



POLICE ACCOUNTABILITY BOARD

REGULAR MEETING PACKET

Wednesday, May 10, 2023

6:30 P.M.

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

REGINA HARRIS (VICE-CHAIR)
JULIE LEFTWICH

CHERYL OWENS
DEBORAH LEVINE

MEETING LOCATION

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

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Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

I. Vaccination Status

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. Health Status Precautions

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

III. Face Coverings/Mask

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. Physical Distancing

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. Protocols for Teleconference Participation by Commissioners

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

VI. Hand Washing/Sanitizing

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. Air Flow/Circulation/Sanitizing

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.



POLICE ACCOUNTABILITY BOARD

REGULAR MEETING AGENDA

Wednesday, May 10, 2023

6:30 P.M.

Board Members:

JOHN MOORE III. (CHAIR)
KITTY CALAVITA

REGINA HARRIS (VICE-CHAIR)
JULIE LEFTWICH

CHERYL OWENS
DEBORAH LEVINE

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709

PUBLIC ADVISORY

The PAB has resumed in-person meetings and encourages community members to attend in person. Community members attending in person should observe the “Health and Safety Protocols for In-person Meetings of Berkeley Boards and Commissions” as outlined by the City of Berkeley.

***The PAB acknowledges that physical attendance may not be feasible for all community members. To this end, the Office of the Director of Police Accountability (ODPA) has been exploring the option of allowing for remote participation at the PAB meetings. Please note that the ODPA and PAB are in the early stages of implementing this hybrid meeting format so there is a possibility for technical glitches and errors. Your patience and understanding are greatly appreciated. ***

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82653396072>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **826 5359 6072**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGEMENT

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 (Chochenyo)-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 unceded 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 & ROLL CALL** (2 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.)
4. **APPROVAL OF MINUTES** (5 MINUTES)
Regular Meeting Minutes for April 26, 2023
5. **ODPA STAFF REPORT** (10 MINUTES)
Announcements, updates, and other items.
 - Introduction to Jayson Wechter, ODPa Investigator.
 - Report from staff regarding their attendance at the 2023 Constitutional Policing Conference.
6. **CHAIR AND BOARD MEMBERS' REPORTS** (5 MINUTES)
Announcements, updates, and other items.
7. **CHIEF OF POLICE'S REPORT** (20 minutes)
Crime/cases of interest, community engagement/departments events, staffing, training, and other items of interest.

8. SUBCOMMITTEE REPORTS (discussion and action) (10 min) *

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

- a. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Owens)
 - i. Activity Report
- b. Body-Worn Camera Policy (Chair: Harris)
 - i. Activity Report
- c. Conflict of Interest (Chair: Leftwich)
 - i. Activity Report

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

9. OLD BUSINESS (discussion and action)

a. Training on *Graham v. Connor* – FLETC-TALKS (15 min)

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

10. NEW BUSINESS (discussion and action) (15 min)

- a. Appointment of members to the Berkeley City Charter Section 125 Review Subcommittee (Moore) – (5 min)
- b. Consideration of ODPA's proposed procedure for internal/external communications between the Board and other parties (DPA Aguilar) – (5 min)
- c. Discussion regarding the proposed guidelines for PAB Subcommittees (DPA Aguilar) - (10 min)

11. PUBLIC COMMENT (TBD)

CLOSED SESSION

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

12. Case updates – (10 min)


END OF CLOSED SESSION

13. **ANNOUNCEMENT OF CLOSED SESSION ACTIONS** (1 MIN)

14. **ADJOURNMENT** (1 minute)

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

Contact the Director of Police Accountability (Board Secretary) at:

1947 Center Street, 5th Floor, Berkeley, CA 94704
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955
Website: www.cityofberkeley.info/dpa/ Email: dpa@cityofberkeley.info



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
MINUTES
(draft)

Wednesday, April 26, 2023, 6:30 P.M.

1. CALL TO ORDER & ROLL CALL BY CHAIR MOORE AT 6:34 P.M.

Present: Board Member John Moore (Chair)
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member Cheryl Owens
Absent: Board Member/s Regina Harris (Vice Chair), Kitty Calavita
ODPA Staff: Hansel Aguilar, Director of Police Accountability
BPD Staff: Captain Durbin
Lt. Reece
BPA Officer: Officer Shivas

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Owens/Leftwich) **Motion Carried by general consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

3. PUBLIC COMMENT

No public comments were made.

4. APPROVAL OF MINUTES

Motion to approve Regular Meeting Minutes of April 11, 2023

Moved/Second (Leftwich/Owens) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

5. ODPa STAFF REPORT

Director Aguilar reported on the following:

- Deputy City Attorney Stephen Hylas has joined the CAO team and will be supporting the Board moving forward.
 - o DCA Stephen Hylas introduces himself to the Board.
- The investigator vacancy has been filled. Jayson Wechter, the new ODPa investigator, will be joining the team starting May 1st.
- The eligibility list for the associate management analyst has been provided to the ODPa. Candidates for the data analyst and policy analyst positions will be drawn from this list.
- Staff forwarded the PAB's Recommendation on the Berkeley Police Department's Police Equipment and Community Safety Ordinance 2022 Annual Report. The BPD has acknowledged receipt of the memo and will provide a copy of the updated report as soon as possible.
- Staff forwarded the PAB's supplemental memorandums regarding fixed camera surveillance systems and unmanned aerial vehicles (UAS) to the Public Safety Policy Subcommittee. Chair Moore, DPA Aguilar, and Policy Analyst Murillo attended this meeting. The items are set to be on Council's agenda next month.
- Staff attended a NACOLE webinar on Tuesday where Joanna Schwartz, a professor at UCLA School of Law and author of the recently published book *Shielded: How the Police Became Untouchable*, presented her work. The webinar delves into why civil rights litigation so rarely leads to justice or prevents future police misconduct.

Q&A:

- Q1 - Board member Leftwich asks about the status of commendations for officers. She asks if any pending commendations need to be reviewed.
- A1 – Director Aguilar states that he is not aware of the particular process but will look into it. Captain Durbin also makes note that he will follow up on the commendation process as well.

- Q2 – Board member Leftwich asks if there is a protocol for subcommittees to directly contact the BPD. She notes that because the staff is so busy, the subcommittees being able to contact the BPD directly may help prevent any bottlenecks in communications.
- A2 – Director Aguilar states that he is open to the idea and emphasizes the importance of establishing a procedure. He states that the office will provide a proposed procedure for communications by the next meeting.

Board member Owens notes that Board member Leftwich's question can loop into item 9.h. which is a request for support for a budget allocation for a communication specialist. She expresses her interest to discuss it as part of that item.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore reported:

- He apologizes for being absent at the April 11th meeting due to unforeseen circumstances. He thanks Vice Chair Harris for her work in running the meeting.
- He attended Council's Public Safety Policy Committee with DPA Aguilar and Policy Analyst Murillo. He states that he felt that there was confusion during the meeting and that expectations were not clear. He states that he and ODP staff was under the impression that they would be answering questions about their supplemental memo but that was not the case.
 - o Director Aguilar notes that this is also a learning experience for the PAB and ODP. The office will continue to closely monitor the Committees agendas so that the Board is prepared for future discussions.

7. CHIEF OF POLICE'S REPORT

Captain Durbin reported:

- He reports that the recruiting for additional officers and dispatchers has been making positive progress. A few officers and dispatchers are currently in the background investigation process. The department hopes to get six recruits to join the upcoming police academy in July.
- Hiring lateral officers continues to be a challenging task. A nearby agency is now offering \$75,000 incentives to attract lateral officers. The introduction of these incentives has further increased the competition for recruiting lateral officers.
- He reports on various cases of interest since the last PAB regular meeting.
- He adds to the DPA and Chair's report on the pending policies. He notes the policies will go before the Council on May 23rd. The Controlled Equipment report will be in early June.
- The BPD has updated the Transparency Hub to include new traffic safety features.
- Regarding the officer that recently left the department, Captain Durbin notes that an exit interview was conducted to determine the reason for leaving the profession.

He notes that the officer left the department to support his partner's profession and had a potential interest in pursuing a law degree.

- Regarding the quarterly audit questions previously posed, he reports that an officer can only be audited once a year.
- He states that the department is working on appointing someone to the Body-Worn Camera subcommittee. Captain Okie will be on that subcommittee given his background on the topic.

Q&A

- Q1: Board member Leftwich ask about BPD's relationship with the Apple store on 4th Street. Were these extra-duty employment cutbacks a result of staffing shortages?
- A1: Yes, staffing shortages have played a role. There is also a policy currently in the late stage that would address extra duty employment that will update the contract and application for those interested in contracting the police department.
- Q2: Board member Leftwich reiterates her request for a BPD liaison to the Board to help with communications between the Interim Chief and the Board.
- A2: The Interim Chief is still considering this request.
- Q3: Board member Owens, are officers working mandatory overtime? If so, how long have they been doing that?
- A3: The Department has been able to limit that. Mandatory overtime has been limited to the summer and vacation policies have been tightened up. The department hopes to not have to depend on mandatory overtime this summer.
- Q4: Director Aguilar ask about a large police presence at Berkeley High the previous day and would like to know more context, if possible.
- A4: Lt. Reece informs Director Aguilar that it was a response to an individual with a mental health-related issue who was acting aggressively around the premises of the school.
- Q5: Director Aguilar ask if the BPD has noticed any changes in criminal activity with the recent changes in the beat system.
- A5: It is too early to determine the impacts of the changes. Reducing the beats makes the role of supervisors more manageable and allows the department to use staff more efficiently at the current staffing levels.
- Q6: Director Aguilar who the best contact within the BPD recruitment team would be for any member of the public interested in learning more about working for the BPD.
- A6: Lt. Turner and Sgt. Jung would be able to answer questions from interested candidates.

8. SUBCOMMITTEE REPORTS (DISCUSSION AND ACTION) *

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

- a. Policy and Practices Relating to the Downtown Task Force and Bike Unit Allegations

The subcommittee continues to gather information. There are no new updates at this moment.

- b. Body-Worn Camera Policy

Board member Levine notes that the BWC has met and they are working on a future meeting. They have extended an invitation to the BPD so that they can provide insight into the current policies.

- c. Conflict of Interest

The subcommittee has met a few times. Further updates will be provided as part of Item 9.c.

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

9. NEW BUSINESS (DISCUSSION AND ACTION)

- a. Discussion on the proposal to maintain the display of the land acknowledgment on PAB meeting materials and recite it in its entirety during the initial Regular PAB Meeting of the month.

Motion to accept the proposal to continue displaying the land acknowledgment on PAB meeting materials but only recite it in its entirety during the initial Regular PAB Meeting of the month.

Moved/Second (Owens/Levine) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

- b. Recommendation to Cancel July 25th Regular Meeting to avoid conflicting with the City Council’s Regular Meeting.

Motion to cancel July 25th regular meeting to avoid a conflicting meeting with the City Council’s regular meeting.

This motion was withdrawn by Board member Levine.

Motion to table the item and revisit the topic of canceling the July 25th regular meeting at the July 12th regular meeting.

Moved/Second (Owens/Leftwich) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

- c. Review of letter requesting documents and other information regarding the determination of a conflict of interest by the city attorney, as proposed by the Conflict of Interest Subcommittee.

Motion to accept the letter drafted by the Conflict of Interest Subcommittee requesting documents and other information regarding the determination of a conflict of interest by the city attorney

Moved/Second (Levine/Moore) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

d. Clarification and Discussion on the Communication of Attorney-Client Privileged Documents and Information.

- Board member Owens states that she wants to discuss what information can be shared and what can't be shared concerning CAO guidance. She would like to have more guidance on this topic to be able to increase transparency with the public.
- Board member Levine states that part of the Conflict of Interest Subcommittee's work is to address these topics. She hopes that the communication will improve and some of these issues are clarified.
- DCA Hylas states that the CAO is working on a memo. He notes that he does not have enough information at the moment but will pass along the Board's concerns.

e. Notice of Policy Complaint No. 2023-PR-0002.

- Director Aguilar presents the policy complaint to the Board and provides the background leading up to that presentation.
- Director Aguilar provides the opportunity for the complainant to address the Board but they were not present.
- Board members engage in a discussion about whether there is enough information to initiate a policy complaint and whether there are policies related to the expressed concerns within the complaint.
- Chair Moore asks Lt. Reece if there are any protocols regarding the general department email. Lt. Reece informs the Board that although there are policies that speak on email policies for specific officers, he is not aware of the general department email.

Motion to direct staff to conduct further inquiry into the content of the complaint before a decision is made.

Moved/Second (Owens/Leftwich) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

- f. Discussion concerning the memo from DPA Aguilar to Council titled “Delays in ODPa Work Production due to BPD Non-Adherence to Charter Deadlines.”
- Director Aguilar provides the context behind his memo.
 - o He informs the Board that his memo originated from an information request by Councilmember Harrison before the Council’s special meeting on April 13th where they discussed the appointment of the Fire Chief and Police Chief.
 - o The initial memorandum was subsequently shared with the entire Council.
 - o The Interim Chief raised concerns about the content of the initial memorandum.
 - o Director Aguilar and Interim Chief Louis have since discussed some of these concerns.
 - o A second memo was issued by Director Aguilar to clarify the content of the initial memo and provide guidance on how to interpret it.
- g. Recommendation to establish a subcommittee dedicated to reviewing Charter Section 125.
 - Director Aguilar reported that he regularly attends check-in meetings with the Mayor's office. During one of these meetings, the concerns and feedback from various stakeholders regarding Section 125 of the City Charter and its practical implications were discussed. That discussion led to the recommendation for the Board to consider establishing a subcommittee to review the charter and flag sections that have caused concerns.
 - Board member Owens expressed support for the idea and emphasized the importance of including all stakeholders in the conversation.
 - Board member Leftwich suggested that it might be more productive if the review starts with the Board before involving other stakeholders.
 - Board member Levine noted that reaching a consensus may be difficult.
 - Chair Moore expressed optimism about being able to accomplish the task.

Motion to establish a subcommittee dedicated to reviewing Charter Section 125.

Moved/Second (Owens/Moore) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

- h. Recommendation for a budget allocation for additional staff.
 - i. Investigator
 - ii. Communications Specialist
- Director Aguilar provides the context for his request. He states that the requested staffing is to help the Board and ODPa to meet their charter duties such as increased community outreach and the completion of timely investigations.

- Board member Leftwich asks whether these requested positions are aligned with the current needs of the office. She specifically inquires whether the office could potentially benefit more from an additional policy analyst.
- Director Aguilar states that these two additional positions would address the current needs of the office. The Director notes that staff currently take on many different roles within the office due to current staffing levels. With the two requested roles, staff would be able to streamline their work and better support the Board.
- Board member Owens states she is unsure if there is a need for a second investigator but sees the need for someone who can support both the full-time investigator and the policy analyst. Regarding the communication specialist, she believes it is a good idea and would greatly support communication with the community. Director Aguilar states that he is open to the idea of a flexible position.
- Board member Owens states that it is important for the office to be flexible given its small size.

Motion to support the Director’s request for a budget allocation for additional ODPa staff.

Moved/Second (Owens/Moore) **Motion Carried by unanimous consent.**

Ayes: Leftwich, Levine, Moore, and Owens.

Noes: None

Abstain: None

Absent: Calavita, Harris

10. TRAINING ON *GRAHAM V. CONNOR* – FLETC-TALKS

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

- Due to technical difficulties, the video was not played and was postponed to the next meeting. However, Director Aguilar provided a brief overview of FLETC-Talks and *Graham v. Connor*.

11. PUBLIC COMMENT

- 1 speaker.
 - o Speaker 1: States that he is very impressed with the work of the Board and thanks Board members for their commitment.

CLOSED SESSION

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

12. CASE UPDATES

- Director Aguilar updates the Board on the ODPAs current cases.

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

- Chair Moore announces the closed-session actions.

14. ADJOURNMENT

Motion to adjourn the meeting.
Moved/Second (Owens/Leftwich) **By general consent, the meeting was adjourned at 8:51 p.m.**

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

Jayson Wechter, ODPa Investigator



Jayson Wechter has over 40 years of investigative experience in the public and private sector. In 1982, he worked on the community-based campaign to create San Francisco's Office of Citizen Complaints (OCC), now known as the Department of Police Accountability. He began working at the OCC on its first day of operation in 1983 as a supervising investigator. While there, he established the first-in-the-nation oversight agency program monitoring police handling of protests. He also wrote OCC's first recommended change to San Francisco Police Department policy, mandating that officers display their star numbers in large, easy to read numerals on their crowd control helmets.

After leaving the OCC, Mr. Wechter worked as an investigator for the San Francisco Public Defender's Office and as a licensed private investigator specializing in civil litigation, criminal defense, and workplace investigations.

Mr. Wechter returned to the OCC in 1998. Over the next 19 years, he conducted hundreds of complaint investigations, including officer-involved shootings, serious uses of force, and allegations of biased-based policing. He designed the OCC's training program for new investigators and wrote many of the criteria used to evaluate investigator performance. He also served as the SEIU 1021 union shop steward for the OCC's investigators and administrative staff.

From 2020 through 2022, Mr. Wechter worked for the Oakland Community Police Review Agency, where he conducted a high-level investigation of the Oakland Police Department's handling of the George Floyd-related protests in May-June 2020, and was a supervising Complaint Investigator.

Mr. Wechter has been an active member of the National Association for Civilian Oversight of Law Enforcement (NACOLE) since 2003 and received its Contribution to Oversight Award in 2022. He currently serves on NACOLE's Board of Directors (and previously served in this capacity from 2007 to 2014). He is the current chair of NACOLE's Training, Education and Standards committee, which produces webinars for the oversight community. He wrote NACOLE's Qualification Standards for Oversight Investigators and Supervising Investigators and drafted much of its Recommended Training for Board and Commission Members. He played a major role in writing NACOLE's Code of Ethics, which has been adopted by dozens of oversight agencies around the United States.

Mr. Wechter has conducted trainings and delivered presentations at numerous NACOLE conferences since 2004 and has done training on effective oversight practices for board and commission members, elected officials, and community members in Charlottesville and Arlington County Virginia, Burlington Vermont, San Diego, Cedar Rapids and North Miami Beach.

Mr. Wechter earned the Certified Practitioner of Oversight designation from NACOLE. He is also a Certified Legal Investigator, Certified Criminal Defense Investigator, a Certified Force Science Analyst, and an Association of Workplace Investigators (AWI) Certificate Holder.

Jayson graduated from Stony Brook University in New York with a bachelor's degree in anthropology and a minor in journalism and worked as a freelance writer and journalist before becoming an investigator.

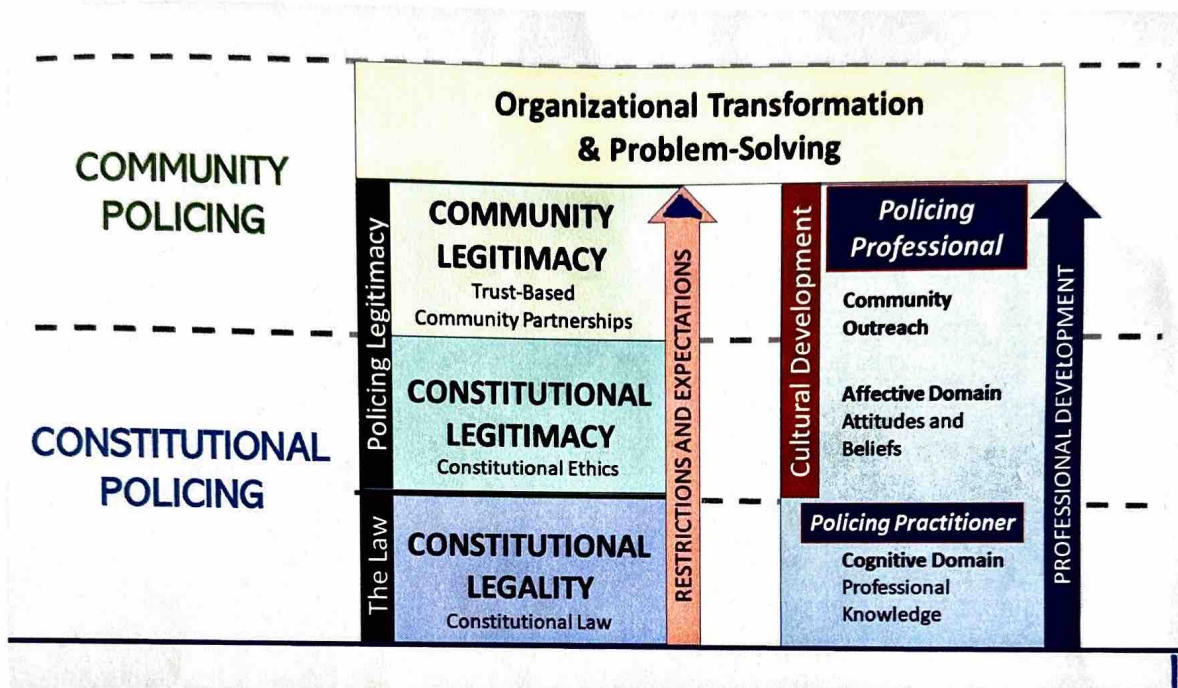


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**THE INSTITUTE FOR
CONSTITUTIONAL POLICING**

THE ICP CONSTITUTIONAL POLICING MODEL

by Bruce-Alan Barnard, JD



1. THE ICP CONSTITUTIONAL MODEL – AN OVERVIEW

Constitutional Legality means following the constitutional law applicable to law enforcement. It is the *letter of the law* and provides the basis for a *Policing Practitioner*. It requires professional knowledge of the applicable constitutional provisions that are learned in the cognitive domain.

Constitutional Legitimacy is the ethical dimension of Constitutional Policing that goes beyond legality. It is based on the *spirit of the law* and recognizes the guardian role of the police officer as a protector of rights. Constitutional Legitimacy is essential for establishing trust in the exercise of police authority. Through cultural development in the affective domain, the officer develops attitudes and beliefs that create an appreciation for the incredible amount of trust place in them by the people they serve. Constitutional Legitimacy is what prevents the “lawful but awful” policing scenario.

Constitutional Policing is achieved as a result of combining Constitutional Legitimacy with Constitutional Legality. It is the difference between being a *Policing Practitioner* and a *Policing Professional*.

Policing Legitimacy is the legitimacy required for law enforcement officers to gain the trust, respect, and support of the people that they serve. It has two components: Constitutional Legitimacy and Community Legitimacy.

Community Legitimacy is the legitimacy beyond Constitutional Legitimacy that is required to build trust, respect, and cooperation within a specific community. Whereas Constitutional Legitimacy is equally applicable to all law enforcement officers, Community Legitimacy is unique to the law enforcement officers who serve a specific community. Community Legitimacy is the goal of Community Policing.

Community Policing is built upon the foundation of Constitutional Policing and recognizes the unique policing issues related to the cultural aspects and policing needs of a particular community. Community Policing efforts can vary greatly from one “community” (usually a municipality) to another.

Policing Practitioner is a sworn police officer who has received the minimum amount of training required to perform his/her law enforcement duties with constitutional legality.

Policing Professional is a sworn police officer who has the training and experience necessary to perform his/her law enforcement duties with policing legitimacy.

2. DEFINING CONSTITUTIONAL POLICING

Constitutional Legality

From the narrowly focused perspective of consent decrees and lawsuits, constitutional policing means following the legal requirements of the Constitution. Some consent decrees themselves often require “constitutional policing” which means policing practices that comply with the law. The City of Los Angeles Police Department was under one of the more famous consent decrees and they initially formed an “Office of Constitutional Policing” to ensure the legal requirements and obligations of the consent decree were met.

In a report sponsored by the Department of Justice – Community Oriented Policing Services (COPS) issued in April of 2015; the Police Executive Research Forum (PERF Report) stated that:

The term “constitutional policing” is often used in a limited context, in terms of deciding whether a certain policy or practice by a police department, or a particular officer’s actions in a certain situation, adhere to the requirements of the U.S. Constitution and state constitutions, as defined in opinions handed down by the courts.ⁱ

In the wake of consent decrees, police departments across the country redoubled training efforts to ensure officers had the requisite knowledge of constitutional law to

engage in “constitutional policing.” The focus of this training was typically on searches and seizures and use of force under the Fourth Amendment. Many public agencies and private organizations use the term “Constitutional Policing” in a purely legal context with a focus on consent decrees.ⁱⁱ

Constitutional Legitimacy – The Ethical Dimension

If Constitutional Policing is viewed in the limited context as simply the constitutional legality of police action, it can lead to situations where the police action is constitutionally permissible, but not legitimate in the eyes of society. This is the essence of the “lawful but awful” policing phenomenon and it has become especially prevalent in use of force situations. It has become clear that police need to do more than follow the *letter* of the law, they need to adhere to and follow the *spirit* of the law. Constitutional legality alone is not enough. Police actions must also be *legitimate*. The term “legitimacy” implies there is a societal judgment regarding police actions in addition to the “legality” judgments made by the courts. While this opens the door to confusion over the use of the term “legitimacy,” it need not hamper the development of the meaning of constitutional policing in the broader context.

There is a growing belief that constitutional policing is not just about enforcing the law in a manner consistent with the Constitution. Rather, it is about respecting and protecting the constitutional rights of the people. Warriors fight enemies, but guardians protect and serve. This is constitutional policing in the broader sense. As Retired Madison Wisconsin Police Chief Noble Wray stated in the 2015 PERF report:

What we need to understand is that ‘constitutional policing’ is both foundational and aspirational for the police. The Constitution, in other words, provides both the basic legal framework within which we operate and the larger ethos which we strive to embody.ⁱⁱⁱ

This declaration acknowledges the additional component in the broader definition of constitutional policing beyond mere legality. In the 21st Century, constitutional legality alone is not enough. Police actions must also be constitutionally ethical to be legitimate. Police officer actions must embody the spirit of the Constitution and not just the letter of the law. **Legality defines what a police officer can do, ethics-based legitimacy defines what a police officer should do.** For example, while the use of force in a particular situation might be constitutionally permissible, that doesn’t mean the use of force is required or even desired. De-escalation or other use of force alternatives might be the more appropriate course of action. Under the broader concept of constitutional policing, the question isn’t: “Can the officer do this?” Rather, the question is: “Should the officer do this?” In this regard, there is an ethical component in addition to the legal component of constitutional policing that determines what we refer to as “Constitutional Legitimacy.”

There appears to be some degree of confusion surrounding the concept of constitutional policing as it relates to policing legitimacy. In the PERF Report, the conference committee suggested:

Thus, constitutional policing and legitimacy in policing are related concepts, but they are not the same thing. Constitutional policing is necessary but not sufficient; it is a baseline standard. If a police department engages in unconstitutional policing, it can be taken to court and forced to change its policies or practices. And a court will state, one way or the other, whether a given policy or practice is constitutional or unconstitutional.^{iv}

The problem with this statement is that it considers constitutional policing only from a position of legality without an ethical component. The committee then goes on to provide its definition of legitimacy:

The policing profession has paid a great deal of attention in recent years to the concept of legitimacy. Legitimacy is the extent to which the community believes that police actions are “appropriate, proper, and just.” If the police have a high level of perceived legitimacy in a community, members of the community tend to be more willing to cooperate with the police and to accept the outcome of their interactions with the police. As a result, legitimacy is important not only for its own sake, but also because success in achieving key goals (such as reducing crime rates) can depend largely on whether the community supports the police.^v

In this statement of legitimacy by PERF, there is only one type of legitimacy. This is represented as “Community Legitimacy” in the ICP Constitutional Policing Model. This is the legitimacy that is required for community policing separate and apart from constitutional policing. While their statement is correct, the PERF statement is incomplete because it doesn’t recognize the ethical component of constitutional policing that determines the legitimacy at the broader level of constitutional policing. In the ICP Constitutional Policing Model, this dilemma is rectified through the recognition that there are two levels of Policing Legitimacy: Constitutional Legitimacy and Community Legitimacy.

Community Legitimacy is the legitimacy from a particular community that is applicable to law enforcement in that community. It is essential to community policing. While constitutional policing is a benchmark for all law enforcement officers, community policing goes beyond Constitutional Policing and is tailored to the unique needs and concerns of that particular community. Constitutional policing (including Constitutional Legitimacy) should be the same for the 800+ law enforcement officers of the Orlando Police Department as it is for the 3 law enforcement officers of the Eastport, Maine Police Department. But the Community Policing (including Community Legitimacy) policies and concerns will be drastically different between the two departments.

Constitutional Legitimacy is an essential part of constitutional policing as fully outlined above. Constitutional Legitimacy applies to every law enforcement officer across the country whether the LEO is local, state, tribal, or federal. This is because the Constitution provides the baseline for the actions of every LEO. Constitutional Legitimacy is a general broad-based legitimacy that recognizes and embodies the spirit of the Constitution. This legitimacy is what overcomes the “lawful but awful” actions of LEOs.

By acknowledging Constitutional Legitimacy and Community Legitimacy as two overlapping but distinct bases of Policing Legitimacy, we can better understand and apply the concept of constitutional policing to modern police practices.

3. CONSTITUTIONAL POLICING AS THE FOUNDATION FOR COMMUNITY POLICING

If constitutional policing is viewed as distinct from community policing, the question then becomes: What is community policing and what is the relationship between it and constitutional policing?

The Department of Justice defines community policing as:

“... a philosophy that promotes organizational strategies which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”^{vi}

Community policing is about partnerships between the police department and the community it serves. There can be no partnerships without trust, there can be no trust without respect, there can be no respect without Policing Legitimacy, and there can be no Policing Legitimacy without constitutional policing. As stated in the PERF Report:

Constitutional policing, therefore, is the foundation of community policing. It is impossible for law enforcement agencies to form positive and productive relationships with the communities they serve if those communities do not trust the police, or if the communities do not believe that the police see their mission as protecting civil rights as well as public safety.^{vii}

Simply stated, Constitutional Policing is the foundation upon which the structure of Community Policing is built. If either constitutional legality or constitutional legitimacy are absent, the trust will be absent which will thwart community policing efforts. Accordingly, a robust and effective constitutional policing program is essential to establish the legitimacy required for a community policing initiative to be viable in the short-term and sustainable in the long-term. Understanding and embracing the

broader concept of constitutional policing is the necessary first step in establishing a constitutional policing policy. At a minimum, a Constitutional Policing program should include the training required in both the cognitive and affective domains to ensure all officers have the knowledge upon which to make decisions (implementation) as well as the mechanisms required to identify conduct which does not comply with the department's Constitutional Policing policy (accountability).

4. CONSTITUTIONAL POLICING TRAINING

Standard Law Enforcement Training

There currently several stages at which law enforcement officers typically receive training: initial training at a law enforcement academy, qualification training provided by the hiring agency, periodic or refresher training, and professional development training required for career advancement. Although the levels and extent of training in each of these stages can vary greatly depending on state and agency, there is a typical progression to current law enforcement training practices.

The initial academy training is typically required for a law enforcement officer to be sworn and credentialed. Academic training has a heavy emphasis on constitutional legality which is taught exclusively in the cognitive domain. This is true at both the state and federal levels. Once on the job, the new officer undergoes additional agency-specific training and qualification. The initial training and qualification training typically provides the minimum level of training necessary to turn a recruit into a *Policing Practitioner*.

Constitutional legality is the primary focus of initial law enforcement officer training for a very good reason: law enforcement officers do not want to get sued or prosecuted and law enforcement agencies do not want to end up under a United States Department of Justice (DoJ) consent decree after a Patterns and Practices Investigation finds that officers are engaged in unlawful law enforcement practices. Agencies often develop policies that are intended to provide the training required to prevent "training gaps" that are often the root cause of unlawful police practices.

The Institute for Constitutional Professional Policing Program

The Institute for Constitutional Policing (ICP) is a consortium of highly-qualified law enforcement training professionals who are dedicated to providing law enforcement officers the training necessary to become *Policing Professionals*. The *ICP Professional Policing Program* is specifically designed to provide this training with comprehensive courses that contain learning objectives and assessments in both the cognitive and affective learning domains and cover all of the topics required for instruction in both constitutional legality and constitutional legitimacy.

Here is a list of the proposed courses in the *ICP Professional Policing Program*:

PART 1. CONSTITUTIONAL LEGALITY – THE LEGAL REQUIREMENTS

- Fourth Amendment - Search and Seizure Law
- Fifth Amendment - Self-Incrimination and Due Process
- Sixth Amendment - Right to Counsel
- Eighth Amendment - Cruel and Unusual Punishment
- Fourteenth Amendment - Due Process and Equal Protection
- First Amendment - Freedom of Speech, Press, and Peaceful Assembly
- Second Amendment – Emerging Issues in the Right to Bear Arms
- Use of Force, Duty to Intervene, Duty to Render Aid
- Officer Liability and Qualified Immunity
- Statutory Limitations and Considerations

PART 2. CONSTITUTIONAL LEGITIMACY – THE ETHICAL CONSIDERATIONS

- Proportional Response (Proportional Force and Alternatives to Force)
- Escalation Prevention Strategies and De-escalation Tactics
- Implicit Bias in Policing
- Critical Thinking
- Emotional Intelligence
- Ethical Leadership
- Policing Professionalism
- Legitimacy-based Policies and Procedures

PART 3. COMMUNITY LEGITIMACY – BUILDING TRUST IN THE COMMUNITY

- Cultural Awareness
- Officer as Guardian
- Community Policing Best Practices

5. INSTITUTE FOR CONSTITUTIONAL POLICING CONTRIBUTORS

The following individuals have played a significant role in the development of the Institute for Constitutional Policing:

Bruce-Alan Barnard, JD, LLM

Bruce-Alan Barnard is the architect of the ICP Constitutional Policing Model and is the ICP Director. He is currently serving as the Executive Director of the Office of Constitutional Policing and Policy at the Orlando Police Department in Orlando, Florida.

Bruce-Alan received a B.S. in Adult Education from Southern Illinois University, a Master's Degree in Business Administration (M.B.A.) from Auburn University, a law

degree (J.D.) from the University of Florida, and advanced law degree (LL.M.) from the University of Alabama.

Upon graduating from high school, Bruce-Alan joined the United States Navy for ten years conducting covert electronic surveillance on various fast-attack submarines in both the Atlantic and Pacific Fleets. Bruce-Alan was certified as an instructor and was designated "Master Training Specialist" during a tour as an instructor at the Naval Submarine School. He was honorably discharged to attend law school. After completing law school, Bruce-Alan was commissioned as a JAG and served ten years in the United States Air Force. In addition to prosecuting cases, he was certified as an USAF Legal Instructor by AETC and taught at the US Air Force Judge Advocate General's School. Bruce-Alan was also a Special United States Attorney prosecuting cases in the Middle District of Alabama.

Bruce-Alan retired from the Air Force in 2007 and accepted a position as a Legal Instructor at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. At FLETC, he was responsible for curriculum development and was the FLETC subject-matter expert for Search and Seizure Law and Electronic Surveillance Law. As an award-winning DHS Senior Legal Instructor, Bruce-Alan was certified to teach every legal course at FLETC in all basic and advanced programs. In 2018, Bruce-Alan retired from the Federal Law Enforcement Training Center.

Bruce-Alan is a member of the Florida Bar, IACP (Legal Section), the Florida Association of Police Attorneys, IADLEST, ILEETA, and NSA.

Lyla Zeidan, JD

Since July of 2012, Lyla has served as the Legal Program Manager for the Northern Virginia Criminal Justice Training Academy (NVCJTA) in Ashburn, Virginia. NVCJTA is a regional academy that conducts training for seventeen different police departments and sheriff offices throughout the Northern Virginia and DC area. Lyla teaches all of the legal classes to the basic recruit class. Prior to joining the Academy, Lyla served as an Assistant Commonwealth's Attorney and Senior Assistant Commonwealth's Attorney in Virginia Beach. Lyla was a prosecutor with Virginia Beach for almost 9 years.

Lyla is licensed to practice law in Virginia and Washington, DC. She is a member of many professional organizations, including the Fraternal Order of Police (FOP), the Virginia Association of Chiefs of Police (VACP), the International Association of Chiefs of Police (IACP) and the Legal Officers Section of the IACP (LOS), the D.C. Bar and Virginia State Bar and the Virginia Mediation Network (VMN). Lyla holds a Juris Doctor from Regent University School of Law in Virginia Beach. She graduated summa cum laude from East Tennessee State University with a Bachelor of Arts degree in Spanish and a Bachelor of Business Administration in Marketing.

Annette Quintana, JD

Annette Quintana is a retired government attorney and law enforcement officer. She is currently a member at Paragon Legal Services and Consulting, PLLC. Her practice area focuses on government grants, all areas of grant compliance, general government administration, lobbying and nonprofit organizational management.

A graduate of NOVA Southeastern University in Fort Lauderdale, Florida, Annette served as a sworn law enforcement officer and government administrator for over two decades; tasked with federal, state, local grants and state appropriations for a large municipality located within Miami- Dade County.

Annette is licensed to practice in the State of Florida, the United States District Court for the Middle District of Florida, and the United States District Court for the Southern District of Florida. She is a certified grant writer, certified grant manager, certified in Nonprofit Leadership by the University of Florida and still serves as a sworn law enforcement reserve officer.

Norman Conti, PhD

Norm is a Professor of Sociology at Duquesne University in Pittsburgh, Pennsylvania. Dr. Conti has a Ph.D. in Sociology from the University of Pittsburgh, an M.A. in Sociology from the University of Pittsburgh and a B.A. in Sociology/Administration of Justice, Cum Laude, from the University of Pittsburgh. Norm has received national acclaim for his program "Policing Inside-Out" through which Police Officers and prison inmates take the course in a cohort.

Poppi Ritacco, JD, LL.M.

Poppi Ritacco is the Legal Studies Program Coordinator at the University of Pittsburgh. Poppi received her B.A. degree from Carleton College and her law degree (J.D.) from Harvard. She also has an advanced law degree (LL.M.) in Criminal Law from the University of Buffalo.

Poppi is also a certified FLETC Senior Legal Instructor. An award-winning instructor, she taught every course in the legal block in all four FLETC Basic programs. Poppi was also the Chief Editor for the FLETC Legal Handbook. Prior to FLETC, she served as an Assistant District Attorney in Massachusetts from 2003 to 2007. From 2007 to 2009, she worked as an Assistant Attorney General in Washington D.C. Poppi is a member of the Massachusetts and Washington D.C. bars.

Jim McAdams, JD

Jim McAdams is a graduate of Davidson College in North Carolina, a cum laude graduate of the University of Miami School of Law, and a member of the Florida Bar. Before retiring from the United States Department of Justice in 2006, he spent 34 years in the federal court family, first as a United States Probation Officer in Miami, Florida, and then nearly 26 years as an Assistant United States Attorney (AUSA) in the Southern District of Florida (SDFL).

While an AUSA Jim served in the appellate and criminal trial divisions of the SDFL and in 1988 was appointed by the United States Attorney as Chief of the Narcotics Division for the SDFL. He was one of the four AUSA's who prosecuted Panamanian dictator Manuel Noriega. In 1992, Attorney General William Barr appointed him as the Acting United States Attorney for the Southern District of Florida. Attorney General Janet Reno appointed him in 1994 to be the law enforcement chairman of the Joint Intelligence Community & Law Enforcement Task Force and to serve as her Counsel for Intelligence Policy in which position, he oversaw the DOJ's Foreign Intelligence Surveillance Program.

For nearly 12 years from 2007 to 2019, Jim served as a FLETC Senior Legal Instructor where he was certified to instruct literally every legal course taught by FLETC. He also maintained the lesson plan and was primarily responsible for curriculum development in Electronic Surveillance Law and Constitutional Law.

Brian Iten, JD

Brian Iten is a police agency legal advisor for a west central Florida law enforcement agency of over 650 sworn officers. Since March of 2019, he has provided classroom instruction to state and local police officers at the National Computer Forensic Institute in Hoover, Alabama.

Brian served as a Circuit Court Judge for over 3 years in Florida's 12th Judicial Circuit, where he presided over a multitude of bench and jury trials, in both the felony and civil divisions. For the 21 years preceding his appointment to the bench, Brian was a state prosecutor in Manatee County, Florida. During his tenure as a prosecuting attorney, Brian regularly lectured to local police agencies, with a primary focus on search and seizure, and taught at seminars sponsored by the Institute of Police Technology and Management, the U.S. Department of Justice's Bureau of Justice Assistance, the Florida Council Against Sexual Violence, and the Florida Prosecuting Attorneys Association. He has tried over 100 criminal cases, including sexual batteries, armed robberies, and homicides. He has also served as an adjunct instructor at both State College of Florida and Manatee Technical College's Law Enforcement Academy.

Glenn Lipson, PhD

Dr. Lipson is an established Diplomate in Forensic Psychology. He was seasoned through his experiences working with law enforcement and criminals. The National Institute of Mental Health funded his doctoral Dissertation, which focused on *Post Traumatic Stress Disorder among Police Officers Who Responded to the San Ysidro Massacre in San Diego* (1984). On the heels of his dissertation, he went to work at the Federal Bureau of Prisons, ultimately being assigned as a staff psychologist to the United States Penitentiary at Leavenworth. While there he applied for and was awarded a post-doctoral fellowship at the famed Karl Menninger School of Psychiatry and Behavioral Health Sciences. Dr. Lipson was part of the Law and Psychiatry team from Menninger's that conducted an audit of the Nevada State Prison system that stemmed from a Federal Court Consent Decree. As a psychologist he was involved in high profile cases, including pharmaceuticals, toxic exposure and death penalty cases. He was ultimately appointed to a faculty position there teaching in the residency program and supervising interns. During this time, he consulted with the Kansas Department of Corrections, Washburn Law School, Topeka District Attorney and Police departments.

6. Institutional Capabilities and Skillsets – Talent Inventory

- Subject Matter Expertise in Constitutional Law and Constitutional Policing.
- Expertise in constitutional policing policy development.
- Expertise in constitutional policing data collection and analysis.
- Expertise in curriculum development and instructional design.
- Expertise in eLearning and mLearning (asynchronous) content development and SCORM and xAPI course packaging.
- Expertise in learning management system (LMS) programming maintenance.
- Expertise in the delivery of synchronous online training.
- Expertise in lesson plan maintenance.
- Expertise in research and technical writing.
- Expertise in podcasting, videocasting, and webinar production.

ⁱ Police Executive Research Forum. Constitutional Policing as a Cornerstone of Community Policing: A Report by the Police Executive Forum, April, 2015. Washington, DC: Office of Community Oriented Policing Services. Page 3.

ⁱⁱ For example, see: National Public Safety Partnership - Perspectives on Consent Decrees and Constitutional Policing—Session One (September 21, 2021) at <https://www.nationalpublicsafetypartnership.org/Consent-Decrees-Constitutional-Policing>

ⁱⁱⁱ PERF Report at page 3.

^{iv} Ibid.

^v Ibid.

^{vi} Retrieved from: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/community-policing-defined-0>

^{vii} PERF Report page 3.



CONSTITUTIONAL
POLICING
CONFERENCE
2023

STAFF REPORT FROM THE OFFICE OF THE DIRECTOR OF POLICE
ACCOUNTABILITY PRESENTED TO THE POLICE ACCOUNTABILITY BOARD

MAY 10, 2023

What is the Constitutional Policing Conference?

The Constitutional Policing Conference spans three and a half days, and presents a comprehensive look at the essential components of developing and implementing a successful Constitutional Policing program in a law enforcement agency.

Key Organizers

Bruce- Alan Barnard, JD, LLM

Former federal prosecutor and a retired FLETC Senior Legal Instructor who has trained over 30,000 law enforcement officers across the country in the last 20 years. Attended law school at the University of Florida where he received his Juris Doctor degree. After three years in private practice, Bruce was commissioned as a JAG in the United States Air Force. Bruce also spent four years as a Special Assistant United States Attorney before becoming a Senior Legal Instructor at the Federal Law Enforcement Training Center (FLETC). Bruce received numerous accolades as a Senior Instructor at FLETC culminating in the 2017 Department of Homeland Security OGC Trainer of the Year award prior to his retirement from FLETC in December 2017. Bruce is also an adjunct professor and has taught graduate and undergraduate legal classes for 13 universities and colleges over the last 22 years. In addition to his three undergraduate degrees and doctorate in law, Bruce also earned a Master of Business from Auburn University and an advanced law degree (LLM) from the University of Alabama. As well as being a curriculum development and instructional design expert, Bruce is a subject matter expert in the legal aspects of law enforcement, specializing in search and seizure law and electronic surveillance law.

Key Organizers

Lyla Zeidan, JD – Lead Instructor and Coordinator

Lyla is the Legal Program Manager and Legal Instructor for the Northern Virginia Criminal Justice Training Academy (NVCJTA) in Ashburn, Virginia. She assists the personal training instructors as well as the control tactics instructors. She conducts research and provides legal opinions that affect the law enforcement community. She also provides in-service training and prepares legal online training programs. In addition, she is a speaker for various events held by law enforcement agencies and organizations such as the National Organization of Black Law Enforcement Executives (NOBLE), the International Association of Chiefs of Police (IACP), and the Florida Police Legal Advisors Training Program (PLATP). Lastly, she is certified in critical incident stress management (CISM) and is a legal subject matter expert for the Virginia Department of Criminal Justice Services (DCJS). Prior to joining the Academy, Lyla served as an Assistant Commonwealth's Attorney and Senior Assistant Commonwealth's Attorney in Virginia Beach where she prosecuted several thousands of cases ranging from DUI to Homicide. In addition, she trained police officers as well as new attorneys.

Lyla holds a Juris Doctor from Regent University School of Law in Virginia Beach. She graduated summa cum laude from East Tennessee State University with a Bachelor of Arts degree in Spanish and a Bachelor of Business Administration in Marketing. Lyla is licensed to practice law in Virginia and Washington, DC. She is a member of many professional organizations, including the Fraternal Order of Police (FOP), the Virginia Association of Chiefs of Police (VACP), the International Association of Chiefs of Police (IACP) and the Legal Officers Section (LOS) of the IACP.

Course Presenters

Jack Cauley – Chief of Police, Castle Rock Police Department

Ashley Heiberger, JD – Police Practices Advisor and DoJ Consent Decree Monitor

Lyla Zeidan, JD - Legal Program Manager – Northern Virginia Criminal Justice Training Academy

Poppi Ritacco, JD, LLM - Legal Programs Coordinator University of Pittsburgh

Norman Conti, Ph.D. - Professor of Sociology – Duquesne University

Bruce-Alan Barnard, JD, LLM – Executive Director of Constitutional Policing, Orlando PD

Daniel Losey, JD – West Palm Beach Police Legal Advisor and DoJ Consent Decree Monitor

Israel Reyes, JD – Reyes Law Firm and former Circuit Court Judge

David Martin, MA - Data Science Director - Center for Policing Equity

Kevin Drummond, JD – Legal Advisor and Litigation Attorney for Police Unions

Mary Izadi, JD - Constitutional Policing Advisor, Orange County Sheriff's Department(CA)

Tuesday May 2 - Day 1 (0800-1700)

- Introduction and Overview
- What is Constitutional Policing? – Understanding the Paradigm Shift in Constitutional Policing
- Constitutional Legality – The Big Picture of the Policing Amendments
- The First Amendment and Social Media – The Consequences of Expression
- The Fourth Amendment – Understanding the Legal Fiction of Objective Reasonableness
- The Equal Protection Clause – What does it mean for law enforcement?

Wednesday May 3 - Day 2 (0800-1700)

- Brady and Giglio Issues – Prosecutors and Politics in Policing
- Building Cultural Bridges – Getting from Sympathy to Empathy
- Raising the Legality Bar – Lawsuits and Prosecutions Beyond Constitutional Bounds
- Use of Force - The Swinging Pendulum – Understanding the Legal Evolution of the Use of Force
- Working Under a Consent Decree – Observations from Consent Decree Monitors and Advisors

Thursday May 4 - Day 3 (0800-1700)

- Building Communities and Leaders – The One-By-One Policing Model
- Warriors to Guardians: Changing the Culture – Obstacles to a Mindset Change
- Implicit Bias: The Science – What do we really know?
- Implicit Bias and Use of Force – The Importance of Training and Officer Wellness
- Pretextual Traffic Stops and Proactive Policing – How the Supreme Court Enabled the Profiling Argument
- Benchmarking – Determining the Validity of Stop Data Conclusions

Friday May 5 - Day 4 (0800-1200)

- Building Trust – Eliminating “Lawful but Awful” Policing Practices and Policies
- Professionalism and Policing Unions – Understanding the Dichotomy
- Identifying and Overcoming Obstacles to Legitimacy – Identifying and Understanding the Barriers
- Recruiting, Training, Data, and Accountability – The Essential Components of an Agency Constitutional Policing Program

ODPA and other Civilian oversight Participation

DPA Aguilar and Investigator Wechter attended all thematic sessions and participated in additional networking activities during and after sessions.

ODPA was not alone in representing the oversight field. Practitioners from Fairfax County, Arlington County, and the City of Alexandria in Virginia also attended:

Richard Schott- Independent Policing Auditor for Fairfax County

Steven Richardson- Executive Director of the Fairfax County Civilian Review Panel

Mummi Ibrahim- Independent Policing Auditor for Arlington County

Kim Neal- Independent Policing Auditor for City of Alexandria

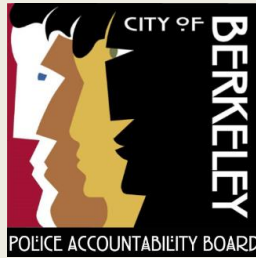
The importance of attending Constitutional Policing Conference

Attending the CPC allows us to...

1. **NETWORK:** Meet and learn from various law enforcement, legal professionals, and scholars dealing with policing issues from across the country.
2. **TRAIN/EDUCATE:** Gain insight into the current legal landscape as it relates to constitutional policing.
3. Learn about the best practices of other jurisdictions.
4. Share our experience as practitioners in the field.

Constitutional Policing Conference 2023

	Tuesday 2 May	Wednesday 3 May	Thursday 4 May	Friday 5 May
08 AM	08:00 AM Introduction and Overview (Barnard)	08:00 AM Brady and Giglio Issues Politics and Prosecutors (Izadi/Zeidan)	08:00 AM Building Communities and Leaders The One-By-One Policing Model (Chief Jack Cauley - Castle Rock PD)	08:00 AM Building Trust Eliminating "Lawful but Awful" Police Practices (Barnard)
09 AM	08:50 AM 09:00 AM What is Constitutional Policing? Understanding the Paradigm Shift in Constitutional Policing (Barnard)	08:50 AM 09:00 AM Building Cultural Bridges Getting from Sympathy to Empathy (Conti)		09:00 AM Professionalism and Policing Unions
10 AM	10:40 AM 11:00 AM Constitutional Legality The Big Picture of the Policing Amendments (Zeidan)	10:40 AM 11:00 AM Raising the Legality Bar Liability Beyond Constitutional Bounds (Barnard)	10:00 AM 10:10 AM Warriors to Guardians - Changing the Culture	10:00 AM Identifying and Overcoming Obstacles to Legitimacy (Barnard)
11 AM	12:00 PM LUNCH	12:00 PM LUNCH	12:00 PM LUNCH	11:00 AM Recruiting, Training, Data, and Accountability (Heiberger/Barnard)
12 PM	01:00 PM The First Amendment and Social Media (Izadi)	01:00 PM Use of Force - The Swinging Pendulum Understanding the Legal Evolution of the Use of Force (Heiberger)	01:00 PM Implicit Bias & Use of Force The Importance of Training and Officer Wellness (Ritacco)	
02 PM	02:20 PM 02:40 PM Say "Cheese!" Responding to Constitutional Auditors (Iten)	02:40 PM 03:00 PM Working Under a Consent Decree Observations and Recommendations (Losey/Reyes)	01:50 PM 02:00 PM Pretextual Traffic Stops and Proactive Policing How the Supreme Court Enabled the Profiling Arguments (Barnard)	
03 PM	04:00 PM 04:10 PM The Fourth Amendment The Legal Fiction of Objective Reasonableness (Barnard)		03:40 PM 04:00 PM Benchmarking Making Sense of the Data (Martin)	
04 PM				
05 PM				
06 PM	06:00 PM SOCIAL MIXER Rising Tide Tap and Table 523 Glen Cheek Drive Port Canveral, Florida			
07 PM				




SUBCOMMITTEES LIST
04-19-2023

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21 Renewed 6-22-22	Calavita Leftwich Owens <u>Public members:</u> Kitt Saginor		Lt. Dan Montgomery
Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 9-14-22	Calavita Moore Harris <u>Public members:</u> George Lippman Elliot Halpern	Calavita	Sgt. Peter Lee
Mental Health Response Formed 11-10-21 Scope expanded 3-9-22	Harris Levine <u>Public members:</u> Elena Auerbach		Sgt. Joe LeDoux
Fixed Surveillance Cameras (Policy 351) Formed 2-9-22	Calavita		
Controlled Equipment Use & Reporting Formed 5-11-22	Moore	Moore	Sgt. Peter Lee Sgt. Joe LeDoux
Chief of Police Process Formed 9-30-22	Leftwich Levine Moore		

Drone Use Policy Formed 11-9-22	Moore Levine		
Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22	Calavita Moore Owens	Owens	
Body-Worn Camera Policy Formed 03-15-23	Harris Leftwich Levine	Harris	
Conflict of Interest Formed 03-29-23	Moore Leftwich Levine	Leftwich	



MEMORANDUM

DATE: May 05, 2023
TO: Police Accountability Board
FROM: Hansel A. Aguilar, Director of Police Accountability 
RE: Proposal for Internal and External Communications Policies for the Police Accountability Board

Pursuant to our regular Board meeting discussion from April 26, 2023, I am proposing the creation of comprehensive internal and external communications protocols for the Police Accountability Board (PAB) and the Office of the Director of Police Accountability (ODPA). These protocols will establish guidelines for how the PAB and the ODPA will communicate with each other, as well as with external stakeholders, including the public, media, and other government agencies.

The proposed protocols will outline the division of labor between the ODPA and the PAB. This division of labor will clarify roles and responsibilities and help ensure that communication is clear, timely, and effective.

Internal Communications Protocols:

The internal communications protocols will guide how the PAB and ODPA will communicate with each other. This policy will outline the following:

Communication channels: The guidelines will identify the communication channels that will be used for various types of communication, including email, phone, and in-person meetings.

Communication procedures: The guidelines will outline the procedures for requesting and scheduling subcommittee meetings and setting agendas for subcommittee meetings.

Information sharing: The guidelines will outline the types of information that will be shared by the PAB and the ODPA with other stakeholders. It will also establish protocols for how information will be shared, including confidentiality requirements.

External Communications Protocols:

The external communications protocols will establish guidelines and procedures for how the PAB and ODPA will communicate with external stakeholders, including the public, media, and other government agencies. These protocols will outline the following:

Spokesperson: The guidelines will identify the spokesperson for the PAB and the ODPA. It will also establish procedures for how the spokesperson will be identified and trained.

Communication channels: The guidelines will identify the communication channels that will be used for various types of communication, including social media, press releases, and public statements.

Information sharing: The guidelines will establish protocols for how information will be shared with external stakeholders, including confidentiality requirements and procedures for responding to requests for information.

In conclusion, the creation of comprehensive internal and external communications policies for the Police Accountability Board will help ensure that communication is clear, timely, and effective. The protocols will establish the guidelines for how the Police Accountability Board and the Office of the Director of the Police Accountability will communicate with each other, as well as with external stakeholders. By implementing these policies, we can help ensure transparency, accountability, and effective communication, which are essential for building trust with the community we serve. To guide the discussion, the Board may wish to consider the Management Center's resources as outlined in the attached document.

Attachments: Communications protocols template

Consider the following guidance from the Management Center: <https://www.managementcenter.org/>

Communications protocols

This example for a communications department shows priority areas and roles. Because this team often uses [MOCHA](#) for specific projects, the team also blends some MOCHA language into their division of labor.

	Communications Director	Digital Director	Communications Manager	Curriculum Manager
	Reports to Deputy Director	Reports to Communications Director		
1) External Communications	<p>Overall manager/approver</p> <p>Owner:</p> <ul style="list-style-type: none"> comms strategy earned media book major projects <p>Helper: newsletter content and editing as needed</p>	<p>Owner:</p> <ul style="list-style-type: none"> website social media & digital campaign strategy data strategy and audience targeting <p>Consulted:</p> <ul style="list-style-type: none"> comms strategy <p>Helper: major projects</p>	<p>Owner:</p> <ul style="list-style-type: none"> editing and publishing across platforms CRM and CMS data tracking & automations <p>Consulted:</p> <ul style="list-style-type: none"> social media and website <p>Helper: content, media monitoring</p>	<p>Owner:</p> <ul style="list-style-type: none"> resources library bridge b/t Comms & Program teams <p>Consulted: comms strategy, book, website</p> <p>Helper: training-related newsletter and social media</p>
2) Internal Communication & Systems	<p>Overall manager/approver</p> <p>Owner: internal systems strategy and content</p> <p>Helper: reply to inquiries</p>	<p>Owner:</p> <ul style="list-style-type: none"> media kits digital assets intranet IA <p>Helper: reply to inquiries</p>	<p>Owner:</p> <ul style="list-style-type: none"> tracking & dispatching internal inquiries maintaining documentation systems intranet logistics 	<p>Owner:</p> <ul style="list-style-type: none"> training curricula tools & templates for program team

MOCHA is a tool for establishing **clear roles** on projects. In most settings, projects involve contributions from multiple people. This is especially true in the progressive and education equity sectors where we strive to collaborate, build coalitions, and seek perspective from communities most impacted by the issues we work on. Multiple people working together can generate greater participation, more equitable outcomes, and broader impact. And if we're being honest, it can also lead to confusion. The MOCHA model clarifies who's responsible for what and reduces the chance of hidden labor by spelling out each person's contributions.

MOCHA stands for:

- **Manager:** Supports and holds owner accountable through delegation. Serves as a resource, shares feedback, asks probing questions, reviews progress, and intervenes if the work is off-track. This person may or may not be the owner's supervisor.
- **Owner:** Has overall responsibility for driving the project forward and coordinating steps to accomplish the goal. Ensures all the work gets done (directly or with helpers) and involves others (consults) in a meaningful way. There should only be one owner.
- **Consulted:** Provides input and perspective. May share resources or referrals.
- **Helper:** Implements aspects of the work and actively contributes to project success. The helper may own a significant area of work with its own MOCHA (we call this a cascading MOCHA).
- **Approver:** Signs off on the final product or key decisions. May be the owner or manager, though it can also be a person or group with a clear decision-making role on the project.

Imagine that your organization is about to host its annual fundraising dinner. Here's what the MOCHA looks like:

- You're the **owner**, which means that you are responsible for making sure the dinner goes smoothly and you hit your fundraising goal for the event.
- The **manager** in the MOCHA is a colleague with experience planning large events. They provide guidance and approve the overall plan.
- Your **helpers** are the marketing assistant, events coordinator, and development manager. The development manager owns the fundraising pitch portion of the event. Your events coordinator handles program logistics including confirmations with speakers, performers, and audio/visual. The marketing assistant is responsible for tracking RSVPs, recruiting attendees, and sending reminders. When there are concerns about low RSVPs two weeks out, they're empowered to problem-solve by making phone calls to shore up "maybes." Each helper has their own cascading MOCHA for their stream of work.
- Your **consulteds** include your manager, the communications director, and the program director.
- Your ED is the **final approver** on the budget and you are the final approver on the program.

When to MOCHA

Some people want to MOCHA everything, and while it might be fun (for some of you), it's not necessary. We recommend using MOCHA when you're **solving a specific problem** or working with **a project where roles and points of engagement aren't obvious**. Good times to MOCHA include:

You notice...**The Context****How to Use MOCHA**

<p>Balls or details are getting dropped (or people are tripping over each other duplicating effort)</p>	<p>You're part of an education equity coalition that meets quarterly to improve college readiness outcomes across six high schools. You've been rotating meeting facilitation, applying for grants together, and planning for a lobby day. A few big things have fallen through the cracks, and the group is unclear on who's supposed schedule with key legislators.</p>	<p>Use MOCHA to break the work into subcategories and create a workflow for the year. One coalition partner owns agendas, another helps with scheduling and documentation. Another partner owns lobby day logistics and helps the coalition get explicit about leveraging relationships with legislators when it comes time to schedule meetings. Ensure no one partner carries too much burden, define concrete roles for helpers, and schedule check-in points for partners to consult.</p>
<p>The project is complex and your helpers need helpers</p>	<p>Your data manager is a helper on a large grant project, owned by the Development Director. Their area of work involves coordinating data entry temps, wrangling data from four departments, and gathering info from 12 member organizations.</p>	<p>Use a cascading MOCHA to clarify all the parts your data manager "owns," including who they will rely on to help and consult, and which approvals go through their supervisor (the Ops Director) and which go to the project owner on the development side.</p>
<p>There's a relay involved with different phases of a project</p>	<p>Your annual report gets worked on over three months, but the same person doesn't need to own every stage. The Managing Director will remain the manager/approver and sets up the timeline. Then three people will own different phases with a team of helpers and consults: Program director owns content then passes to operations director for financial report. Then, the communications manager handles all aspects of design, editing, and distribution (with the other owners as consults in the final stage).</p>	<p>Use MOCHA to get clarity about each phase so everyone can see each other's work sync up and understand who to communicate with (next person in the relay) if there are any delays.</p>
<p>Your current division of labor is creating inequities in process, participation, or outcomes</p>	<p>Your coalition includes four people with the knowledge and skill to draft a comprehensive policy brief before the upcoming session. Often the bigger organizations take on the work because they have more staff capacity. That happens to be true this time, as well, but you want to be intentional that writing the brief doesn't mean "having more say."</p>	<p>Use MOCHA to co-design a process that ensures grassroots groups are consulted to shape core messages at the beginning. Identify at least one approver to represent the smaller groups in the coalition, while the organization with capacity assigns staff to own writing and editing.</p>

Division of Labor | Team

	Executive Director	Chair	Board Members	Committees	Advisory Panels
	Reports to City Manager	Reports to City Council via Board Chair			
1) External Communications	Serves as the single point of contact (SPOC) for all external matters where no conflict exists. A SPOC is one person or department that handles all requests and inquiries	Sent to external partners/stakeholders via ED	Sent to Chair directly from board members except in cases where a community member requests specific contact on a sensitive matter with a board member	Sent to Chair via Committee chair	Sent to Chair via AP liaison
2) Internal Communication & Systems	Serves as the single point of contact (SPOC) for all internal matters where no conflict exists. A SPOC is one person or department that handles all requests and inquiries	Sent to internal partners/stakeholders via ED	Sent to Chair directly from board members except in cases where a stakeholder requests specific contact on a sensitive matter with a board member	Sent to Chair via Committee chair	Sent to Chair via AP liaison



MEMORANDUM

DATE: May 05, 2023
TO: Police Accountability Board
FROM: Hansel A. Aguilar, Director of Police Accountability
Jose D. Murillo, Policy Analyst
RE: Proposed Guidelines for PAB Subcommittees

The Office of the Director of Police Accountability (ODPA) has played a crucial role in supporting the Police Accountability Board (PAB) in fulfilling its obligations under the Berkeley City Charter. One of the ways in which the ODPA has provided support is by assisting in the organization of the PAB's regular, special, and subcommittee meetings. With an increasing number of subcommittees and no increase in PAB/ODPA resources, there is a need to develop guidelines that would allow Board members and staff to optimize their resources and ensure consistency in how subcommittee meetings are conducted.

To address this need, the ODPA has proposed guidelines that aim to establish a framework for subcommittee meetings. These guidelines would promote consistency while still allowing for flexibility, which is necessary given the varied focus of subcommittees. By providing a standard guide for conducting meetings, the proposed guidelines would enable the subcommittees to operate more effectively and transparently. Furthermore, the adoption of the guidelines would alleviate some of the burdens on the ODPA's staff by providing clarity on what is expected of them during the meeting process.

The proposed guidelines have been developed in response to various considerations, including current staffing levels, data collection requirements, and the impending appointment of new members. By adopting these guidelines, the subcommittees would

be empowered to function more smoothly and autonomously, while also improving their productivity and enabling the PAB to better serve the community. The ODPa believes that these guidelines would be a valuable tool for the Board and would improve the functioning of subcommittees.

The ODPa recognizes the importance of collaboration and invites the Board to provide additional input on the proposed guidelines. The ODPa views this as an opportunity for the Board to contribute towards a process that works for everyone. As the ODPa is committed to continuously seeking ways to enhance the Board's effectiveness and alleviate its workload, the adoption of these guidelines is viewed as a logical first step toward achieving these goals.

Attachments: How to guide for PAB Subcommittees

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A How-to Guide for PAB Subcommittees

The purpose of this document is to provide guidance to the Police Accountability Board's (PAB) subcommittees to standardize their guidelines. This guidance is intended to help subcommittees operate smoothly, increase productivity, and better serve the public by providing a clear and organized process for conducting meetings.

Initial Subcommittee Meeting Guidelines

At the commencement of the first meeting for each subcommittee, the staff will provide guidance to the appointed members, leading them through the following steps:

1. **Reviewing the subcommittee's purpose:** The subcommittee should review its purpose and objectives, as well as any pertinent policies or regulations by which the subcommittee must operate under.
2. **Electing a subcommittee chair:** The subcommittee shall elect a chair who will serve as the intermediary between the full board, subcommittee, and relevant stakeholders.
3. **Establishing meeting guidelines:** The subcommittee should set up meeting guidelines, such as frequency of meetings, decision-making processes, minute-taking guidelines, and any other relevant matters.
4. **Discussing initial tasks:** The subcommittee should discuss any initial tasks that require attention, such as reviewing relevant documents, conducting research, or identifying key stakeholders.
5. **Creating a work plan:** The subcommittee should prepare a work plan outlining the specific tasks to be accomplished, who is accountable for each task, and the estimated timeline for completion.

In general, the inaugural subcommittee meeting is a crucial opportunity for members to agree on their purpose, objectives, and guidelines, and to initiate a collaborative effort towards accomplishing their goals.

General Subcommittee Meeting Guidelines

While subcommittee meetings are typically more flexible than those of the parent body, it is still important to maintain a certain level of structure to ensure that all necessary business is conducted efficiently and productively. This includes adhering to standard agendas, recording minutes, and assigning responsibility for action items. A structured approach also helps to ensure that all relevant information is captured and that accurate records are maintained. This can be particularly important when evaluating progress, communicating with stakeholders, and addressing any issues or challenges that arise. By employing a structured approach, subcommittees can improve their decision-making processes, facilitate coordination, and promote effective communication among all members.

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Scheduling Subcommittee Meetings

To effectively plan a subcommittee meeting, the following steps should be taken:

1. Notice to Staff: The subcommittee chair or their designee should provide staff with notice of upcoming subcommittee meetings at least 48 hours in advance. This allows staff to adequately prepare for the meeting and ensures that necessary resources are available.
2. Agenda Items: The subcommittee chair or designee should provide a tentative agenda for the meeting to staff at least 48 hours in advance. Before submitting the tentative agenda to staff, the chair should ask members of the subcommittee for any additional agenda items. This helps ensure that all relevant topics are included and that the meeting is as productive as possible.
3. Notice to the Public: When appropriate, staff should post the agenda to the PAB website 24 hours in advance of the meeting. This provides advance notice to members of the public who may be interested in attending or participating in the meeting. By following these steps, subcommittee meetings can be conducted in an organized and effective manner, allowing for maximum participation and engagement from all stakeholders involved.

Running the meeting

At the beginning of each subcommittee meeting, the following guidelines should be observed:

1. Recording: If the meeting is held via Zoom, staff must enable closed captioning. The subcommittee chair may request that the meeting be recorded on video.
2. Call to Order: The subcommittee chair or designated member must call the meeting to order promptly at the scheduled time, and the start time must be recorded.
3. Public Comment: If the meeting is open to the public, the chair may allow for public comment. During this time, members of the public will be given a set amount of time to speak on a particular agenda item or any matter within the subcommittee's purview.
4. New Business: The subcommittee should address any new business outlined on the agenda.
5. Adjournment: The subcommittee should adjourn the meeting when all business has been concluded, and the end time should be recorded. These steps will allow the subcommittee to maintain an organized structure and ensure that all relevant business is conducted in an efficient and productive manner.

Reporting back to the full Board

A subcommittee can report back to the full body by submitting a written report or making an oral presentation during a full board meeting. The Chair shall provide the report which may include a summary of the subcommittee's activities since the last report, including any progress made towards achieving its objectives, any issues or challenges that have arisen, and any recommendations or action items for the full board to consider. The subcommittee chair should also be prepared to answer any questions or provide additional information as needed during the presentation or discussion.