

OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

## POLICE ACCOUNTABILITY BOARD REGULAR MEETING

Wednesday, September 29, 2021  
7:00 P.M.

### Board Members:

ISMAIL RAMSEY, CHAIR  
MICHAEL CHANG, VICE-CHAIR  
KITTY CALAVITA

REGINA HARRIS  
JULIE LEFTWICH  
DEBORAH LEVINE

NATHAN MIZELL  
JOHN MOORE III  
CHERYL OWENS

### **PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting of the City of Berkeley Police Accountability Board will be conducted exclusively through teleconference and Zoom videoconference and there will not be a physical meeting location available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82237902987>. 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 822 3790 2987. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

### AGENDA

1. CALL TO ORDER & ROLL CALL (5 minutes)
2. APPROVAL OF AGENDA (5 minutes)
3. PUBLIC COMMENT (TBD)

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

The Police Accountability Board and Office of the Director of Police Accountability (ODPA) were created to provide independent civilian oversight of the Berkeley Police Department. They review and make recommendations on police department policies, and investigate complaints made by members of the public against police officers. For more information, contact the ODPA.

1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955  
Website: [www.cityofberkeley.info/dpa/](http://www.cityofberkeley.info/dpa/) Email: [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

4. **APPROVAL OF MINUTES** (2 minutes)  
Regular meeting of September 22, 2021.  
(To be delivered.)
5. **CHAIR'S REPORT** (5 minutes)  
Update from Board member Mizell on Reimagining Public Safety Task Force
6. **DIRECTOR OF POLICE ACCOUNTABILITY'S REPORT** (5 minutes)  
Status of complaints; other items.
7. **CHIEF OF POLICE'S REPORT** (10 minutes)  
Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.
8. **SUBCOMMITTEE REPORTS (discussion and action)** (15 minutes)  
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
  - a. Fair & Impartial Policing Implementation.
  - b. Director Search.
  - c. Regulations – Next meeting Tuesday, Oct. 5, 2021 at 6:30 p.m.
9. **OLD BUSINESS (discussion and action)**
  - a. Hear and consider analysis from City Attorney's Office regarding lawful changes to hearing process to correct imbalances, and obligation to meet and confer over those and other proposed provisions of the Interim Regulations for handling complaints against sworn officer. (30 minutes)
  - b. Training: Police Department patrol responsibilities; Field Training Officer program. (2 hours)
  - c. Discuss and adopt permanent Standing Rules for the Board's conduct of business. (30 minutes)  
From: Interim Director
10. **NEW BUSINESS (discussion and action)**
  - a. Policy complaint – Consider whether to open a review of policies raised in the incident described in a policy complaint (Complaint #7) and, if opened, determine how to proceed. (30 minutes)
  - b. City Attorney conflict-of-interest issues. (30 minutes)  
From: Board member Leftwich

**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 items on this agenda only.)*

**12. ADJOURNMENT (1 minute)**

**Communications Disclaimer**

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions or committees, are public record 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 1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA.

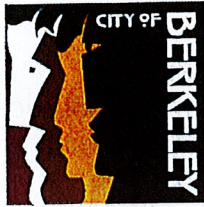
Contact the Director of Police Accountability (Board Secretary) at [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)



**POLICE ACCOUNTABILITY BOARD (PAB)  
REGULAR MEETING ATTACHMENTS  
SEPTEMBER 29, 2021**

<b><u>MINUTES</u></b>	
September 22, 2021 Regular Meeting Draft Minutes (to be delivered)	
<b><u>AGENDA-RELATED</u></b>	
<b>Item 9.a.</b> – 9-23-2021 Letter from the PAB Chair to the City Attorney re Request for Written Opinion Regarding Police Accountability Board Regulations.	Page 7
<b>Item 9.c.</b> – Police Accountability Board Temporary Standing Rules (Adopted July 7, 2021).	Page 9
<b>Item 9.c.</b> – Police Review Commission Standing Rules (As of March 11, 2021), annotated.	Page 11
<b>Item 9.c.</b> – Provisions from PRC Regulations regarding policy complaints.	Page 17
<b>Item 10.a.</b> – Policy Complaint #7.	Page 19
<b><u>COMMUNICATIONS</u></b>	
PowerPoint: BPD Training on Department Organization, roles and responsibilities of Divisions and Staff – 9-22-2021.	Page 21





POLICE ACCOUNTABILITY BOARD

Via email only to [FBrown@cityofberkeley.info](mailto:FBrown@cityofberkeley.info)  
and [SHarvey@cityofberkeley.info](mailto:SHarvey@cityofberkeley.info)

September 23, 2021

Farimah Faiz Brown, City Attorney  
Sam Harvey, Deputy City Attorney  
City of Berkeley  
2180 Milvia St., 4<sup>th</sup> Floor  
Berkeley, CA 94704

Re: Request for Written Opinion Regarding Police Accountability Board Regulations

Dear Ms. Brown and Mr. Harvey,

We write to provide more detail on our recent request for a legal opinion on the PAB's authority to enact interim and ultimately permanent regulations related to hearings for officers accused of misconduct. We thought this would be useful as you undertake this project.

### **Background**

As you know, on November 3, 2020, the Charter of the City of Berkeley was amended to establish the Police Accountability Board (PAB) and Office of the Director of Police Accountability. Section 125(1) of Article XVIII of the Charter reads:

The purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department.

Section 125(3)(a)(6) also authorizes the PAB "to adopt rules and regulations necessary for the conduct of its business." Section 125(15) states that the PAB and Director of Police Accountability shall use the services of City Attorney's Office for legal advice.

The PAB is currently drafting regulations for handling complaints filed against sworn members of the Police Department. To provide an accessible and fair process, the proposed PAB regulations would allow, among others, individuals who witnessed misconduct, to file a complaint and would extend the complaint filing deadline to 180 days. In addition, in order to create more parity between the complainant and subject officer in the hearing process, the regulations would allow the complainant to be present when the officer is questioned by the PAB and to question the officer.

The PAB has been advised by Deputy City Attorney Harvey that the proposed regulations raise two issues: 1) they trigger a meet and confer obligation with the Police Officers Association, even though they have not yet even been considered by the City Council; and 2) they may violate state law and the decision in *Berkeley Police Association v. City of Berkeley* (2008) 167 Cal. App. 4<sup>th</sup> 385. That case held that the hearing process of the Police Review Commission (PRC), the predecessor of the PAB, violated Penal Code Section 832.7 because hearings were open to the public and permitted public access to PRC investigations, reports and findings. PRC hearings were closed to the public as a result of that decision. Further, complainants were treated like any member of the public and excluded from that part of their complaint hearing that involved subject officers' questioning, apparently on the basis of a verbal opinion of the former City Attorney. Consequently, the ability of complainants to participate meaningfully in the hearing process was severely curtailed, as was transparency and the search for truth.

#### PAB Request

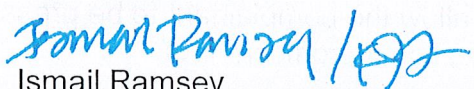
The purpose of this letter is to request a written opinion from your office regarding the meet-and-confer process as it relates to these issues. The memo should include the specific legal and/or contractual basis for the contention that the proposed regulations trigger that process. We also ask that you provide information regarding the timing of the meet and confer (i.e., why it would be triggered now and, if it is in fact triggered, when the process could be expected to begin and end). Case law and statute state that before a relevant policy is "adopted," a meet and confer must occur. However, there seems some inconsistency as to what "adoption" means in this context (passage by City Council, or implementation?), as meet-and-confers have on occasion *followed* initial endorsement by Council.

The PAB also reiterates its request for a written opinion regarding the issue of whether the proposed regulations violate state law and/or case law. Mr. Harvey was present at a PAB meeting where we discussed this issue and has received letters from two PAB members, written in their individual capacities, setting forth the reasons why they believe the regulations are legally sound.

This request is urgent because the PAB is currently operating without regulations, severely threatening our ability to "promote public trust through independent, objective, civilian oversight" of the Police Department" and "provide a means for prompt, impartial and fair investigation of complaints brought by members of the public," as mandated by Measure II. Accordingly, we ask that your written opinion be provided the Director of Police Accountability on or before the PAB meeting on September 29, specifically no later than by 12:00 p.m. that day.

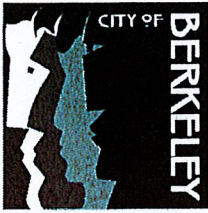
Thank you very much for your prompt attention to this important, time-sensitive matter.

Best regards,



Ismail Ramsey  
Chair, Police Accountability Board





OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

## Police Accountability Board Temporary Standing Rules

*(Adopted July 7, 2021)*

### *A. AMENDMENTS AND REVISIONS*

Amendments and revisions to these Standing Rules shall be adopted by a majority vote of the Board, except that the Board may not adopt rules that conflict with the enabling Charter amendment (Measure II) or the Commissioners' Manual.

### *B. AGENDA ITEMS – REGULAR MEETINGS*

Individual Board members shall submit agenda items to the Board secretary by 12:00 noon one week before the meeting date

### *C. COMMUNICATIONS*

Individual Board members shall submit communications to be included in the agenda packet to the Board secretary by 12:00 noon one week before the meeting date to ensure inclusion in the packet. Communications received after this deadline and before 3:00 p.m. on the meeting day will be distributed via email and/or hard copy at the meeting. If communications are received after 3:00 p.m. on the meeting day, the Board secretary will make every effort, but cannot guarantee, to have hard copies available at the meeting.

### *D. MEETING PROCEDURES*

1. Items shall be introduced by the Board member or staff member who proposed the item. The Chair shall then allow an initial period for discussion by recognizing Board members in rotation to ensure that each Board member has the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of two minutes to speak each time they are given the floor.
2. After a motion on the item is made and seconded, the Chair will recognize the maker of the motion, and then the seconder, to speak. After that, the Chair will recognize Board members in rotation, giving each Board member the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of one minute to speak each time they are given the floor, and must confine their remarks to the merits of the motion. The Chair may give the maker of the motion an additional minute to speak before putting the matter to a vote.
3. A pending motion may be modified by a "friendly amendment"; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall repeat, or ask the Board secretary to repeat, the motion before the action.

5. Guest speakers who are not on the agenda may address the Board only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert's Rules of Order.

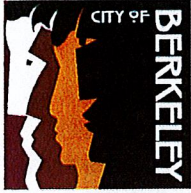
#### *E. PUBLIC COMMENT*

1. The Chair, subject to the consent of the Board, may determine the time limit for each speaker and the total number of speakers.
2. Before an agenda item is heard, the Chair or Vice-Chair may poll members of the public present to determine if a significant number of them wish to speak on a particular agenda item. If so, the Chair or Vice-Chair may move that public comment on that item can be heard just before the item.

#### *F. ELECTIONS*

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

###



*Annotated for PAB to consider in adopting its Standing Rules*

## Police Review Commission

### Standing Rules

(As of March 11, 2021)

#### **A. PURPOSE**

These Standing Rules are established by the Police Review Commission to ensure transparency and efficiency of our operations.

#### **B. AMENDMENTS AND REVISIONS**

Amendments and revisions to these Standing Rules shall be adopted by a majority vote of the Police Review Commission, except that the Commission may not adopt rules that conflict with the enabling Ordinance, Commissioners' Manual, or Regulations for Handling Complaints Against Members of the Police Department.

#### **C. AGENDA ITEMS – REGULAR MEETINGS**

1. Individual commissioners shall submit agenda items to the commission secretary by 12:00 noon one week before the meeting date. (This will almost always be a Wednesday.)
2. A commissioner may place only one item on the agenda per meeting, and may not add items to the agenda unless prior agenda items from that commissioner have been cleared. "Cleared" means that the Commission has either completed its consideration of the item, or agreed to move forward with the item by, for instance, forming a subcommittee or considering the issue as a whole commission, in which case the item belongs to the Commission, not the individual commissioner.

#### **D. COMMUNICATIONS**

Individual commissioners shall submit communications to be included in the agenda packet to the commission secretary by 12:00 noon one week before the meeting date to ensure inclusion in the packet. Communications received after this deadline and before 3:00 p.m. on the meeting day will be distributed in hard copy at the meeting, and may also be distributed to commissioners via email. If communications are received after 3:00 p.m. on the meeting day, the commission secretary will make every effort, but cannot guarantee, to have hard copies available at the meeting.

#### **E. MEETING PROCEDURES**

1. items shall be introduced by the commission member or staff member who proposed the item. The Chair shall then allow an initial period for discussion by recognizing commissioners in rotation to ensure that each commissioner has the opportunity to speak before a commissioner is allowed to speak again.

Commissioners are allowed a maximum of two minutes to speak each time they are given the floor.

2. After a motion on the item is made and seconded, the Chair will recognize the maker of the motion, and then the seconder, to speak. After that, the Chair will recognize commissioners in rotation, giving each commissioner the opportunity to speak before a commissioner is allowed to speak again. Commissioners are allowed a maximum of one minute to speak each time they are given the floor, and must confine their remarks to the merits of the motion. The Chair may give the maker of the motion an additional minute to speak before putting the matter to a vote.
3. A pending motion may be modified by a "friendly amendment"; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall ask the commission secretary to repeat the motion before the action.
5. Guest speakers who are not on the agenda may address the commission only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert's Rules of Order.

#### *F. PUBLIC COMMENT*

1. The Chair, subject to the consent of the commission, may determine the time limit for each speaker and the total number of speakers.
2. Before an agenda item is heard, the Chair or Vice-Chair may poll members of the public present to determine if a significant number of them wish to speak on a particular agenda item. If so, the Chair or Vice-Chair may move that public comment on that item can be heard just before the item.

#### **G. POLICY COMPLAINTS AND REVIEWS**

1. An inquiry into a policy, when initiated by a civilian filing a policy complaint form, is a "policy complaint."
  - a) The procedures for handling a policy complaint are set forth in Section II.A.4.b. of the Regulations for Handling Complaints Against Members of the Police Department.
  - b) Additionally, a public comment period shall be agendaized immediately preceding consideration of the policy complaint, limited to comments on that complaint. Policy complainants will be allowed to speak for five minutes. Other members of the public will be allowed up to three minutes; the time allotted is subject to the discretion of the Chair, who will consider the number of persons wishing to speak. Commissioners may ask policy complainants brief questions. The BPD will be given an opportunity to respond to the commission.
2. A commission-initiated policy review may commence upon a majority vote of the commissioners.

- a) Commissioners shall then determine how to proceed. Possible actions include, but are not limited to: considering the issue as whole commission, assigning a commissioner to research the issue, asking staff to investigate or research, or establishing a subcommittee. If a subcommittee is created it will seek BPD involvement in its policy review and, upon completing its review, will present its conclusions and recommendations to the full commission.
- b) The full commission may recommend to the BPD, City Manager, or City Council that the BPD adopt a new policy, revise an existing policy, or take no action.

#### **H. REGULAR MEETINGS**

Regular meetings shall be held on the second and fourth Wednesday of the month, except in the months of August, November, and December. The commission shall not meet in August, and shall meet only on one Wednesday of the month in November and December. Exceptions shall be made when a meeting day falls on a religious holiday.

Regular meetings shall commence at 7:00 p.m., and shall be held at the South Berkeley Senior Center and other locations as may be determined by the commission.

#### **I. ELECTIONS**

1. Annual elections for PRC Chair and Vice-Chair will be agendaized for the second regular meeting in January and, whenever possible, this item will be agendaized as the final item under New Business.
2. The election of the Chair will precede the election of the Vice-Chair, and the following nomination and election process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A commissioner nominates another commissioner or him/herself. A commissioner must be present in order to be nominated.
  - c) The nomination is seconded (the nomination fails if there is no second)
  - d) The presiding Chair declares the nomination process closed, when there are no further nominations.
  - e) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - f) Commissioners pose questions to each candidate.
  - g) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.

- iii. If a clear winner is still not identified after a second round of voting, the presiding Chair will conduct a coin toss to break the tie and determine a winner. The PRC Secretary will assign “heads” and “tails.”
3. The PRC Secretary will record the maker and the second of the nomination motion as well as the total votes and results per office.
4. The outgoing Chair and Vice-Chair will be given the opportunity to make 2-minute departing statements after the election process takes place. The newly-elected Chair and Vice-Chair will assume their positions at the end of the meeting.

#### **J. APPOINTMENT OF MEMBERS OF THE PUBLIC TO SUBCOMMITTEES**

1. In accordance with the PRC Ordinance, the Chair may appoint members of the public to subcommittees in which they have expressed an interest, subject to approval of the commission. Members of the public seeking to serve on a subcommittee must: a) be residents of the City of Berkeley; and b) present themselves at a commission meeting before or at the time of the appointment and speak on the public record on intent to serve and what they will bring to the subcommittee work and deliberations.
2. Members of the public appointed to subcommittees ~~shall enjoy the same voting rights and privileges on the subcommittee, as that of PRC commissioners appointed to the subcommittee, except that public members~~ may not be selected to be the subcommittee Chair. [Charter amendment Sec. 13(d)says public members are non-voting members.]
3. Commission members must constitute a majority of the membership of any subcommittee, but a subcommittee may convene and conduct business even if commissioners are not a majority of subcommittee members present
4. The term of appointment for members of the public appointed to subcommittees shall not exceed the life of the subcommittee. If a subcommittee must be reauthorized, any members of the public serving on the subcommittee must be reappointed by the Chair, subject to the approval of the commission.
5. A public member of a subcommittee who is absent from two consecutive subcommittee meetings is automatically removed from the subcommittee, but may be reinstated by the Chair if good cause for the absences is shown.
6. The Chair, subject to the approval of the commission, may remove a member of the public from a subcommittee for good cause. Examples of good cause are: failure to work cooperatively with subcommittee members; unruly or disruptive behavior at meetings; or failure to participate in the work of the subcommittee.
7. All actions by the Chair to appoint, reappoint, or remove a member of a public to or from a subcommittee shall occur at a commission meeting.

#### **K. MUTUAL AID AGREEMENTS**

The commission shall constitute a mutual aid subcommittee no later than the first meeting in February of each year to review the pacts between the BPD and other law enforcement entities.

#### **L. SUBCOMMITTEE NOTES**

Each PRC subcommittee must produce written notes of what occurred at each subcommittee meeting. These notes must be forwarded to the PRC Officer, who will post the notes to the PRC's website

#### **M. ANNUAL REPORT [Charter amendment Sec.16 (b) contains annual reporting requirement]**

The commission secretary shall endeavor to present the annual report for the commission's approval no later than June 1 of each year. The Foreword shall be written by the commissioner who served as Chair in the year of the report.

#### **N. FAMILIARITY WITH BERKELEY POLICE DEPARTMENT [Charter Amendment sec. 12 contains extensive training requirements.]**

Within the first 6 months of their appointment, newly-appointed commissioners shall endeavor to:

- 1) complete a ride-along with a sworn police officer, and
- 2) meet with Chief of Police and his/her command staff.

#### **O. KNOWLEDGE OF APPLICABLE LAWS AND RULES [See above re training]**

Commissioners should be generally knowledgeable of the Police Review Commission's enabling Ordinance (Ordinance No. 4644-N.S.; B.M.C. Chapter 3.32), the Regulations for Handling Complaints Against Members of the Police Department, and these Standing Rules. They should also bring copies of these documents to all commission meetings.

#### **P. COMMENDATIONS OF BERKELEY POLICE DEPARTMENT PERSONNEL**

1. The PRC regularly receives copies of communications praising Berkeley Police Department (BPD) personnel for noteworthy service; these commendations are both external (from members of the public) and internal (from fellow BPD or City of Berkeley employees). This process shall be used when the PRC desires to bestow additional recognition upon those BPD personnel, or when a commissioner on his or her own initiative wants the PRC to recognize BPD personnel.
2. The PRC may commend or otherwise honor with a special award or recognition an individual sworn officer or civilian employee of the BPD, or a group of officers and/or employees of the BPD, such as a team or division.
3. The commission secretary shall agendize commendations the PRC receives from the BPD periodically, as received. A commissioner wishing to initiate a commendation or other honor from the PRC shall submit the proposal to the

commission secretary for placement on the PRC agenda in accordance with Section C of these rules. The proposal shall include the name of the person or group to be honored, and a description of the noteworthy action.

4. For the PRC to issue a commendation or other honor, the BPD officer, employee, or group must be found to have performed an extraordinary service or performed in an extraordinary manner that meets one or more of the following criteria:
  - a) Exceptional valor, bravery, or heroism;
  - b) Superior handling of a difficult situation;
  - c) An action or performance that is above and beyond typical duties;
  - d) Extraordinary compassion, empathy, or kindness.
5. A motion to commend or otherwise honor BPD personnel shall include the act or incident giving rise to the honor and describe how it meets the above criteria. The motion must receive a majority of affirmative votes of commissioners present at the meeting to pass.
6. Following the meeting, the commission secretary shall communicate the PRC's action in writing to the City Council, and shall also forward the commendation to the Chief of Police, with a request that the commendation or other honor be placed in the personnel file of each sworn officer or civilian employee commended.

###



**Provisions from PRC Regulations regarding policy complaints**

**II.**

**A. Filing a Complaint**

**1. Complaint Form**

Complaints and policy complaints must be filed on a form provided by the PRC and, except as provided in section 3, signed by the complainant. . . .

...

**4. Sufficiency of Complaint**

...

b. Policy complaints will be brought to the Commission for discussion or action within 30 calendar days of filing or at the next regularly scheduled meeting of the PRC if the 30 days has expired. If a majority of the Commissioners feel that a policy review is warranted, they may take appropriate action, including, but not limited to, initiating a formal investigation or establishing a subcommittee; a subcommittee, if established, will seek BPD involvement in its review of a BPD policy. Upon completion of its review, the subcommittee will present its conclusions and recommendations to the full Board.

**V.**

**A. Administrative Closure**

**1. Grounds**

...

i) A policy complaint that has been considered by the Commission.

**2. Procedure**

...

A policy complaint may be administratively closed by a majority vote of Commissioners during open session at a regularly scheduled meeting.

---

**City Charter, Article XVIII, Section 125:**

**Section 17. Policy review and approval.**

(a) The Chief of Police shall submit all newly adopted Departmental policies and revisions to the Board within thirty (30) days of implementation. The Board may review policies, practices, and procedures of the Police Department in its discretion or at the request of a member of the public, due to a policy complaint, or due to a complaint from a member of the public against an officer.

...the Commission shall have the authority to ...

...the Commission shall have the authority to ...

Administrative ...

A policy complaint that has been considered by the Commission ...

The Commission shall have the authority to ...



# POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA 94704

Web: [www.cityofberkeley.info/dpa](http://www.cityofberkeley.info/dpa)

E-mail: [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

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

Date Received:

9-13-21

DPA Case # 7

1

Name of Complainant: Farooqi Naila M.

Last

First

Middle

Mailing Address: 32 Turkshead Ct Redwood City CA 94065

Street

City

State

Zip

Primary Phone: ( ) \_\_\_\_\_ Alt Phone: ( ) \_\_\_\_\_

E-mail address: \_\_\_\_\_

Occupation: Substitute Teacher Gender: F Age: 39

Ethnicity:  Asian  Black/African-American  Caucasian

Latino/Hispanic  Multiethnic: \_\_\_\_\_  Other: \_\_\_\_\_

2

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

309.3 - Officer Response to Call - "Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call."

309.4 - Communication Responsibilities - "[When] available information reasonably indicates that the public is threatened with serious injury or death and immediate police response is needed, the dispatcher shall...(a)(c)(d)"

309.5 - Supervisory Responsibilities - "the Watch Commander or the field supervisor shall verify the following...(c) Affected outside jurisdictions are being notified as practical"

311.3 - Searches - Exceptions to warrant requirement: "Legitimate community caretaking interests", "Exigent circumstances"

The policy of the police responding to non-violent mental health calls for service.

3

Location of Incident (if applicable) 2315 College Avenue, Unit 407-A-1, Berkeley, CA

Date & Time of Incident (if applicable) December 4, 2020

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

See attachment.

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

Nadeem's class member at UC Berkeley Haas School of Business messaged me that Nadeem didn't show up for an important class. It was uncharacteristic of Nadeem to miss any class, let alone an important presentation, so I was immediately concerned. Another classmate who lived in Berkeley called the Berkeley PD to do a welfare check at 2315 College Avenue. I called the officer, and the officer said that they went but no one answered the door. I told them I would be on my way from Redwood City, and I asked if they could meet me there.

When I arrived between 11am to 12pm, the officers were no longer there. I called the officer again. The officer told me that they could not "ping" Nadeem's phone inside his room, so they left and did not enter. I began banging on the door trying to get a response, believing my brother had to be in the room. The manager wouldn't open the door without the police present. I told the police my brother had bipolar schizophrenia, and I was concerned that he may be having an episode. In the past, he has had episodes and he usually calls for help, but I was even more concerned because he didn't call this time. The officer asked me if Nadeem had a weapon, and I said he did not. He did not own a gun or any knives. I continued to ask them to come and to open the door because I could hear something in the room, like the sound of running water. I told the officer I heard something.

The officer on the phone told me the sergeant said they had already gone and thus could not go back. The officer told me that maybe if I "asked the building manager nicely, she would open the door for me." I felt that was very condescending. In the end, the Berkeley PD didn't come. I waited for hours. I waited until almost 4pm, and finally the building manager realized Nadeem was a student and called UC PD to respond. I did not know that was an option. The UC PD responded rapidly and within minutes they were on the scene. The UC PD asked me why I wanted to enter the room so badly. I told him that my brother had bipolar schizophrenia, that I was not able to reach him, that I was concerned he was having an episode and needed help. The UC PD officer opened the door immediately, and rushed in to search for my brother.

The UC PD found my Nadeem. UC PD officers called Berkeley PD, the fire department, and medical for an emergency response. But by that time, it was too late. Nadeem was dead.

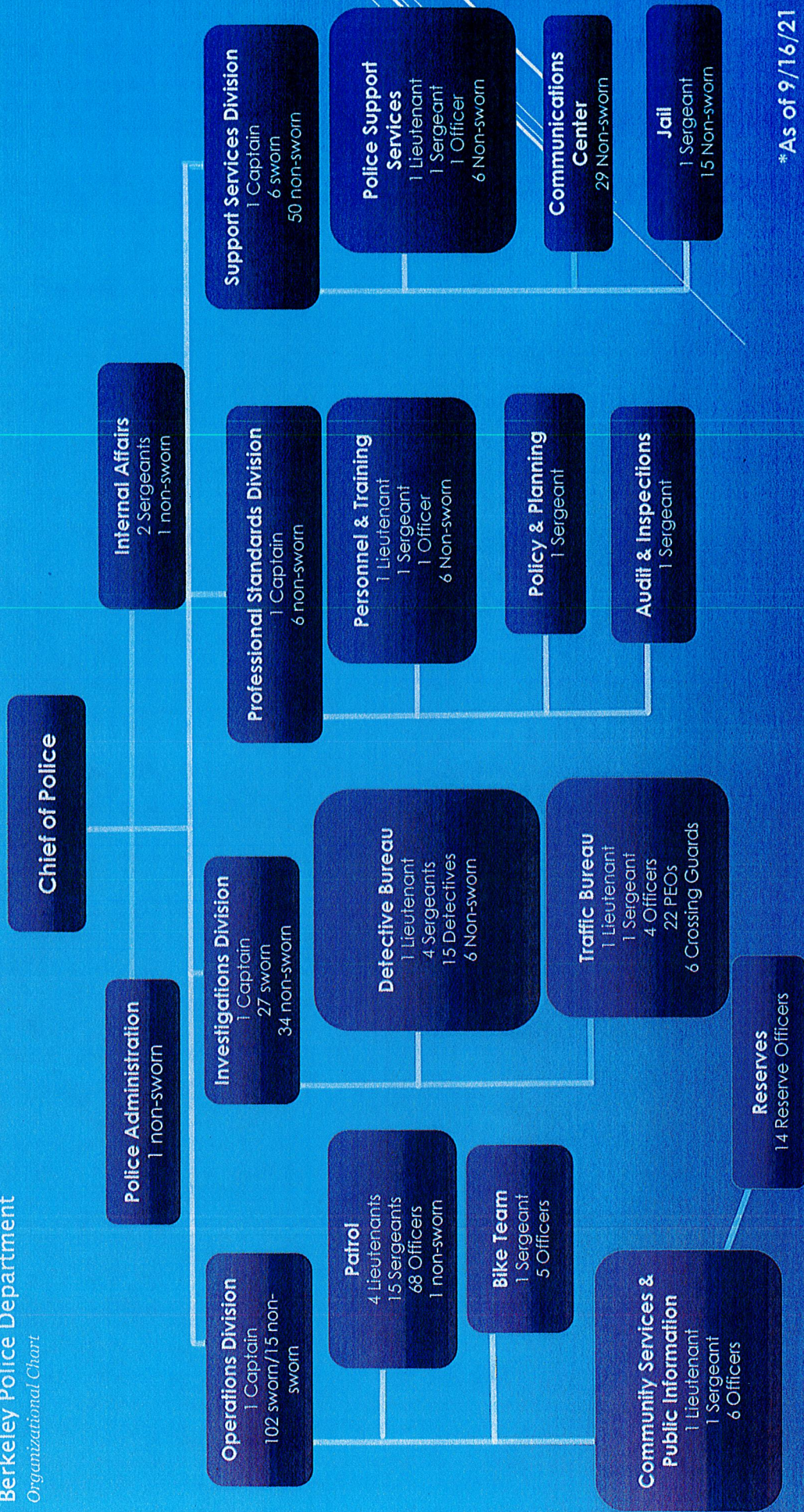
The coroner could establish no time of death. This leaves us wondering whether when we first responded, if the Berkeley PD had just opened the door, could they have saved my brother? Because of Berkeley PD lack of compassionate and proactive response, we now will never know.

Why not open the door when they first arrived? This was clearly a situation with legitimate community caretaking interests at stake as described under BPD Policy 311.3 (Searches). I was there to care for my brother, and was relying on the Berkeley PD for help. And they let me down.

# POLICE ACCOUNTABILITY BOARD

Berkeley Police Department  
September 22, 2021

**Berkeley Police Department**  
Organizational Chart



\*As of 9/16/21

## Event

**CALLER**  
911 Line  
Non-Emergency  
Alarm Calls  
CHP Transfer  
Community Events

**OFFICER INITIATED**  
On-view by officer  
Flagged down by citizen

## Pre-Scene

**DISPATCHER**  
"Call taker"  
Takes the call  
Creates the event  
Sends info to  
dispatcher working as  
"Control"

**DISPATCHER**  
"Control"  
Assigns call type  
Assigns priority  
Dispatches Units  
Dispatches support  
Continually updates  
Helps coordinate units

## On-Scene

**PRIMARY OFFICER**  
Acknowledges call  
and arrival  
Updates information  
Secures the scene  
Renders aid  
Works with victims  
Coordinates resources  
Apprehends offender

**OTHER RESOURCES**  
Mobile Crisis Team  
Medical  
Crime Scene Techs  
Traffic Officers & PEOs  
Crisis Negotiators  
Special Response Team

## Post-Scene

**EVENT REPORTING**  
Arrest Reports  
Incident/Case Reports  
Mental Health Reports  
Collision Reports  
Use of Force Reports  
Exposure Reports  
Injury Reports  
Pursuit Reports

**STATISTICAL REPORTING**  
Uniform Crime Report  
Hate Crime  
RIPA  
LEOKA  
Use of Force  
Sexual Assault

## Ongoing

**BEFORE WE'RE THROUGH**  
Prepare press releases  
Work with the DA's Office  
Ongoing work with the victim  
Detective follow-up  
Post traumatic event debrief  
Crime prevention  
Community outreach  
Coordination with outside agencies  
Detailed collision analysis  
Trial Prep  
Court testimony

# THE MANY WAYS WE RECEIVE CALLS AND REQUESTS FOR ASSISTANCE

Citizen Calls

Email

Information based stop

Community  
flag down



Routine patrol

Grant focused

Directed patrol

Neighborhood  
watch meeting

Information based traffic stop

School Resource Officer

Assistance to outside  
agency



THANK YOU.....

Questions?

