountability.

Officer training is critical to ensure law enforcement recognizes substance use-related health risks and understands when to use sobering centers. Training also helps foster a shift toward health-centered, diversionary responses to public intoxication rather than punitive measures.

The National Policing Institute's "Evaluating the Utility of Sobering Centers: National Survey Report" (2022)<sup>57</sup> further supports the value of sobering centers, with many police agencies reporting benefits like saving time, offering a better alternative to jail, and connecting individuals to services. However, the report highlights challenges such as the need for clear guidelines, adequate officer training, and strong partnerships with healthcare providers and community organizations to ensure effective care.

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<sup>56</sup> International Association of Chiefs of Police. (2023). Sobering centers: Practical implementation guidelines. [https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers\\_Practical%20Implementation%20Guidelines\\_0.pdf](https://www.theiacp.org/sites/default/files/2023-08/Sobering%20Centers_Practical%20Implementation%20Guidelines_0.pdf)

<sup>57</sup> National Policing Institute. (2022). Evaluating the utility of sobering centers: National survey report. National Policing Institute. [https://www.policinginstitute.org/wp-content/uploads/2022/12/Evaluating-the-Utility-of-Sobering-Centers\\_National-Survey-Report\\_FINAL.pdf](https://www.policinginstitute.org/wp-content/uploads/2022/12/Evaluating-the-Utility-of-Sobering-Centers_National-Survey-Report_FINAL.pdf)



## Considerations for Elder Adults

The California POST *Elder and Dependent Adult Abuse Guidelines* are designed to support law enforcement agencies in developing and implementing effective policies for identifying, investigating, and responding to cases of abuse involving elder and dependent adults. While the guidelines broadly aim to ensure alignment with state laws and promote coordinated responses among key agencies for the prevention and investigation of elder abuse, they place particular emphasis on the enhanced protection of vulnerable populations—especially those in care or custody.<sup>58</sup> When applied to the temporary detention of elder or dependent adults, this guidance underscores the need for a thoughtful and responsive approach. Agencies should begin with a clear assessment of vulnerability, recognizing that individuals in temporary custody may have medical, cognitive, or communicative needs that require special attention and may limit their ability to advocate for themselves. Ensuring appropriate custodial care standards—including access to medication, mobility aids, hygiene support, and protection from harm—is essential during any period of detention, no matter how brief. The use of trauma-informed interviewing techniques is also critical, as elder and dependent adults may be more susceptible to fear, confusion, or retraumatization during law enforcement interactions. To support this, the POST guidelines recommend ongoing training and supervision for all personnel involved in temporary detention settings, reinforcing the importance of recognizing signs of abuse or neglect and responding in a manner that prioritizes safety, dignity, and legal compliance. These principles can be applied in the context of temporary detentions of elder or dependent adults.

## Recap of Effective practices

Drawing from the analysis of policies in neighboring jurisdictions and relevant research, the following effective practices for managing intoxicated individuals underscore the importance of safety, medical assessment, and diversion from incarceration. Key strategies include:

1. **Non-Criminal, Care-Based Approach:** Jurisdictions like Fremont prioritize protective custody and detox services, offering alternatives to jail for eligible individuals and promoting recovery.
2. **Medical Evaluation Before Detention:** Policies from Hayward and Concord ensure that intoxicated individuals are medically assessed before detention, preventing unsafe conditions and addressing health needs. Massachusetts takes this one step further by integrating tools like breathalyzers into the evaluation process, providing officers with measurable criteria to guide release decisions.

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<sup>58</sup> California Commission on Peace Officer Standards and Training. (2024). Elder and dependent adult abuse guidelines. [https://post.ca.gov/Portals/0/post\\_docs/publications/Elder\\_Dependent\\_Adult\\_Abuse.pdf](https://post.ca.gov/Portals/0/post_docs/publications/Elder_Dependent_Adult_Abuse.pdf)



3. **Use of Sobering Cells with Safety Protocols:** Sobering cells, used by jurisdictions like Hayward and Concord, include regular welfare checks and medical evaluations to monitor individuals' safety during temporary custody.
4. **Implementation of Sobering Centers:** Sobering centers offer a non-criminal environment for recovery, reducing strain on emergency rooms and jails while connecting individuals to services. Successful implementation requires clear procedures, officer training, and community partnerships.
5. **Officer Training and Community Partnerships:** Training ensures officers can identify health risks and use diversion programs effectively, while partnerships with healthcare providers enhance care and support for intoxicated individuals.
6. **Vulnerability Assessment and Trauma-Informed Care:** Early assessment helps identify elder and dependent adults with heightened medical or cognitive needs, while trauma-informed practices and proper accommodations ensure their safety and dignity during temporary detention.

These effective practices reduce reliance on punitive measures, promoting health-centered responses that safeguard the well-being of individuals in custody.

## Recommendations

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The Berkeley Police Department (BPD) has established strong policies that provide valuable guidance in addressing the detention and care of intoxicated individuals. Policies such as BPD Policy 431, "Medical Aid and Response," BPD Policy 440, "Sobering and Detoxification Center," and BPD Policy 900, "Temporary Custody of Adults," demonstrate a commitment to community health and safety, with a focus on diversion and medical assistance rather than punitive actions. While these policies represent a solid foundation, there are areas for improvement that could better ensure the safety of community members and prevent future incidents like the one discussed in this report. Full implementation of these policies also requires increased support from the city and community. Strengthening resources for diversion programs, improving coordination with health services, and enhancing officer training are essential to ensuring a more effective and comprehensive response, reducing the risk of harm, and helping the BPD fully realize its goals for community care and safety. To further enhance the effectiveness of the BPD's policies and ensure the safety of community members, the following recommendations are offered.

### ***1. Revise Policies to Require Medical Clearance and Incorporate Objective Tools for Safe Release Determinations***

The BPD should revise Policy 900, Temporary Custody of Adults, to mandate medical clearance for community members who are rejected from jail and are being detained solely under California Penal Code § 647(f) for public intoxication. This revision would

remove discretionary decision-making in high-risk situations and ensure that individuals who may be medically compromised receive proper evaluation before release. The policy should also be revised to specifically identify older adults as a vulnerable population requiring heightened protections, in alignment with BPD Policy 313, Senior and Disability Victimization.

This recommendation stems from concerns identified in the incident under review, where available materials indicate that the community member—an older adult—may not have received a proper medical evaluation prior to release. Although the officer determined that the individual appeared less intoxicated than at initial contact, the community member's BAC was later measured at 0.128, and body-worn camera footage shows him visibly struggling to walk and move independently. Despite California Penal Code § 849(b)(3) authorizing officers to transport and release individuals to medical care without further legal proceedings, the individual was ultimately released without medical clearance and later died at the hospital. These facts underscore the need for a more structured release process, particularly for older individuals and others at elevated risk of medical distress.

To support officer decision-making and reduce the likelihood of premature release, the policy should also authorize the optional, non-punitive use of breathalyzer tests as an objective tool to assist in determining whether a person is fit for release. Modeled after Massachusetts General Law Chapter 111B, Section 8, BPD could incorporate presumptive BAC thresholds to guide officers in these situations. These tools should not replace behavioral observation but serve to reinforce safe custody decisions with measurable criteria.

Suggested policy language to be added to BPD Policy 900:

*When an individual is detained solely for public intoxication under Penal Code § 647(f), and jail intake is denied or medical vulnerability is suspected, the individual shall not be released on their own recognizance without medical clearance from a qualified healthcare provider. Additionally, officers may offer a voluntary, non-punitive preliminary breath test to support their fitness-for-release determination. A BAC reading of 0.05% or less shall establish a presumption of sobriety and may prompt consideration for release absent other safety concerns. A BAC of 0.10% or more shall establish a presumption of continued intoxication, and the individual shall not be released unless medically cleared. BAC readings between 0.05% and 0.10% shall require additional observational assessments of coordination, speech, and responsiveness.*

These additions would enhance officer safety protocols, reduce liability, and provide consistency in handling individuals detained for intoxication. They also recognize the

elevated medical risks faced by older adults and other vulnerable populations, ensuring that temporary custody does not become a point of avoidable harm.

2. ***Expand Diversion Options Beyond Cherry Hill Sobering Center:*** *The BPD should explore additional options beyond the Cherry Hill Sobering Center to provide officers with a broader range of alternatives to incarceration for individuals whose sole charge is intoxication. Expanding these options will offer a more flexible approach to addressing public intoxication, ensuring that individuals are directed to the appropriate care and treatment, rather than solely relying on one facility.*

This recommendation is made in recognition that placement at the Cherry Hill Sobering Center is not always guaranteed, even for individuals who meet eligibility criteria. Cherry Hill's sobering services are utilized by numerous law enforcement agencies, hospitals, and community organizations across the region, and the 24-hour sobering center has a limited capacity of only 50 beds. This creates a structural barrier to consistent diversion and limits BPD's ability to provide timely alternatives to custody for individuals detained solely due to intoxication.

To address this limitation, the City of Berkeley could consider a multidepartment effort to explore the creation of a local sobering center independent of the criminal justice system. As outlined in the IACP guide, *Sobering Centers as an Alternative to Incarceration: A Planning and Implementation Guide* (2023),<sup>59</sup> such facilities can reduce officer time on scene, improve outcomes for individuals experiencing substance use crises, and support broader public health and safety goals. Expanding diversion options beyond Cherry Hill would give BPD more flexibility to direct individuals toward appropriate care and reduce reliance on custodial settings.

3. ***Review the Use of Technology for Public Welfare:*** *The PAB should consider reviewing the potential benefits of modern technology to enhance public safety and welfare. Specifically, the use of AI-enabled surveillance cameras could help identify medical emergencies or situations requiring immediate intervention, ensuring that the BPD can respond proactively and appropriately to medical crises in the community, beyond the scope of crime enforcement.*

This recommendation arises from a gap observed in post-release monitoring of a community member, as outlined in this report. After being released by BPD, the individual

<sup>59</sup> International Association of Chiefs of Police. (2023). Sobering centers as an alternative to incarceration: A planning and implementation guide. [https://www.theiacp.org/sites/default/files/2023-09/FINAL\\_Sobering\\_Centers\\_Guide\\_508c.pdf](https://www.theiacp.org/sites/default/files/2023-09/FINAL_Sobering_Centers_Guide_508c.pdf)

went several hours without being identified as experiencing medical distress. Unfortunately, the community member later passed away at the hospital, and earlier intervention may have provided a different outcome. The recommendation suggests that AI-enabled public surveillance cameras or similar technologies could offer a tool for timely response by both BPD and emergency medical services in situations of medical distress. As the BPD is considering acquiring AI-capable surveillance cameras, the PAB may want to explore how such technology could be utilized for public welfare, in addition to its use in crime enforcement, during their review of BPD's request under Berkeley Municipal Code 2.99.<sup>60</sup>

By exploring the potential use of such technology, the City of Berkeley could enhance its ability to identify and respond to medical emergencies in real time, especially in situations where immediate assistance may not be available. A review of AI-enabled surveillance could provide the PAB with an opportunity to consider how these tools might support a more comprehensive approach to public safety, allowing the BPD to address health-related emergencies and better serve the community.

#### **4. Call on the California Legislature to Establish Statewide Protective Custody Standards Mirroring Massachusetts General Law Chapter 111B, Section 8:**

The PAB should consider asking the City of Berkeley Council to should urge the California Legislature to consider amending California Penal Code § 647(g) or enacting a companion statute to establish statewide protective custody procedures for intoxicated individuals, similar to those in Massachusetts. Such legislation should provide individuals taken into civil protective custody due to intoxication with the right to request a breathalyzer test and establish presumptive BAC thresholds for release or continued observation.

Suggested amendment language for the California Penal Code could read:

*An individual taken into protective custody solely for public intoxication under Penal Code § 647(f) shall be informed of their right to request a chemical breath test. A test result indicating a blood alcohol content of 0.05 percent or less shall create a presumption that the individual is no longer intoxicated and may be released unless other medical or safety concerns are present. A result of 0.10 percent or higher shall create a presumption of continued intoxication, and the individual shall be held until deemed fit for*

<sup>60</sup> Berkeley Municipal Code 2.99.030 "City Council Approval Requirement":  
<https://berkeley.municipal.codes/BMC/2.99.030>

*release by a qualified medical or custodial authority. Individuals with intermediate results shall be further evaluated using standardized field sobriety or wellness assessments.*

Codifying such a standard would support equitable and medically informed treatment of individuals detained for intoxication across jurisdictions, reduce liability, and create statewide consistency in line with trauma-informed and health-centered policing.

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### State and Local Law

California Penal Code § 849(b). (n.d.). California Legislative Information. Retrieved April 18, 2025, from [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=PEN&sectionNum=849](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=849)

California Penal Code § 647(f). (n.d.). California Legislative Information. Retrieved April 18, 2025, from [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=647.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=647.&lawCode=PEN)

City of Berkeley. (n.d.). § 2.99.030 City Council approval requirement. Berkeley Municipal Code. Retrieved April 18, 2025, from <https://berkeley.municipal.codes/BMC/2.99.030>

### Case Law

*Kneipp v. Tedder*, 95 F.3d 1199 (3rd Cir. 1996)

*Riordan v. City of Joliet*, 3 F. Supp. 2d 889 (N.D. Ill. 1998)

*Davis v. Brady*, 143 F.3d 1021 (6th Cir. 1998)

*Lane v. City of Kinston*, 544 S.E.2d 810 (N.C. App. 2001)

### Police Policies

Berkeley Police Department Policy 313 “Senior and Disability Victimization:”  
[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=144](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=144)

Berkeley Police Department Policy 431 “Medical Aid and Response:”  
[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=473](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=473)

Berkeley Police Department Policy 440 “Sobering and Detoxification Center:”  
[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=502](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=502)

Berkeley Police Department Policy 900 “Temporary Custody of Adults:”  
[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=712](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=712)

Cambridge Police Department Protective Custody Policy No. 670

<https://www.cambridgema.gov/-/media/Files/policedepartment/Policies/670protectivecustody.pdf>

Concord Police Department Policy 900 “Temporary Custody of Adults”:  
<https://www.cityofconcord.org/DocumentCenter/View/11150/Concord-Police-Department-Policy-Manual#Page=556>

Fremont Police Department Policy 905 “Public Intoxication”:  
<https://public.powerdms.com/FremontPD/tree/documents/3209035>

Hayward Police Department Policy 900 “Detention Facility”: <https://www.hayward-ca.gov/sites/default/files/documents/HPD-Policy-Manual-April-2025.pdf#Page=763>

Lancaster Police Department Policy 5.07: Protective Custody  
[https://www.ci.lancaster.ma.us/sites/g/files/vyhlif16016/f/pages/5.07\\_lancaster\\_protective\\_custody.pdf](https://www.ci.lancaster.ma.us/sites/g/files/vyhlif16016/f/pages/5.07_lancaster_protective_custody.pdf)

Lexington Police Department Policy 72-C: Protective Custody  
<https://lexingtonma.gov/DocumentCenter/View/1256/72-C---Protective-Custody-PDF>

Medfield Police Department Policy 3.05: Protective Custody  
<https://town.medfield.net/DocumentCenter/View/6384/305-Protective-Custody-MPD>

Richmond Police Department Policy 901 “Temporary Custody of Adults”:  
<https://www.ci.richmond.ca.us/DocumentCenter/View/67365/Richmond-Police-Department-Policy-Manual?bidId=#Page=651>

Santa Clara Police Department Policy 900 “Temporary Custody of Adults”:  
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## Reviewed Files and Evidence<sup>61</sup>

Arrest Report for Case No. 2022-00001164

Call for Service Detail Report – CFS 865

CCTV Footage from the BPD Jail Sally Port – January 8, 2022

Coroner's Investigation Report Case Number 2022-00135

Incident Report Number 22-1193

Incident Report Number 2022-00000017

ODPA Personnel Interviews with Involved Officers

ODPA Personnel Interview with Supervising Officer

Toxicology Report Conducted by NMS Labs

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<sup>61</sup> For the purposes of the Public Records Act, the ODPA is not the official custodian of these records. Some of the materials are part of a personnel file or misconduct investigation and may not be subject to public disclosure under California Penal Code Section 832.7. Any request for these records should be directed to the BPD or the Alameda County Coroner's Office. You can submit a Public Records Act (PRA) request to the City of Berkeley at <https://cityofberkeleyca.nextrequest.com/requests/new> and to Alameda County at <https://alamedacountysheriffca.nextrequest.com/>.

## APPENDIX

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## Appendix 1. Proposed Changes to Policy 431.9 “Sick or Injured Arrestee”

**The following changes to BPD Policy 431.9 “Sick or Injured Arrestee” are proposed:**

### 431.9 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. **Officers shall provide particular care for adults who may be at heightened risk due to age or disabilities, ensuring their medical needs are promptly addressed.** If the officer suspects the arrestee is feigning injury or illness, the officer should contact a supervisor to determine whether medical clearance is necessary before booking.

If the jail or detention facility refuses to accept custody based on medical screening, the officer should note the name of the facility staff member refusing custody and the reason for refusal, then notify a supervisor to determine the appropriate action.

Arrestees with serious medical issues should be transported by ambulance. **Adults at heightened risk due to age or disabilities may require additional medical attention during transport.** Officers shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an officer from requesting EMS when an arrestee shows symptoms of life-threatening conditions, such as breathing problems or an altered level of consciousness, or claims an illness or injury requiring EMS response. **Officers should be particularly vigilant for signs of medical distress in adults at heightened risk due to age or disabilities, as these individuals may exhibit less obvious symptoms.**

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Current BPD Policy 431 “Medical Aid and Response”:

[https://berkeleyca.gov/sites/default/files/documents/RELEASE\\_20240301\\_T161429\\_Berkeley%20PD%20Policy%20Manual.pdf#Page=437](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=437)

## Appendix 2. Proposed Changes to Policy 900 “Temporary Custody of Adults”

**The following changes to BPD Policy 900.11.2 “Sober Release” are proposed:**

### 900.11.2 SOBER RELEASE

No person shall be released from custody in an intoxicated condition.

To be eligible for release from custody, an individual must be sober to the extent he/she can care for him/herself in public (ref. PC §647(f)).

This protocol does not preclude release of an intoxicated adult upon Notice To Appear into the custody of a sober and responsible adult, provided that adult will assume responsibility for the intoxicated adult.

This protocol does not preclude release of an intoxicated juvenile into the custody of his/her sober and responsible adult parent or guardian, provided that adult will assume responsibility for the intoxicated juvenile.

When specifically requested by the arresting officer, individuals in custody may be released pursuant to PC § 849(b) when sober. *When an individual is detained solely for public intoxication under Penal Code § 647(f), and jail intake is denied or medical vulnerability is suspected, the individual shall not be released on their own recognizance without medical clearance from a qualified healthcare provider. Additionally, officers may offer a voluntary, non-punitive preliminary breath test to support their fitness-for-release determination. A BAC reading of 0.05% or less shall establish a presumption of sobriety and may prompt consideration for release absent other safety concerns. A BAC of 0.10% or more shall establish a presumption of continued intoxication, and the individual shall not be released unless medically cleared. BAC readings between 0.05% and 0.10% shall require additional observational assessments of coordination, speech, and responsiveness.*

Neither the passage of any set period of time, nor posting of or ability to post bail, shall be factors considered in regard to evaluation of an individual's sobriety.

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**The following new section is proposed for inclusion in BPD Policy 900, "Temporary Custody of Adults":**

### 900.XX.X ELDER AND DEPENDENT ADULT

For the purposes of this policy, “Elder” shall refer to a person who is 65 years of age or older as defined in PC §368. “Dependent adult” shall refer to a person who, pursuant to

PC § 368.6, is between the ages of 18 and 64 and has physical or mental limitations that restrict their ability to carry out normal activities or protect their rights. This includes, but is not limited to, persons with physical or developmental disabilities or whose physical or mental abilities have diminished due to age.

Any elder or dependent adult who is under the influence of drugs or alcohol to the extent that their life or well-being is at risk, or they are unable to care for themselves, shall not be accepted into the Jail without first being examined and cleared for incarceration by a physician. Once cleared for incarceration, the individual may be booked into the Jail.

Item 10.d.i

Materials Related to the PAB's Presentation to City Council on the Report,  
"Berkeley Police Department Texting Offenses: An Independent  
Investigation by the Police Accountability Board"

### Appendix 3. Sample Quota Ban Policy

#### STOP, ARREST, AND TICKET QUOTAS PROHIBITION

##### XXX.1 PURPOSE AND SCOPE

The Berkeley Police Department (BPD) is committed to fostering fair and equitable law enforcement practices that prioritize public safety and community well-being. The purpose of this policy is to explicitly prohibit the imposition of stop, ticket, and arrest quotas in any law enforcement activities conducted by the Berkeley Police Department. This goes beyond the parameters defined in the California Vehicle Code § 41603.

Stop, ticket and arrest quotas, whether formal or informal, establish numerical targets for officers, compelling them to issue citations or make arrests based on predetermined numbers rather than legitimate law enforcement needs. This policy aims to uphold the values of fairness, impartiality, and community-focused policing, ensuring that enforcement actions are driven by genuine circumstances and the safety needs of our community.

This policy reflects the Berkeley Police Department's unwavering dedication to maintaining high standards of ethical conduct and professionalism while serving and safeguarding the interests of the Berkeley community.

##### XXX.2 POLICY

This policy unequivocally prohibits the use of quotas **(whether informal or formal)** to require or encourage officers to meet predetermined numerical targets for stops, tickets, or arrests.

The Berkeley Police Department is committed to promoting public trust, transparency, and accountability in all law enforcement endeavors. This policy serves as a cornerstone in guiding our officers to conduct themselves with integrity, professionalism, and a commitment to community service, devoid of the imposition of arbitrary enforcement quotas that could compromise these principles.



Officers are encouraged to prioritize public safety and law enforcement compliance based on objective circumstances and genuine enforcement necessities, fostering a culture of equitable and community-oriented policing.

### XXX.3 DEFINITION

The following words and terms shall have these assigned meanings throughout the Policy Manual, unless it is apparent from the content that they have a different meaning:

#### **STOP, ARREST AND TICKET QUOTAS PROHIBITION**

**Arrest quota** means any policy, practice, or directive that explicitly requires or pressures a peace officer or parking enforcement employee to make a certain number of arrests.

**Ticket quota** means any policy, practice, or directive that explicitly requires or pressures a peace officer or parking enforcement employee to issue a certain number of citations or tickets.

**Informal quota** means any policy, practice, or directive that implicitly requires or pressures a peace officer or parking enforcement employee to make a certain number of arrests or issue a certain number of citations. This includes, but is not limited to, the following:

- (a) Talking about specific stop, arrest, or citation targets in a way that suggests they are important.
- (b) Linking performance evaluations or promotions to arrest or citation numbers.
- (c) Providing incentives such as barbecue (BBQ), pizza, gift cards, car wash coupons, and trophies to officers who meet quotas.
- (d) Offering overtime.
- (e) Establishing adverse employment actions such as denial of days off, transfers, undesirable assignments, and termination.
- (f) Creating a competitive environment where officers are encouraged to make more arrests or issue more citations than their colleagues.
- (g) Making jokes or innuendos that incentivize achieving a specific number of stops, arrests, or tickets.

## Consent Calendar

### 10. Proclamation of the City of Berkeley Designating April 17 as Police Accountability Day

**From: Police Accountability Board**

**Recommendation:** Adopt a proclamation declaring April 17 as Police Accountability Day to honor the establishment of civilian oversight of law enforcement in the City of Berkeley through the founding of the Police Review Commission and to reaffirm the City's commitment to police accountability and transparency. The proclamation encourages the Police Accountability Board and the Office of the Director of Police Accountability to collaborate with community organizations, educational institutions, and local leaders to organize events, initiatives, and activities that raise public awareness and promote engagement in police accountability. Additionally, the proclamation will reaffirm the City of Berkeley's dedication to being a national leader in police accountability, advancing policies and practices rooted in justice, equity, and community trust.

**Financial Implications:** None

Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4950

**Action:** Adopted proclamation.

### 11a. Berkeley Police Department Texting Offences: An Independent Investigation by the Police Accountability Board *(Reviewed by the Public Safety Policy Committee)* *(Item contains supplemental material)*

**From: Police Accountability Board**

**Recommendation:** The Police Accountability Board formally recommends to the City Council that it:

1. Pass an ordinance or otherwise affirm the Police Accountability Board's ability to access documents and records in furtherance of its central accountability function, consistent with Charter Amendment Section 125.

2. Adopt a robust resolution ensuring full and meaningful accountability for sworn officers—whether on-duty or off-duty—who engage in misconduct of any kind, but especially actions or expressions of racial or other types of bias.

3. Direct the City Manager to work with the Berkeley Police Department, Police Accountability Board, and the Office of the Director of Police Accountability to create a public repository to fulfill the vision of California Penal Code Section 832.7(b)(1), allowing for transparency in cases of sustained allegations of officer racism or other discriminatory conduct or expression.

4. Call on California state legislators to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code (Section 41600 – 41603).

*Policy Committee Recommendation: To send item to City Council with a negative recommendation.*

**Financial Implications:** See report

Contact: Hansel Aguilar, Police Accountability Board, (510) 981-4950

**Action:** Moved to Action Calendar. See action for Item 11b. (Item contains supplemental material)

## Consent Calendar

- 11b. Resolution: Affirming Support for Berkeley Police Department, Police Accountability Board, and Office of the Director of Police Accountability in Response to Downtown Task Force Texting Offenses Investigation**  
**From: Councilmember Blackaby (Author)**  
**Recommendation:** Adopt a Resolution affirming our community's support for the Berkeley Police Department (BPD) and acknowledging the work of the Police Accountability Board (PAB) & the Office of the Director of Police Accountability (ODPA) in investigating BPD's Downtown Task Force texting offenses, ultimately making recommendations to increase trust, transparency, and accountability. Additionally, the Resolution condemns any and all racism and misconduct, affirms the City Council's opposition to arrest quotas, and asks the California Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code.  
**Financial Implications:** None  
 Contact: Brent Blackaby, Councilmember, District 6, (510) 981-7160  
**Action:** Moved to Action Calendar. 16 speakers. M/S/C (Blackaby/Kesarwani) to 1) accept the report from the Police Accountability Board with thanks for their efforts; and 2) adopt Resolution No. 71,718–N.S. as published in Item 11b.  
**Vote:** Ayes – Kesarwani, Taplin, Bartlett, Tregub, O'Keefe, Blackaby, Humbert, Ishii; Noes – Lunaparra.

## Council Consent Items

- 12. Referral to City Attorney for Sanctuary City Ordinance**  
**From: Mayor Ishii (Author), Councilmember Blackaby (Co-Sponsor), Councilmember Lunaparra (Co-Sponsor), Councilmember Taplin (Co-Sponsor)**  
**Recommendation:** Referral to the City Attorney to return to City Council in June with an analysis and recommendation regarding the codification of Berkeley's Sanctuary policies and protections through a city ordinance.  
**Financial Implications:** None  
 Contact: Adena Ishii, Mayor, (510) 981-7100  
**Action:** Approved recommendation.
- 13. Budget Referral: Ohlone Greenway Safety Improvements Project Unfunded Balance**  
**From: Councilmember Kesarwani (Author)**  
**Recommendation:** Refer to the fiscal year 2025-26 budget process \$150,000 to fund the outstanding balance for consultant costs to finalize the design concepts to complete the Ohlone Greenway Safety Improvements Project, which has already been awarded \$5.3 million in construction funds to complete the project.  
**Financial Implications:** See report  
 Contact: Rashmi Kesarwani, Councilmember, District 1, (510) 981-7110  
**Action:** Approved recommendation.



Brent Blackaby  
Councilmember District 6

CONSENT CALENDAR  
April 15, 2025

To: Honorable Mayor and Members of the City Council

From: Councilmember Blackaby (Author)

Subject: Resolution: Affirming Support for Berkeley Police Department, Police Accountability Board, and Office of the Director of Police Accountability in Response to Downtown Task Force Texting Offenses Investigation

RECOMMENDATION

Adopt a Resolution affirming our community's support for the Berkeley Police Department (BPD) and acknowledging the work of the Police Accountability Board (PAB) & the Office of the Director of Police Accountability (ODPA) in investigating BPD's Downtown Task Force texting offenses, ultimately making recommendations to increase trust, transparency, and accountability. Additionally, the Resolution condemns any and all racism and misconduct, affirms the City Council's opposition to arrest quotas, and asks the California Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code.

FINANCIAL IMPLICATIONS

None

CURRENT SITUATION AND ITS EFFECTS

Council's Public Safety Policy Committee reviewed Item #3: *Berkeley Police Department Texting Offenses: An Independent Investigation by the Police Accountability Board* at its February 25, 2025 meeting and voted to return it to Council with a negative recommendation.

Instead, this resolution serves to acknowledge the importance of the Police Accountability Board and the Director of Police Accountability and the critical role they play in ensuring the Berkeley Police Department's accountability to the community as well as identifying & resolving policy or personnel issues as they occur. Berkeley has been a leader in police accountability, and that is a history to honor. The resolution also affirms our confidence in BPD, PAB, and ODP.

The City of Berkeley condemns any and all racism and misconduct. Misconduct of any kind—whether on-duty or off-duty—is unacceptable behavior from anyone in our community, particularly from those who are sworn to protect vulnerable populations. This is especially true regarding racial, economic, or other types of bias.

**BACKGROUND**

The Police Accountability Board (PAB) submitted a report on the Downtown Task Force Texting Offenses Investigation for the City Council's October 1, 2024 agenda, which the Agenda Committee referred to the Public Safety Policy Committee (PSPC). The item was withdrawn from the PSPC as requested by a PAB vote during their September 25, 2024 meeting. The Office of the Director of Police Accountability and the Police Accountability Board submitted a new report for the January 21, 2025 Council Meeting. The Agenda and Rules Policy Committee referred the item to the Public Safety Policy Committee. The PSPC heard the item on February 25, 2025.

**ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS**

None

**CONTACT PERSON**

Councilmember Brent Blackaby   Council District 6   510-981-7160

**Attachments:**

1: Resolution

**Page 3 of 4**

The Resolution was adopted in its published form as Resolution No. 71,718 - N.S.

**RESOLUTION NO. ##,###-N.S.**

**AFFIRMING SUPPORT FOR BERKELEY POLICE DEPARTMENT, POLICE  
ACCOUNTABILITY BOARD, AND OFFICE OF THE DIRECTOR OF POLICE  
ACCOUNTABILITY IN RESPONSE TO DOWNTOWN TASK FORCE TEXTING  
OFFENSES INVESTIGATION**

WHEREAS, community safety is best served when the Berkeley Police Department (BPD), the Police Accountability Board (PAB), and the Office of the Director of Police Accountability (ODPA) are all operating at their best; and

WHEREAS, we have full confidence in the Berkeley Police Department and Chief Louis and are proud of the work of our Department and its dedication to keeping the community safe; and

WHEREAS, citizen oversight plays a critical role in ensuring BPD's accountability to the community and identifying & resolving policy or personnel issues as they occur. Through the PAB, ODPA, and previously the Police Review Commission (PRC), Berkeley has long been a leader in police accountability; and

WHEREAS, the PAB and ODPA contributed countless hours of work to the investigation of texting offenses in BPD's Downtown Task Force that occurred between 2019 and 2020 and became public in November 2022, making thoughtful recommendations to mitigate future instances of potential misconduct. Reading the text messages identified instances of racial insensitivity and poor judgment, highlighting the need for increased awareness and sensitivity to issues of race and inclusion; and

WHEREAS, whether on-duty or off-duty, misconduct of any kind is unacceptable behavior for our Police Officers. This is especially true with regard to racial, economic, or other types of bias; and

WHEREAS, we are grateful that BPD and PAB are working together with the Berkeley Police Association (BPA) to implement an Early Intervention System that will help identify personnel concerns, stresses, or challenges much earlier, before they materialize into misconduct or other problems in our community; and

WHEREAS, the City encourages BPD and PAB to work together through their existing collaborative process to make any needed changes to existing BPD policies on the use of personal communications devices, off-duty conduct, traffic function and responsibility and other important areas.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that we encourage the Berkeley Police Department, the Police Accountability Board, and the Office of the Director of Police Accountability to continue to work together in good faith in order to keep our community safe. The successful missions of each of these organizations are essential to maintaining the trust of all Berkeley residents.

BE IT FURTHER RESOLVED that the Berkeley City Council has full confidence in Berkeley's Police Accountability Board, the Office of the Director of Police Accountability, and the Berkeley Police Department.

BE IT FURTHER RESOLVED that the Berkeley City Council affirms the PAB's ability to access relevant information to conduct specific investigations, under authority granted by the Charter. The particular types of documents that should be accessible during different types of investigations (i.e., personnel misconduct, policy reviews, policy & practice reviews) are necessarily limited by state law and due process considerations. Therefore, we urge the PAB, OPDA, and BPD to adopt their final regulations as expeditiously as possible, after completing the "meet and confer" process with the BPA, to clarify how investigations will be conducted with appropriate information provided by BPD.

BE IT FURTHER RESOLVED that the Berkeley City Council condemns any and all racism and misconduct.

BE IT FURTHER RESOLVED that the Berkeley City Council affirms its strong opposition to arrest quotas and supports BPD's existing practice against using arrest quotas.

BE IT FURTHER RESOLVED that the Berkeley City Council urges the California State Legislature to extend the prohibition on arrest quotas, which are currently limited to the California Vehicle Code (Section 41600-41603) to all types of arrests in California.

Item 10.d.ii

Chief Louis and Chair Cayetano Joint Letter Concerning the Police  
Accountability Board's 2024 Fair and Impartial Policing Implementation  
Report



From: Chief Jen Louis and Chair Josh Cayetano

Date: 4/12/2025

To: Berkeley City Council Public Safety Policy Committee

Subject: Chief Louis and Chair Cayetano Joint Letter Concerning the Police Accountability Board's 2024 Fair and Impartial Policing Implementation Report

During the February 25, 2025 Public Safety Policy Committee ("PSPC") meeting, the Police Accountability Board ("PAB") and the Berkeley Police Department ("BPD") requested that the PSPC defer action on the PAB's 2024 Fair and Impartial Policing Implementation Report and BPD's Response until representatives from the PAB and BPD met to discuss a way forward. Below is an itemized breakdown of action items that PAB and BPD have agreed to. We ask that the Committee recognize and affirm these next steps, which continue our joint work of ensuring that policing in Berkeley is fair, equitable, and effective.

### **Three-Prong Approach to Traffic Safety**

- BPD and PAB will agree to and implement a definition of "low-level infractions" consistent with Council's original directive to reduce the number of traffic stops for low-level infractions.
- In the interim, BPD's annual report will include a breakdown of the percentage of stops for equipment violations for the overall population in Berkeley and by race, in a manner that allows year-over-year comparison.

### **Implicit Bias Training**

- BPD invites the members of the PAB to attend scenario-based training designed to train officers to recognize and minimize implicit bias and ensure constitutional, impartial, and community-oriented policing.
- PAB will make an independent assessment of BPD's training requirements as they pertain to reducing implicit bias and then will collaborate with BPD to make recommendations to supplement existing programs as necessary.

### **Early Intervention System**

- PAB, BPD, and the Berkeley Police Association ("BPA") are actively collaborating on the procurement and implementation of a state-of-the-art Early Intervention System developed by Benchmark Analytics. The parties will continue to refine the system as it is integrated.
- BPD will, in collaboration with the PAB and BPA, issue a revised Early Intervention Policy when feasible.

### **Profiling by Proxy**

- BPD has made data regarding the yield rate of traffic stops conducted due to a call-for-service available on the Transparency Hub. PAB and ODPA will analyze that data and report its findings on a regular basis.

### **Annual Report on Traffic Safety and Stop Data**

- BPD has made the following data available on its Open Data Portal:
  - The number of consent searches conducted by reporting period
  - Racial disparities in searches
  - Comparing pre-and post- policy implementation
  - The numbers of, and racial disparities in, searches and arrests of people on probation and parole.
- PAB and ODPA will analyze and report on the data to the extent that it is administratively feasible and connected to concrete fair and impartial policing policy initiatives.

### **Other FIP Recommendations**

- BPD and PAB recommend that BPD no longer provide quarterly updates on the following FIP recommendations:
  - Definition for Stops of Criminal Suspects
  - Enhanced Implicit Bias Training
  - Written Consent Searches
  - Warrantless Searches of People on Supervised Release
  - Profiling by Proxy
  - Business Cards
  - Public resources on police-civilian encounters

## Legislative Updates Relevant to the PAB's Work



## MEMORANDUM

**Date:** April 18, 2025  
**To:** Honorable Members of the Police Accountability Board (PAB)  
**From:** Hansel Aguilar, Director of Police Accountability (DPA) *Ha*  
 Jose Murillo, ODPA Policy Analyst *Jm*  
**Subject:** Legislative Updates

The purpose of this memorandum is to provide a legislative update to the PAB, enabling them to stay informed about changes in local, state, and federal law.

### State Legislative Updates<sup>1</sup>

The following bills relevant to the PAB's work have been introduced in the state of California:

| NAME OF LEGISLATION                            | STATUS                                                                                                                                                    | SUMMARY/PURPOSE                                                                                                                                                                                                                                                                                                                       |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <a href="#"><u>SB 385 "Peace Officers"</u></a> | (Introduced)<br>2025-04-10 -<br>From committee<br>with author's<br>amendments.<br>Read second<br>time and<br>amended. Re-<br>referred to Com.<br>on APPR. | This bill, SB 385, requires peace officers hired on or after January 1, 2029, to obtain a modern policing degree or a bachelor's or advanced degree from an accredited institution within 36 months of employment. It builds on existing certification and education requirements and takes effect immediately as an urgency statute. |

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

|                                                                              |                                                                |                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>AB1178 “Peace Officers: Confidentiality of Records”</u></b>            | (Introduced)<br>2025-03-24 -<br>Referred to Com.<br>on PUB. S. | This bill expands redaction requirements under the California Public Records Act, requiring law enforcement agencies to remove identifying details of undercover officers, task force members, and those with verified death threats. It imposes a state-mandated local program and includes legislative findings justifying access limitations. |
| <b><u>SB707 “Open Meetings: Meeting and teleconference requirements”</u></b> | (Introduced)<br>2025-04-08 - Set<br>for hearing April<br>22.   | SB 707 expands public meeting access by requiring remote participation, interpretation services, and multilingual agendas for local government bodies until 2030. It revises teleconferencing rules and extends provisions for emergencies and just cause absences.                                                                              |

Additional legislation pertaining to public safety in the state of California may be monitored here: <https://legiscan.com/CA/legislation> .

The BPD’s Policy and Training Bureau prepared a legislative update summarizing legal changes affecting law enforcement in 2024 and 2025. Based on the California Peace Officers' Association's 2024 and 2025 Legislative Update Manual, it highlights key updates from both years but does not cover every legislative change. Unless otherwise noted, the changes outlined in the updates took affect January 1, 2024 or January 1, 2025. The following BPD Policies include the legislative updates:

| SOURCE                                                | LINK                                                                                                                                                                                                                                                                  |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>BPD Policy 1505 “2024 Legislative Update”</b>      | <a href="https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1037">https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1037</a> |
| <b>BPD Policy 1506 “2025 Legislative Update”</b>      | <a href="https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1041">https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley%20PD%20Policy%20Manual.pdf#Page=1041</a> |
| <b>The California Peace Officers Association also</b> | <a href="https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf">https://cpoa.org/wp-content/uploads/2024/11/2025-Legislative-Legal-Digest.pdf</a>                                                                                             |

provides a yearly California Legislative and Legal Digest.

### Lexipol Policy Updates

No changes have been made to BPD policies since the PAB's last meeting on April 9, 2025.

### City of Berkeley Council Meeting Updates

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

#### **April 29, 2025 – Regular Meeting of the City Council**

| ITEM | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | RECOMMENDATION                                                                                                                                                                                                                                       |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4    | <p><b>Amend Berkeley Police Association (BPA) MOU Section 19.5 Administrative Leave for Captains (50 hours increased to 60 hours)</b></p> <p>Item Link:<br/> <a href="https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2004%20Amend%20Berkeley%20Police%20Association%20%28BPA%29%20MOU%20Section%2019.5.pdf">https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2004%20Amend%20Berkeley%20Police%20Association%20%28BPA%29%20MOU%20Section%2019.5.pdf</a> </p> | <p>Adopt a Resolution amending Memorandums of Understanding (MOUs) for Berkeley Police Association (BPA) MOU Section 19.5 Administrative Leave for Captains to increase administrative leave from 50 to 60 hours.</p>                                |
| 7    | <p><b>Adjustment to Police Accountability Board Stipend Cap Following AAO #1 Carryover Approval</b></p> <p>Item Link:<br/> <a href="https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2007%20Adjustment%20to%20Police%20Accountability%20Board%20Stipend%20Cap.pdf">https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2007%20Adjustment%20to%20Police%20Accountability%20Board%20Stipend%20Cap.pdf</a> </p>                                                     | <p>Adopt a resolution temporarily increasing the stipend cap for Police Accountability Board (PAB) members to ensure the distribution of previously approved funds and provide compensation for meetings that exceeded the existing monthly cap.</p> |

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                    |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 19 | <b>Resolution: Opposition to Police Brutality and Use of Force on Nonviolent Protesters (Reviewed by the Public Safety Policy Committee)</b><br><br>Item Link:<br><br><a href="https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2019%20Resolution%20%20Opposition%20to%20Police%20Brutality.pdf">https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2019%20Resolution%20%20Opposition%20to%20Police%20Brutality.pdf</a> | Adopt a Resolution reaffirming the City of Berkeley's opposition to and condemning police brutality towards nonviolent protesters and discouraging use of "less-lethal" weapons for crowd control.                                                 |
| 23 | <b>Amend AB-645 (2023-2024) to add the City of Berkeley to California's Automated Speed Enforcement Pilot</b><br><br>Item Link:<br><br><a href="https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2023%20Amend%20AB-645%20%282023-2024%29.pdf">https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2023%20Amend%20AB-645%20%282023-2024%29.pdf</a>                                                                        | Adopt a Resolution to send to Assembly member Buffy Wicks and Senator Jesse Arreguin, requesting that the Legislature amend AB-645 (Friedman) Vehicles: Speed Safety Pilot Program (2023-2024), in order to add the City of Berkeley to the pilot. |

### Informational Reports of Interest

| Report No. | Title                                                                                                                                                                                                                                                                                                                                            | Author |
|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| 31         | 2025 Police Accountability Board Workplan<br>Item Link:<br><a href="https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2031%202025%20Police%20Accountability%20Board%20Workplan.pdf">https://berkeleyca.gov/sites/default/files/documents/2025-04-29%20Item%2031%202025%20Police%20Accountability%20Board%20Workplan.pdf</a> | PAB    |

## Policy Review Status Updates



Updated April 18, 2025



## POLICY REVIEW STATUS REPORT

### Guiding Authority

*Section 125(3)(a)(1) and Section 125(17)(a) of the Berkeley City Charter<sup>1</sup>*

### Case Load Overview

As of April 18, 2025, the Police Accountability Board (PAB) has 14 open policy reviews. There has been no new policy review submitted to the PAB since the last meeting on April 9, 2025.

**Note:** ODPa staff is evaluating expected completion timelines in line with PAB priorities for 2025. Additionally, staff is reviewing 2025 legislative updates for alignment and their impacts on the open policy reviews.

|                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>                                                                                                                                                                                                                                                                                                                                                            | 2487                                                                                                         |
| <b>Policy Topic</b>                                                                                                                                                                                                                                                                                                                                                                    | Involuntary Injections/Medical Care                                                                          |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                                                                                                                                                 | BPD 431 "Medical Aid and Response"                                                                           |
| <b>Status</b>                                                                                                                                                                                                                                                                                                                                                                          | Records Obtained; Review in Progress                                                                         |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                                                                                                                                       | 1/12/2022                                                                                                    |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                                                                                                          | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                                                                                                     | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                              |
| 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. |                                                                                                              |

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

Updated April 18, 2025

| Activity Report                                                    |  |
|--------------------------------------------------------------------|--|
| Evaluating for potential referrals to subcommittee or PAB members. |  |

|                                  |                                                                                                              |
|----------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>      | 2488                                                                                                         |
| <b>Policy Topic</b>              | Standards of Use of Force During an Arrest                                                                   |
| <b>Relevant Policy</b>           | BPD Policy 300 "Use of Force"                                                                                |
| <b>Status</b>                    | Records Obtained; Review in Progress                                                                         |
| <b>Date Presented to the PAB</b> | 1/31/2024                                                                                                    |
| <b>Anticipated Completion</b>    | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>               | 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                                                                                                                                                                                                                                                                                                                               |  |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                                                            |  |

|                                  |                                                                                                              |
|----------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>      | 17                                                                                                           |
| <b>Policy Topic</b>              | Use of Force During a Mental Health Response                                                                 |
| <b>Relevant Policy</b>           | BPD Policy 300 "Use of Force"<br>BPD Policy 409 "Crisis Intervention"                                        |
| <b>Status</b>                    | Records Obtained; Review in Progress                                                                         |
| <b>Date Presented to the PAB</b> | 7/27/2022                                                                                                    |
| <b>Anticipated Completion</b>    | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>               | 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                                                                                                                                                                                                                                                                                                                                                                                            |  |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                                                                                                                         |  |

|                             |    |
|-----------------------------|----|
| <b>Policy Review Number</b> | 19 |
|-----------------------------|----|

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <b>Policy Topic</b>                                                                                                                                                                                                                                                                                                                                                                                                        | Detention of Inebriated Individuals                                                                          |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                     | BPD Policy 900 "Temporary Custody of Adults"                                                                 |
| <b>Status</b>                                                                                                                                                                                                                                                                                                                                                                                                              | Records Obtained; Review in Progress                                                                         |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                                                                                                                                                                           | 1/31/2023                                                                                                    |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                                                                                                                                              | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                                                                                                                                         | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                              |
| 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. |                                                                                                              |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                              |
| The ODPA has completed their review and presented their report for the PAB's consideration on April 23, 2025.                                                                                                                                                                                                                                                                                                              |                                                                                                              |

|                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>                                                                                                                                                                                                                                                                                                                                                            | 2023-PR-0006                                                                                                                                       |
| <b>Policy Topic</b>                                                                                                                                                                                                                                                                                                                                                                    | Parking Enforcement Practices                                                                                                                      |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                                                                                                                                                 | BPD Policy 500 "Traffic Function and Responsibility"<br>BPD Policy 502 "Vehicle Towing and Release"<br>BPD Policy 507 "72-Hour Parking Violations" |
| <b>Status</b>                                                                                                                                                                                                                                                                                                                                                                          | Review In Progress                                                                                                                                 |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                                                                                                                                       | 10/11/2023                                                                                                                                         |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                                                                                                          | The review is currently being evaluated to determine the appropriate next steps and timeline for completion.                                       |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                                                                                                     | PAB – Assigned to Board Member Moore                                                                                                               |
| <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                    |
| 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. |                                                                                                                                                    |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                    |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                    |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 2023-PR-0007 <sup>2</sup>                                                               |
| <b>Policy Topic</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Restraining Orders & Interactions with the Elderly                                      |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | BPD Policy 313 "Senior and Disability Victimization"<br>BPD Policy 430 "Civil Disputes" |
| <b>Status</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Review In Progress; Records Obtained                                                    |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 7/24/2024                                                                               |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | March 5, 2025                                                                           |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | ODPA                                                                                    |
| <b>Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                         |
| 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. |                                                                                         |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                         |
| The ODPA held a focus group at the North Berkeley Senior Center on February 7, 2025. The information collected is currently being reviewed for potential inclusion in the final report. In addition, ODPA staff is examining historical complaint data for cases with similarities to the incident that prompted this policy review, in order to identify any practices or patterns that may be addressed in the report. Additional request for records to further inform this review are anticipated.           |                                                                                         |

|                                  |                                                                                                                                           |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Policy Review Number</b>      | 2023-PR-0008                                                                                                                              |
| <b>Policy Topic</b>              | Off-Duty Conduct                                                                                                                          |
| <b>Relevant Policy</b>           | BPD Policy 321 "Standard of Conduct"<br>BPD Policy 401 "Fair and Impartial Policing"<br>BPD Policy 344 "Off-Duty Law Enforcement Actions" |
| <b>Status</b>                    | Review in Progress; Assigned to Policy Review Subcommittee                                                                                |
| <b>Date Presented to the PAB</b> | 10/11/2023                                                                                                                                |
| <b>Anticipated Completion</b>    | The review is currently being evaluated to determine the appropriate next steps and timeline for completion.                              |
| <b>Assigned To</b>               | PAB – Assigned to Policy Review Subcommittee                                                                                              |

<sup>2</sup> 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.

Updated April 18, 2025

| 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                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                                                                                                                                                                   |

|                                                                                                                                                                                                |                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| 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                                                                                                                                                                         | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| 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                                                                                                                                                                                |                                                                                                              |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                             |                                                                                                              |

|                                                                                                                             |                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Policy Review Number                                                                                                        | 2024-PR-0003                                                                                                 |
| Policy Topic                                                                                                                | Computer Voice Stress Analyzers (CVSA)                                                                       |
| Relevant Policy                                                                                                             | BPD Policy 807 “Computer Voice Stress Examinations”                                                          |
| Status                                                                                                                      | Review in Progress                                                                                           |
| Date Presented to the PAB                                                                                                   | 5/22/2024                                                                                                    |
| Anticipated Completion                                                                                                      | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| 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                                                                                                             |                                                                                                              |
| Evaluating for potential referrals to subcommittee or PAB members.                                                          |                                                                                                              |

Updated April 18, 2025

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| <b>Policy Review Number</b>                                                                                                                                       | 2024-PR-0004                                                                                                 |
| <b>Policy Topic</b>                                                                                                                                               | Artificial Intelligence (AI) Assisted Report Writing                                                         |
| <b>Relevant Policy</b>                                                                                                                                            | BPD Policy 323 "Report Preparation"                                                                          |
| <b>Status</b>                                                                                                                                                     | Open                                                                                                         |
| <b>Date Presented to the PAB</b>                                                                                                                                  | 6/5/2024                                                                                                     |
| <b>Anticipated Completion</b>                                                                                                                                     | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                    |                                                                                                              |
| 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. |                                                                                                              |
| <b>Activity Report</b>                                                                                                                                            |                                                                                                              |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                |                                                                                                              |

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| <b>Policy Review Number</b>                                                                                                                                                                                                                                                                                 | 2024-PR-0005                                                                                                 |
| <b>Policy Topic</b>                                                                                                                                                                                                                                                                                         | BPD Relationship with Downtown Berkeley Ambassadors                                                          |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                                                                      | BPD Policy 300 "Use of Force"<br>BPD Policy 425 "Body Worn Cameras"                                          |
| <b>Status</b>                                                                                                                                                                                                                                                                                               | Pending Acceptance                                                                                           |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                                                            | 10/30/2024                                                                                                   |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                               | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                          | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                                                                                                                                                              |                                                                                                              |
| 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 citizens." The complainant requests an investigation, disciplinary action, policy review, public transparency, and restitution. |                                                                                                              |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                      |                                                                                                              |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                          |                                                                                                              |

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| <b>Policy Review Number</b>      | 2024-PR-0006                                                                        |
| <b>Policy Topic</b>              | BPD's Use of the Specialized Care Unit                                              |
| <b>Relevant Policy</b>           | BPD Policy 409 "Crisis Intervention"<br>BPD Policy 410 "Mental Illness Commitments" |
| <b>Status</b>                    | Open                                                                                |
| <b>Date Presented to the PAB</b> | 11/13/2024                                                                          |

Updated April 18, 2025

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| <b>Anticipated Completion</b>                                                                                                                                                                                                                                                                                           | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                                                                                                                                                                      | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                                                                                                                                                                          |                                                                                                              |
| 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. |                                                                                                              |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                                  |                                                                                                              |
| Evaluating for potential referrals to subcommittee or PAB members.                                                                                                                                                                                                                                                      |                                                                                                              |

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| <b>Policy Review Number</b>                                                                                                                                                                                                                                         | 2024-PR-0008                                                                                                 |
| <b>Policy Topic</b>                                                                                                                                                                                                                                                 | Records Retention                                                                                            |
| <b>Relevant Policy</b>                                                                                                                                                                                                                                              | BPD Policy 804 "Record Maintenance and Release"                                                              |
| <b>Status</b>                                                                                                                                                                                                                                                       | Open                                                                                                         |
| <b>Date Presented to the PAB</b>                                                                                                                                                                                                                                    | 1/8/2025                                                                                                     |
| <b>Anticipated Completion</b>                                                                                                                                                                                                                                       | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>                                                                                                                                                                                                                                                  | ODPA                                                                                                         |
| <b>Summary</b>                                                                                                                                                                                                                                                      |                                                                                                              |
| 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. |                                                                                                              |
| <b>Activity Report</b>                                                                                                                                                                                                                                              |                                                                                                              |
| ODPA staff are currently reviewing relevant materials in preparation for a future presentation to the PAB. The presentation is tentatively scheduled for May 7, 2025.                                                                                               |                                                                                                              |

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| <b>Policy Review Number</b>      | 2025-PR-0001                                                                                                 |
| <b>Policy Topic</b>              | Contact Between Complaint Subject Officer and Complainant During Calls for Service                           |
| <b>Relevant Policy</b>           | BPD Policy 1004 "Anti-Retaliation"<br>BPD Policy 1010 "Personnel Complaints"                                 |
| <b>Status</b>                    | Open                                                                                                         |
| <b>Date Presented to the PAB</b> | 02/19/2025                                                                                                   |
| <b>Anticipated Completion</b>    | The review is currently being evaluated to determine the appropriate next steps and timeline for completion. |
| <b>Assigned To</b>               | PAB Member w/ Support of ODPA                                                                                |

*Updated April 18, 2025*

| <b>Summary</b>                                                                                                                                                                                                                                                                                                                                    |
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| The Complainant reported two interactions with BPD in January 2025, involving officers who were either subjects of their prior complaints to the PAB or involved in other litigation. They expressed concerns about potential retaliation or bias, believing they should not interact with officers they had previously filed complaints against. |
| <b>Activity Report</b>                                                                                                                                                                                                                                                                                                                            |
| Board Member Calavita updated the PAB during its regular meeting on April 23, 2025. Policy Analyst Murillo and Board Member Calavita will collaborate to draft potential language and consult with BPD about feasibility and any potential concerns.                                                                                              |