

CITY OF BERKELEY



POLICE REVIEW COMMISSION 2016 ANNUAL REPORT

CITY OF BERKELEY

POLICE REVIEW COMMISSION

Commissioners - 2016

George Perezvelez, **Chair**

Terry Roberts, **Vice-Chair**

Alison Bernstein

Kimberly DaSilva

George Lippman

Andrea Prichett

Kad Smith

Ari Yampolsky

Ayelet Waldman (through 6-14-16)

Jerry Javier (through 11-8-16)

Michael Sherman (through 12-5-16)

Mayor

Tom Bates; Jesse Arreguin*

Councilmembers

Linda Maio (District 1)

Darryl Moore; Cheryl Davila* (District 2)

Maxwell Anderson; Benjamin Bartlett* (District 3)

Jesse Arreguin (District 4)

Laurie Capitelli; Sophie Hahn* (District 5)

Susan Wengraf (District 6)

Kriss Worthington (District 7)

Lori Droste (District 8)

(*sworn in 12-8-16)

City Manager

Dee Williams-Ridley

Deputy City Manager

Gil Dong (Interim through July)

Jovan Grogan

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To the City and Community of Berkeley:

The Berkeley Police Review Commission would like to present its 2016 Statistical Report to the Community of Berkeley. The report provides statistical data concerning misconduct complaints filed during the year, an outline of the complaint process, commission work and achievements.

2016 was a very productive year for the Commission. The Commission created several subcommittees, covering such topics as revision of General Orders related to crowd control and use of force, Mutual Aid Pacts, Fair and Impartial Policing, and Media Credentialing.

In addition, the Commission engaged in the creation of new General Orders for Body Worn Cameras and for the Treatment of Transgender Individuals. The work on the Body Worn Cameras General Order continues, while the General Order on Treatment of Transgender Individuals will ensure that the Berkeley Police Department continues to be at the forefront of progressive policing practices.

The Commissioners also engaged in measures to expand community participation and outreach by amending the standing rules to allow for public comment before an item in the agenda moves into the discussion and action process. In addition, the standing rules were amended to allow community members the ability to serve on PRC subcommittees.

In the spirit of acknowledging community policing, the commissioners continued a process of singling out officers and other BPD staff for special recognition. The process involves an on the record discussion of commendations during a regular meeting, a letter to the Chief of Police informing him of such recognition and by publishing their names in the meeting minutes.

By means of continuing the professional standard growth of the commissioners, some attended a Fair and Impartial Policing Training. Several other trainings included de-escalation techniques, and police beat ride a-longs. I (and staff) attended the yearly NACOLE conference in New Mexico where international and national best oversight practices are discussed. I also attended a meeting of the Center for Policing Equity at the Dept. of Justice in Washington, D.C., while Vice-Chair Bernstein attended the International Association of Chiefs of Police conference in Philadelphia.

The Commissioners have dedicated themselves to working with the City Council, the Police Department and the Community. The work of oversight is extremely relevant and of the utmost importance. Police oversight is a process of growth, development and shared responsibility. During 2016, the commission continued to strengthen the necessary bridges critical to a successful relationship with the Berkeley Police Department and to an effective oversight process.

On behalf of the PRC, I would like to thank staff for their hard work and dedication to the work of Police oversight and the City of Berkeley. Their work is an integral part to the daily operations of the commission and provides a liaison to the Police department and the City. Their exemplary service and dedication is a valued component to our work. I would also like to thank the Berkeley Police Department for its tireless effort in keeping our Community safe.

Respectfully,



George Perezvelez
Police Review Commission
Chair 2016



Police Review Commission (PRC)

November 6, 2017

Dee Williams-Ridley
City Manager
2180 Milvia Street
Berkeley, CA 94704

Dear Ms. Williams-Ridley,

I am pleased to present to you the 2016 Annual Report for the Police Review Commission. The purpose of this report, provided in accordance with the PRC's enabling ordinance (Ord. No. 4644-N.S.), is to furnish statistical data regarding the number of complaints received, their general characteristics, and manner of conclusion.

For cases that have proceeded to Board of Inquiry Hearings, the data also includes the number of hearings, the various categories of allegations heard, and whether the allegations against an officer were sustained, not sustained, unfounded, or exonerated. This report also contains data on the ethnicity, gender and ages of complainants, as well as comparisons to statistics from the previous four years.

Finally, this report describes the important policy issues that the Police Review Commission reviewed in 2016. These included revising the general order on crowd control and crowd management in wake of the December 2014 protests, developing a general order for the use of body-worn cameras, and examining pedestrian and traffic stop data for evidence of disparate race-based treatment of civilians.

Respectfully submitted,

A handwritten signature in blue ink that reads "Katherine J. Lee". The signature is written in a cursive, flowing style.

Katherine J. Lee
Police Review Commission Officer

2016 PRC ANNUAL REPORT

TABLE OF CONTENTS

	PAGE
I. EXECUTIVE SUMMARY 2016	1
II. INTRODUCTION.....	2
III. MISSION STATEMENT	2
IV. STAFF	2
V. COMMISSIONERS	3
VI. COMPLAINTS	
Individual Complaints.....	4
Mediation	5
Policy Complaints	5
VII. STATISTICS 2012 - 2016	
Complaints Received.....	6
Complaints Closed.....	7
Decisions for Allegations Heard at a Board of Inquiry	8-9
Categories of Allegations Heard at a Board of Inquiry	10
Findings on Allegations Heard at a Board of Inquiry	11-12
Complainant Demographics.....	13-14
Incident Location Map for 2016.....	15
Appeals of Board of Inquiry Findings – <i>Caloca</i>	16
VIII. POLICY WORK, TRAINING AND OUTREACH	17-20
IX. MEETINGS AND HEARINGS	21-23



I. EXECUTIVE SUMMARY 2016

Meetings

The Commission was quite busy in 2016, conducting 82 regular, special, and subcommittee meetings, and Board of Inquiry hearings. This compares to the 50 such proceedings held in 2015.

Complaints

The Commission received 20 individual complaints and 1 policy complaint in 2016. In 2015, the Commission received 23 individual complaints and 4 policy complaints.

Complainants

The demographic distribution of individual complainants in 2016 was 12 males and 5 females; 9 Caucasians, 6 African Americans, 1 Asian, 1 multi-ethnic person, and 1 who declined to specify. Complainants ranged from 25 to 88 years of age and notably, more than half of the complainants were over 60 years old.

Board of Inquiry (BOI) Hearings

The Commission completed 5 BOI hearings – proceedings in which a panel of commissioners considers allegations against police officers. Of the 10 allegations heard, two were sustained, one for improper arrest, and the other for improper investigation.

Caloca Appeals

Subject officers may seek review of a BOI “sustained” finding through a *Caloca* appeal. One sustained finding in 2015 was appealed, and was upheld following a hearing in 2016. One of the sustained findings made in 2016 was appealed, and will be heard in 2017.

Policy Review

One of the major policies the Commission addressed in 2016 was a policy governing the use of body-worn cameras. A subcommittee created for this purpose worked with Berkeley Police Department representatives. In July, the PRC and the BPD presented their desired policies to the City Council in a work session, and thereafter continued to meet to resolve differences in the policies.

A PRC subcommittee also worked with the BPD on a revised general order on crowd control and crowd management. This revision addressed shortcomings identified in the PRC’s report on the BPD’s response to the December 2014 Black Lives Matter protests.

The PRC recommended to the BPD a general order on interacting with transgender people, and convened a hearing to better understand the BPD’s treatment of the homeless at an encampment at Old City Hall.

Berkeley Police Department

At the end of 2016, BPD had 167 sworn police officers and received 77,429 calls for service. (This figure includes phone calls to BPD requesting service, calls resulting from an officer personally observing a situation requiring service, and direct contacts to BPD by a person requesting help).



II. INTRODUCTION

Berkeley's Police Review Commission (PRC) was established by voter initiative in 1973. The PRC is one of the oldest civilian oversight agencies in the nation and has been an important model and source of information for oversight bodies across the United States.

III. MISSION STATEMENT

The mission of the Police Review Commission is to provide for 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 individuals against the Berkeley Police Department.

IV. STAFF

The PRC Office is a division of the City Manager's Office with a staff of three:

- **The PRC Officer** administers the daily operations of the PRC office, supervises staff, oversees complaint investigations, and serves as Secretary to the Commission. As Secretary, the PRC Officer staffs commission meetings and provides managerial support in the execution of PRC policies and procedures.
- **The PRC Investigator** conducts in-depth investigations of civilian complaints against members of the Berkeley Police Department, assists with special projects, and periodically serves as Acting Commission Secretary.
- **The Office Specialist III** manages the front office, provides administrative support to the PRC Officer and Investigator, prepares and maintains PRC records, and compiles statistics.



Byron Norris, PRC Investigator (joined staff in October 2009);
Katherine Lee, PRC Officer (joined staff in January 2014);
Maritza Martinez, Office Specialist III (joined staff in March 2001).

V. COMMISSIONERS

Nine Berkeley residents are appointed by the Mayor and members of the City Council to serve on the PRC. These Commissioners represent diverse backgrounds and viewpoints and therefore provide invaluable community perspectives. The Commission generally meets twice a month. Individual commissioners also attend subcommittee meetings and Board of Inquiry Hearings throughout the year. The Commissioners devote considerable time and effort toward fulfilling their duties. Following the elections of 2016, the Commission saw some new appointments by newly-elected members of the City Council.



The first two rows show current Commissioners as of the end of 2016:

Top Row -- **Chair George Perezvelez, Vice-Chair Terry Roberts, Alison Bernstein, George Lippman.**

Middle Row -- **Ari Yampolsky, Kad Smith, Kimberly DaSilva, Andrea Prichett.**

Other Commissioners who served in 2016:

Bottom Row -- **Michael Sherman, Jerry Javier, Ayelet Waldman.**

*The Commission recognizes **Michael Sherman** for his 15 years of dedicated service on the PRC.*



VI. COMPLAINTS

1. INDIVIDUAL COMPLAINTS - Investigation

A complaint consists of one or more claims of alleged misconduct against one or more individual BPD officers. Timely-filed¹ complaints are investigated and prepared for hearing or, if the complainant and subject officer agree, referred for mediation. In some instances, cases are referred to the Commission for administrative closure. Cases may be submitted for closure for reasons that include: the complaint does not allege misconduct on its face or is frivolous; the investigative deadlines are not met; the complainant fails to cooperate; the complainant requests closure.

In cases where an investigation is completed, the PRC investigator interviews witnesses, collects other evidence, and prepares a report. A Board of Inquiry Hearing (BOI) is then scheduled, which consists of three Commissioners impaneled to hear testimony and render findings. The findings from the BOI are forwarded to the City Manager and the Chief of Police.

When a complaint is filed with the PRC, a copy is forwarded to the Berkeley Police Department's Internal Affairs Bureau, which conducts its own, separate investigation. Under the Memorandum of Understanding between the City and the Berkeley Police Association, any discipline that involves a loss or reduction of pay or discharged must occur within 120 days of the incident giving rise to the disciplinary action or the date the City had knowledge of the incident. While the PRC does not impose or recommend discipline, the City Manager and Chief of Police may consider the PRC's BOI findings when considering discipline, if the findings are issued in time to meet the 120-day deadline.

Separate from the disciplinary process, subject officers can appeal PRC sustained allegations, which are heard by the state Office of Administrative Hearings. (See page 16.)

The standard of proof – the amount of evidence required at a BOI to sustain an allegation – is “clear and convincing evidence.” This standard is higher than a preponderance of the evidence but lower than beyond a reasonable doubt. The four categories of findings are:

¹ Complaints must be filed within 90 calendar days of the alleged misconduct, unless a complainant is incapacitated or otherwise prevented from filing a complaint. A complaint filed between 91 and 180 calendar days of the alleged misconduct can be accepted as a late-file if at least 6 Commissioners find, by clear and convincing evidence, good cause for the complainant's failure to timely file.



-
1. **Sustained:** the alleged act did occur, and was not justified;
 2. **Not Sustained:** the evidence fails to support the allegation, however it has not been proven false;
 3. **Unfounded:** the alleged act did not occur; and
 4. **Exonerated:** the alleged act did occur but was lawful, justified and proper.

The PRC is concerned that the Board of Inquiry process has become weakened over time and looks forward to seeing it strengthened both through modification of its own regulations and through legislation from the City Council.

MEDIATION – an alternative to investigation

After an individual files a complaint, he or she may opt for mediation. This will go forward only if the officer who is the subject of the complaint agrees. Once a mediation is completed, the complaint is permanently removed from the investigative process.

Mediations are conducted by SEEDS (Services that Encourage Effective Dialogue and Solutions), a local, nonprofit community-based organization that specializes in mediation services. A mediation through SEEDS gives both the complainant and the subject officer the opportunity to speak and respond to each other in a respectful environment. At the conclusion of mediation, SEEDS notifies the PRC staff and the complaint is forwarded to the Commission for closure.

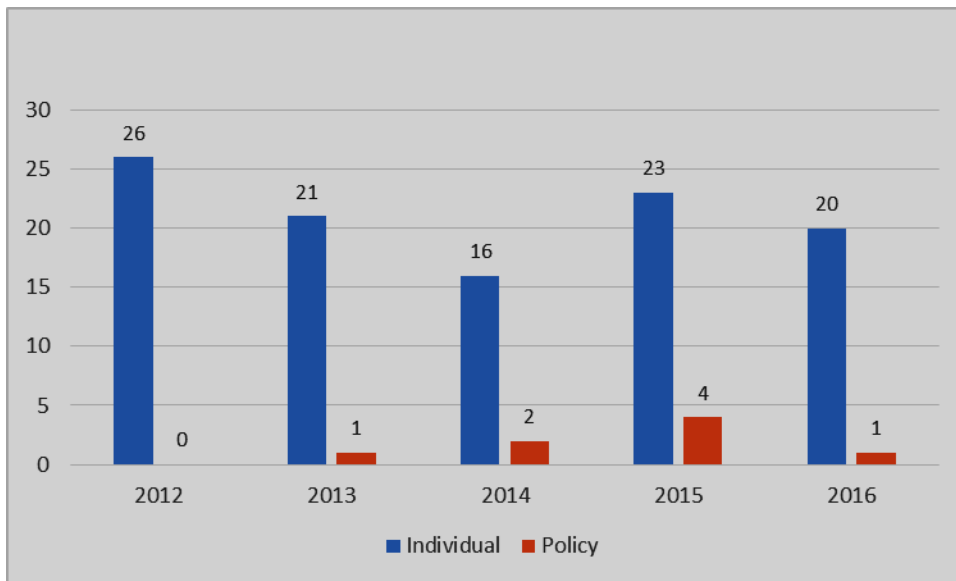
2. POLICY COMPLAINTS

A policy complaint is a request from a member of the public to the Commission to review a particular BPD policy because the complainant believes that the policy could be improved or should be revised. Complaints or concerns about BPD policies, practices or procedures are presented by staff to the full commission at a regular meeting. The Commission may conduct its own review; form a subcommittee to review the policy, practice or procedure; or ask staff to conduct an investigation or take other action, and present a report at a future meeting. After conducting its own review, or receiving a report from a subcommittee or staff, the PRC may close the complaint without further action or recommend changes in policy, practice or procedures to the BPD and the City Manager.



VII. STATISTICS 2012 - 2016

1. COMPLAINTS RECEIVED

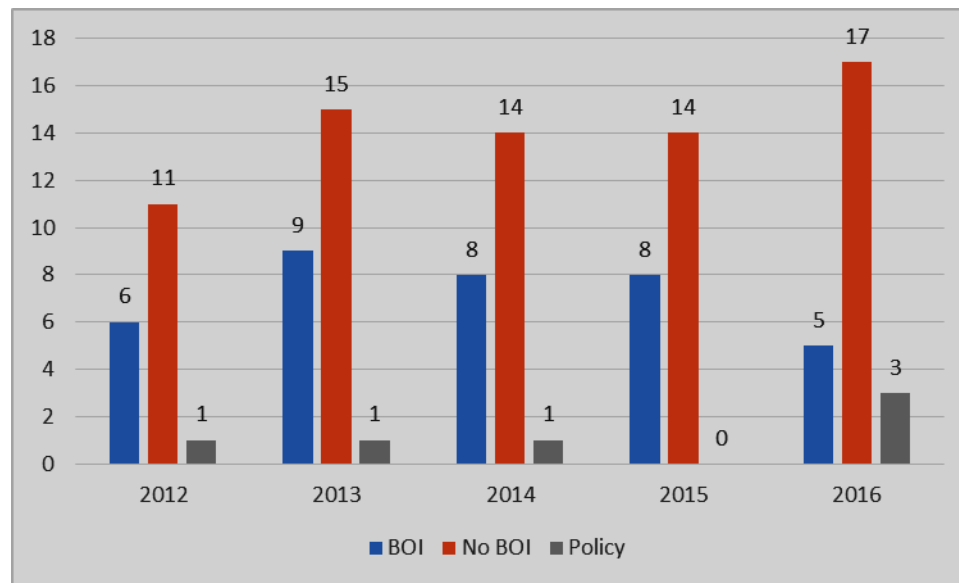


COMPLAINTS RECEIVED	2012	2013	2014	2015	2016
Individual	26	21	16	23	20
Policy	0	1	2	4	1
Total	26	22	18	27	21

In 2016, the PRC received 21 individual complaints and one policy complaint. The average number of complaints filed over the past five years is 22.8. Fluctuations in the number of complaints received from year to year cannot be predicted or readily attributed to specific factors or causes.



2. COMPLAINTS CLOSED



COMPLAINTS CLOSED	2012	2013	2014	2015	2016
Board of Inquiry Hearings Completed	6	9	8	8	5
Closed without BOI	11	15	14	14	17
Admin. Closure (includes withdrawn)	7	8	11	6	5
Mediation	2	3	0	1	5
Dismissal	2	0	1	4	2
Reject*	0	4	2	3	5
Policy	1	1	1 (reject)	0	2 1 (reject)
Total Cases Closed	18	25	23	22	25

In 2016, the number of cases closed following a Board of Inquiry Hearing dropped slightly compared to the prior three years. The number of cases that closed without going to a hearing increased slightly, mostly because more complainants opted for mediation in 2016 compared to the four years prior.

* For 2013 through 2016, Rejected complaints are those that do not meet the minimum requirements of a valid complaint, for instance, the person filing was not the aggrieved party, or the complaint was filed more than 180 days after the incident date. Before 2013, some rejected complaints were not included in the number of complaints reported, so in 2012 some complaints may have been rejected under the current reporting system.



3. DECISIONS FOR ALLEGATIONS HEARD AT A BOARD OF INQUIRY

In 2016, a Board of Inquiry Hearing was held in five cases, in which 10 allegations were decided. Whether separate types of allegations are lodged against one officer in the same case, or one type of allegation is made against multiple officers, each allegation against each officer is counted individually. For example: if one type of allegation is made against three officers, the statistics will reflect three separate allegations for that case.

In 2016, of the 10 allegations heard, two were sustained, three were not sustained, one was exonerated, two were unfounded; and two were summarily dismissed. The table below shows how the decisions made on allegations in 2016 compare to those of the four preceding years.

Finding Categories	2012	2013	2014	2015	2016
Sustained	2	4	2	1	2
Not Sustained	17	9	15	24	3
Exonerated	8	11	8	2	1
Unfounded	7	3	21	22	2
Summary Dismissal	0	0	0	0	2
No Majority Vote	1	0	1	2	0
Total	35	27	47	51	10

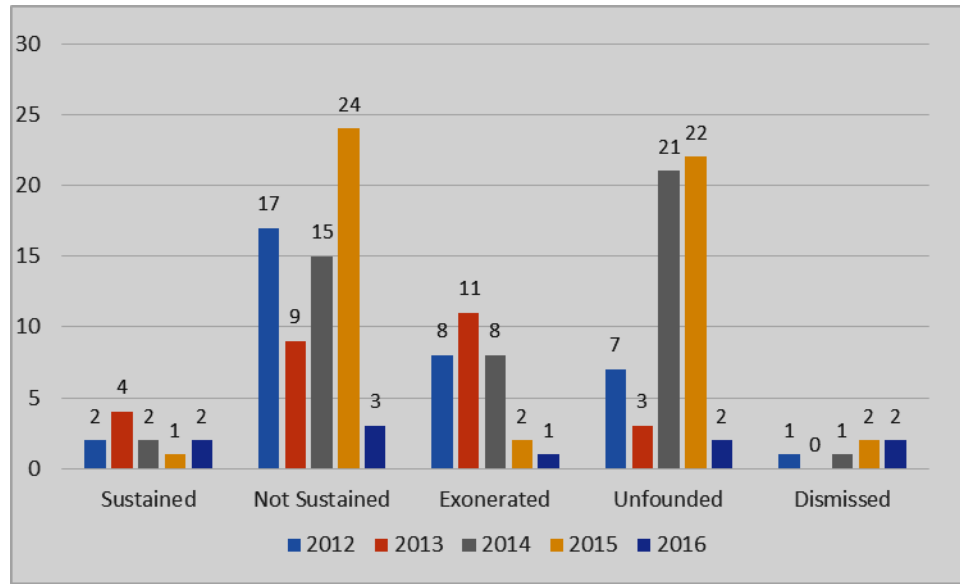
For an allegation against an officer to be sustained, not sustained, exonerated, or unfounded, a majority (at least two of the three commissioners on the Board of Inquiry) must agree on the same finding. “No Majority Vote” in 2012 and 2015 occurred when each of the three commissioners voted differently. In 2014, “No Majority Vote” occurred in a death case, in which the whole Commission sat as the BOI, and the five votes needed to sustain were not obtained. When there is no majority finding in a case, the matter is essentially dropped.

Summary dismissal occurs when the BOI determines an allegation is wholly without merit and does not need to deliberate.



DECISIONS FOR ALLEGATIONS HEARD AT A BOARD OF INQUIRY (By number of allegations)

This bar chart shows the same information as on the previous page (except for “No Majority Vote”), but in a format that allows for easier comparison within and between years.



The following table shows the percentage of allegations sustained of the total number of allegations heard at a Board of Inquiry Hearing for the years 2012-2016. While the rate of sustained findings in 2016 is much higher than years prior, the number of allegations heard in 2016 was quite low compared to the number heard over that same period.

Rates of “Sustained” Findings 2012 – 2016*		
2016	2 of 10 allegations sustained	20%
2015	1 of 51 allegations sustained	2%
2014	2 of 47 allegations sustained	4.25%
2013	4 of 27 allegations sustained	14.75%
2012	2 of 35 allegations sustained	5.75%

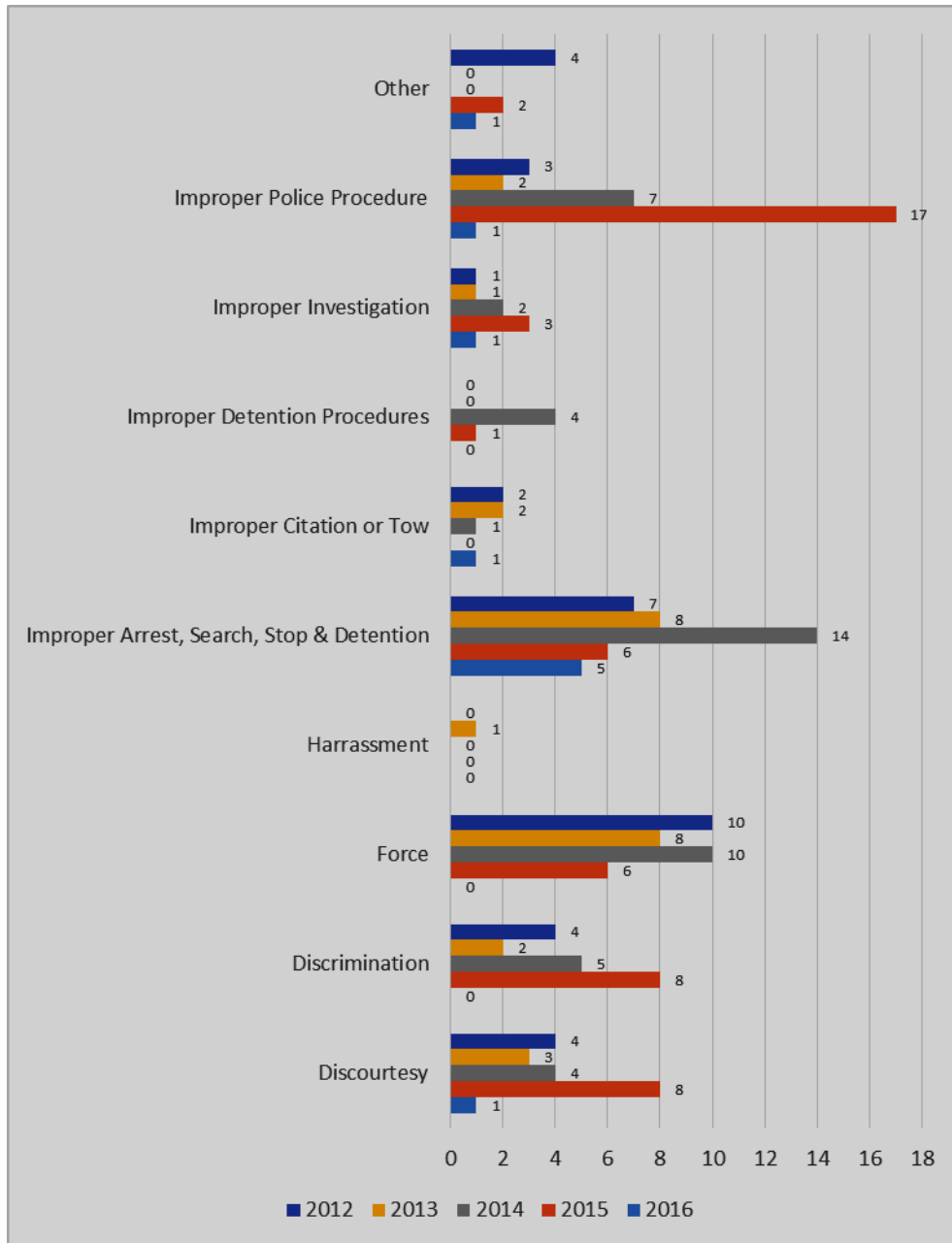
* The percentages in the last column are rounded to the nearest ¼ of 1 percent.

DECISIONS ISSUED WITHIN 120 DAYS OF THE COMPLAINT

Of the five cases brought to a BOI in 2016, findings were issued within 120 days of the complaint date in four of them.



4. CATEGORIES OF ALLEGATIONS HEARD AT A BOARD OF INQUIRY



Over the past five years, the most common allegations have been Improper Police Procedures and Improper Arrest, Search, Stop & Detention. In 2016, there were no allegations of improper or excessive use of force, a departure from prior years.



5. FINDINGS ON ALLEGATIONS HEARD AT A BOARD OF INQUIRY (By category)

Board of Inquiry Hearings 2016											5 Cases
Categories	EXF	DIS	ASD	DET	PRJ	HAR	PRO	CIT	OTH	INV	Totals
Sustained	0	0	1	0	0	0	0	0	0	1	2
Not Sustained	0	0	2	0	0	0	0	0	1	0	3
Exonerated	0	0	0	0	0	0	1	0	0	0	1
Unfounded	0	1	0	0	0	0	0	1	0	0	2
Dismissed	0	0	2	0	0	0	0	0	0	0	2
Totals	0	1	5	0	0	0	1	1	1	1	10

Board of Inquiry Hearings 2015											8 Cases
Categories	EXF	DIS	ASD	DET	PRJ	HAR	PRO	CIT	OTH	INV	TOTALS
Sustained	0	1	0	0	0	0	0	0	0	0	1
Not Sustained	1	6	0	0	2	0	13	0	0	2	24
Exonerated	0	0	1	0	0	0	1	0	0	0	2
Unfounded	5	1	5	0	6	0	3	0	1	1	22
No Majority Vote	0	0	0	1	0	0	0	0	1	0	2
Totals	6	8	6	1	8	0	17	0	2	3	51

Board of Inquiry Hearings 2014											8 Cases
Categories	EXF	DIS	ASD	DET	PRJ	HAR	PRO	CIT	OTH	INV	TOTALS
Sustained	0	1	0	0	0	0	1	0	0	0	2
Not Sustained	7	0	4	0	0	0	2	1	0	1	15
Exonerated	0	0	5	2	0	0	1	0	0	0	8
Unfounded	3	3	5	2	5	0	2	0	0	1	21
No Majority Vote	0	0	0	0	0	0	1	0	0	0	1
Totals	10	4	14	4	5	0	7	1	0	2	47

(See next page for explanation of allegation categories.)



Board of Inquiry Hearings 2013											9 Cases
Categories	EXF	DIS	ASD	DET	PRJ	HAR	PRO	CIT	OTH	INV	TOTALS
Sustained	2	1	1	0	0	0	0	0	0	0	4
Not Sustained	5	1	0	0	0	0	2	1	0	0	9
Exonerated	1	0	7	0	1	0	0	1	0	1	11
Unfounded	0	1	0	0	1	1	0	0	0	0	3
Totals	8	3	8	0	2	1	2	2	0	1	27

Board of Inquiry Hearings 2012											6 Cases
Categories	EXF	DIS	ASD	DET	PRJ	HAR	PRO	CIT	OTH	INV	TOTALS
Sustained	0	1	0	0	0	0	0	1	0	0	2
Not Sustained	3	3	3	0	4	0	0	1	3	0	17
Exonerated	3	0	3	0	0	0	2	0	0	0	8
Unfounded	4	0	1	0	0	0	1	0	0	1	7
No Majority Vote	0	0	0	0	0	0	0	0	1	0	1
Totals	10	4	7	0	4	0	3	2	4	1	35

Allegation Legend**EXF**=Excessive Force**DIS**=Discourtesy**ASD**=Improper Arrest, Search, Seizure, Stop or Detention**DET**=Improper Detention Procedures**PRJ**=Discrimination**HAR**=Harassment**PRO**=Improper Police Procedures**CIT**=Improper Citation or Tow**OTH**=Other (includes Abuse of Discretion, Breach of Confidentiality, Failure to Identify Oneself, Lack of Discretion, Threat, Abuse of Authority, and Retaliation)**INV**=Improper Investigation

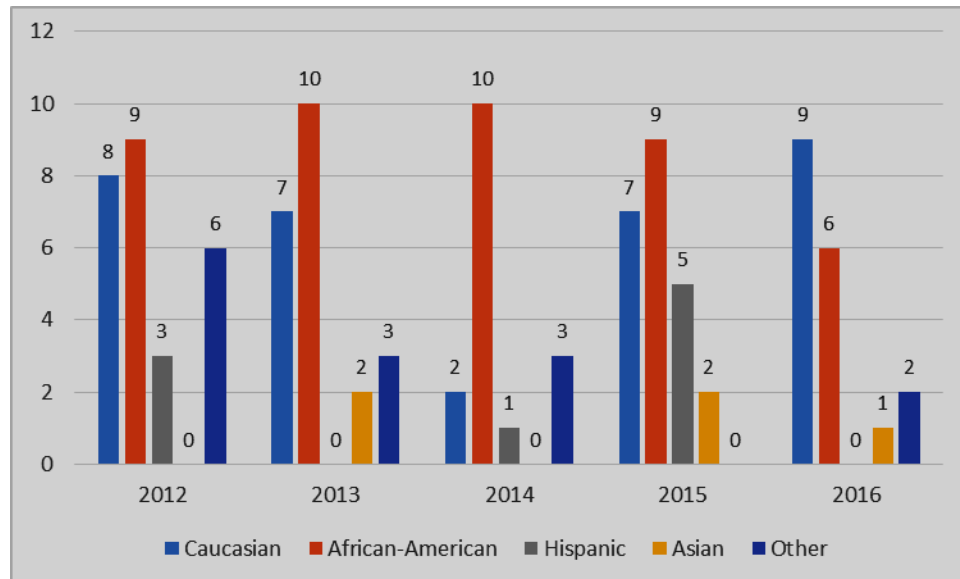


6. COMPLAINANT DEMOGRAPHICS

Complainants are asked to report their ethnicity, gender, and age, so that the PRC can track this information for statistical purposes. For 2016, the ethnicity, gender and age statistics are reported for individual complaint filers. One person filed three complaints, so demographic information for 18 different people is reported for the 20 complaints filed.

In 2012, unlike following years, policy complainants and co-complaints (two or more people filing an individual complaint about the same incident) may have been included in the total.

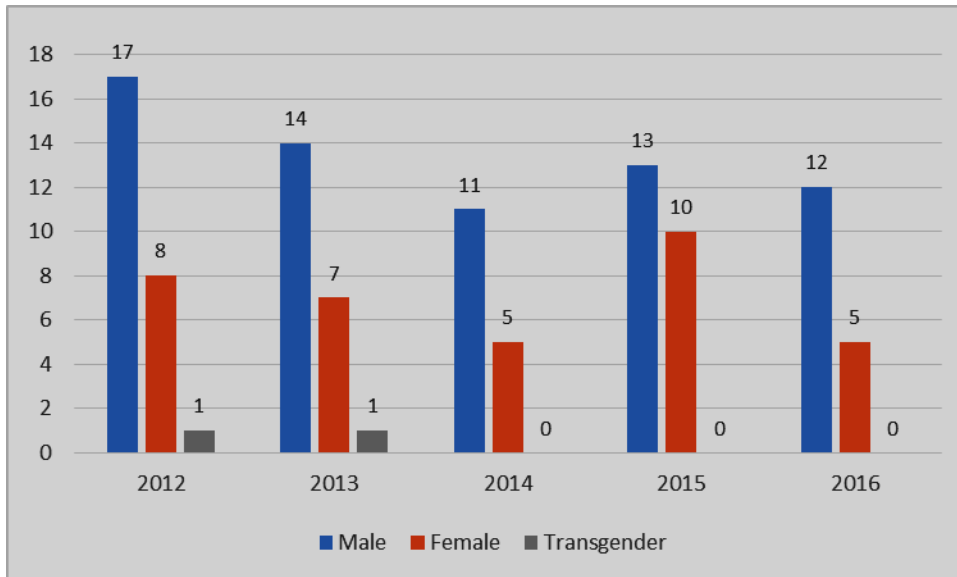
COMPLAINANTS' ETHNICITY



In 2016, the great majority (15) of the 17 complainants who reported their ethnicity were Caucasian and African American, consistent with most prior years. The number of Caucasian complainants outnumbered the number of African American complainants for the first time in five years. The “Other” category for 2016 includes one multi-ethnic person and one person who declined to specify.

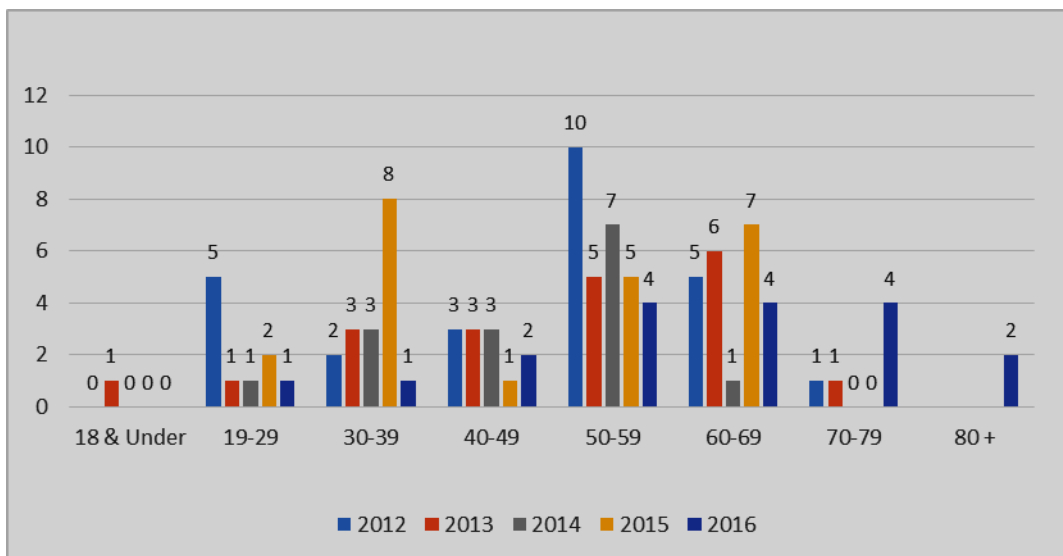


COMPLAINANTS' GENDER



In 2016, males comprised 70 percent of the 17 complainants who reported their gender. (One person declined to state their gender.) This is a change from 2015, in which males outnumbered females only by 57 to 43 percent, but is consistent with the three years prior, when male complainants were two to three times the number of female complainants.

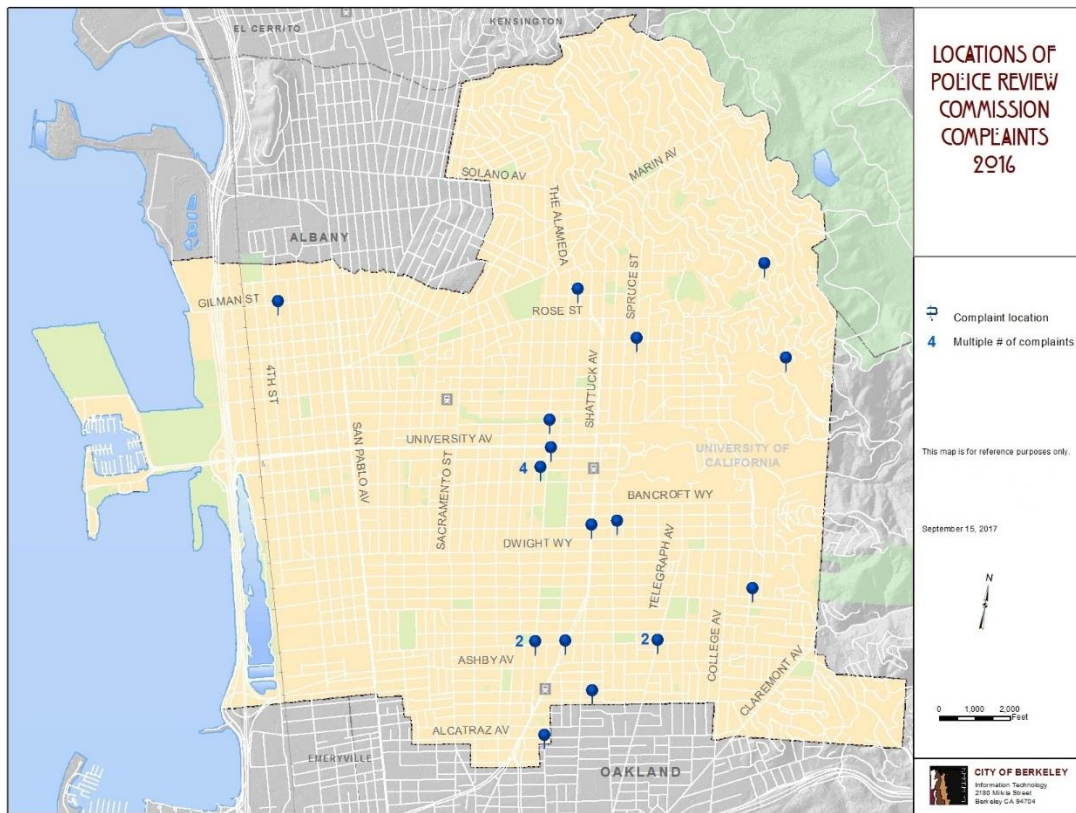
COMPLAINANTS BY AGE GROUP



In 2016, more than half the complainants (10), were over age 60, and 30 percent (6) were over age 70. The relatively advanced age of the majority of complaints in 2016 compared to prior years is notable, as they previously comprised a small percentage of complainants.



7. INCIDENT LOCATION MAP FOR 2016



This map shows the locations where misconduct is alleged to have occurred in 2016. Twenty-one locations are shown for 20 complaints, as one complaint alleged misconduct in two places. Four instances of alleged misconduct are shown as occurring at 2100 Martin Luther King, Jr. Way, the Public Safety Building (which houses the Berkeley Police Department). That address is used for allegations that an officer failed to investigate or conducted an inadequate investigation of a matter.



8. APPEALS OF BOARD OF INQUIRY FINDINGS - CALOCA

Police officers can appeal findings of misconduct that are sustained at a Board of Inquiry Hearing. These are referred to as *Caloca* appeals, in reference to the court cases that established the officers' right to appeal.²

In the *Caloca* appeal process, an administrative law judge (ALJ) from the State Office of Administrative Hearings conducts an “*independent re-examination*” of the decision. The PRC must prove, by clear and convincing evidence, that the sustained finding should be upheld.

The one *Caloca* hearing held in 2016 concerned an appeal that was filed in 2015; the ALJ upheld the BOI finding. One new *Caloca* appeal was filed in 2016, and that case is scheduled for hearing in 2017.

This table shows the outcome of appeals decided each year from 2012 to 2016.

Year	PRC Sustained Findings Appealed	<i>Caloca</i> Ruling
2016	(1 case) 1 allegation	1 allegation <i>Sustained</i>
2015	(1 case) 1 allegation	1 allegation <i>Not Sustained</i>
2014	(1 case) 1 allegation	1 allegation <i>Unfounded</i>
2013	(1 case) 1 allegation (1 case) 1 allegation (1 case) 1 allegation (1 case) 3 allegations	1 allegation <i>Unfounded</i> 1 allegation <i>Sustained</i> 1 allegation <i>Sustained</i> 3 allegations <i>Exonerated</i>
2012	(1 case) 2 allegations (1 case) 1 allegation	2 allegations <i>Not Sustained</i> 1 allegation <i>Unfounded</i>

² See *Caloca v. County of San Diego* (1999) 72 Cal.App.4th 1209 and *Caloca v. County of San Diego* (2002) 102 Cal.App.4th 433.



VIII. POLICY WORK, TRAINING, AND OUTREACH

1. POLICY REVIEW

A policy review is an examination by the commission of a particular BPD policy to determine whether the department has faithfully executed the policy or whether to recommend changes to the policy. Policy reviews are initiated by one of three ways: a member of the public files a PRC Policy Complaint; the City Council refers a policy issue to the commission; or the Commission on its own initiative votes to conduct a policy review.

POLICY COMPLAINT: MCKINLEY AVENUE STAGING

This policy inquiry began in 2015, resulting from two policy complaints from McKinley Avenue residents regarding the staging of law enforcement personnel and equipment on their street in December 2014. The BPD made a preliminary report acknowledging the inadequate communication with residents and the significant disruption to their lives and, in 2016, the department presented to the PRC a revision of their staging policies, including the consideration of alternative sites.

LIBERTY CITY

The Commission undertook an inquiry into the dismantling of an encampment of homeless people in front of Old City Hall, called Liberty City, in late 2015. Encampment members and supporters raised concerns about the role of the police in the dismantling, especially with regard to the handling of people's personal property. In May the Commission held a hearing and invited representatives from Liberty City and the Police Department to make presentations.

RIGHT-TO-WATCH GENERAL ORDER

After the BPD revised its Right-to-Watch policy by replacing a Training & Information Bulletin with a General Order, the Commission requested clarification about the changes. Eventually, the Commission approved a Right-to-Watch General Order based on the Lexipol policy (a national model policy), with a modification suggested by the Commission.

SUBCOMMITTEES

Ad-hoc (temporary) subcommittees are established as needed to address BPD policy issues and policy complaints by members of the community, and to research and provide recommendations to the full commission pertaining to other police-related issues or referrals from City Council.



Each subcommittee is comprised of three or four commissioners. The PRC Ordinance allows for members of the general public to serve on subcommittees and, this year, public members were appointed to two subcommittees. In 2016, the PRC amended its Standing Rules to establish a procedure for such appointments. Representatives from the Berkeley Police Department and the Berkeley Police Association often attend PRC subcommittee meetings.

BODY-WORN & DASH CAMERAS SUBCOMMITTEE

Commissioners Lippman (Chair), Javier, Roberts, Yampolsky

This Subcommittee met 15 times over the first five months of the year to craft a policy on the use of body-worn cameras. A member of the BPD attended nearly all the meetings to answer questions about the BPD's operations and explain the rationale for the BPD's own proposed policy. The subcommittee reviewed the body camera policies of other law enforcement agencies, and studied the growing body of literature on the subject. The PRC and BPD presented their respective policies to the City Council at a July Worksession. After that, PRC and BPD representative met to attempt to find common ground on the differences in their policies. The final policy is expected to be issued in 2017, when the procurement of the equipment is anticipated.

GENERAL ORDERS ON CROWD CONTROL, ETC. SUBCOMMITTEE

Commissioners Bernstein (Chair), Lippman, Perezvelez, Waldman

This subcommittee followed up on many of the recommendations in the post-December 2014 incident reviews by developing, in conjunction with the BPD, revised General Orders on Crowd Control & Crowd Management (C-64) and on the Use of Force (U-2) in crowd situations. The Subcommittee completed its work on C-64 and U-2 2016, but the revised Commander's Guide to Crowd Management & Crowd Control was not released by the BPD until late in the year. Review of that document will occur in 2017.

DECEMBER 7 & 8 INVESTIGATION SUBCOMMITTEE

Commissioners Bernstein (Chair), Sherman

A few recommendations from the December 2014 reviews concerned police action the night of December 7 into the morning of December 8, during which the crowds were smaller but property damage greater. The Subcommittee reported to the full Commission in July, which adopted the Subcommittee's recommendation to forward several inquiries to the Chief.



TRANSGENDER GENERAL ORDER SUBCOMMITTEE

Commissioners Perezvelez (Chair), Bernstein, Javier

This subcommittee was tasked with producing a general order on Interactions With Individuals Identifying as Transgender. While the BPD had a Training & Information Bulletin on transgender awareness in place since 2000, the proposed general order is more comprehensive and up-to-date. The full Commission voted in May 2016 to accept the Subcommittee's recommended general order and sent it to the BPD for implementation.

FAIR & IMPARTIAL POLICING SUBCOMMITTEE

Commissioners Lippman (Chair), Javier, Roberts, Smith

Public members Christina Murphy, Paul Kealoha-Blake, Elliot Halpern

Established in July 2016, this Subcommittee launched into a survey of the literature on biased-based policing; a review of reports from the President's Task Force on 21st Century Policing; an analysis of the pedestrian and stop data published by the BPD; and solicitation of testimony from the community about their interactions with police. This Subcommittee met 10 times in 2016 and its work, on a topic of extreme importance to the community, will continue well into 2017.

MUTUAL AID PACTS SUBCOMMITTEE

Commissioners Bernstein, DaSilva, Sherman

The Commission forms a subcommittee each year to review BPD's mutual aid agreements with other law enforcement agencies and organizations. As the timing of the BPD's annual presentation of the mutual aid pacts changed this year, the PRC Subcommittee began its work in October, and its recommendation to the full Commission, and then the Council will not be made until early 2017.

SURVEILLANCE & COMMUNITY SAFETY ORDINANCE SUBCOMMITTEE

Commissioners Yampolsky (Chair), Bernstein, DaSilva, Javier

Public members Brian Hofer, Tracy Rosenberg, Julie Leftwich

This Subcommittee was formed in November following a City Council referral to propose an ordinance governing the acquisition and use of all surveillance technologies by all City departments. It expects to complete its work in 2017.



2. TRAINING AND OUTREACH

- In April, several Commissioners and the PRC Investigator attended a conference on **“Profiling: Developing a Mechanism to Identify, Quantify, and Investigate Profiling Allegations Against Police,”** hosted by the Oakland Citizens’ Police Review Board, and featuring a panel of oversight practitioners, scholars, and law enforcement personnel.
- Also in April, several commissioners attended a **Fair & Impartial Policing** training presented by the BPD for community members. Attendees learned about the training that Berkeley all police officers undergo to help ensure that their policing tactics are bias-free.
- The BPD conducted a session in August specifically for Commissioners on **Tactical De-escalation**. Commissioners learned about how officers are trained to employ de-escalation techniques, with the goal of minimizing use of force and harm to civilians and officers.
- The PRC Officer and PRC Investigator attended the **22nd Annual NACOLE Conference** in Albuquerque, New Mexico in September. NACOLE – the National Association for Civilian Oversight of Law Enforcement -- is a non-profit comprised of agencies and individuals working to establish and improve oversight of law enforcement in the U.S. The annual conference allows PRC staff to obtain training in such subjects as investigative skills, and to learn about efforts in various jurisdictions about efforts in use of force and de-escalation tactics, using data to improve accountability, crisis intervention training.
- The Berkeley Police Department invited the PRC’s leadership to two events. In July, the Commission’s chairperson went with the chief of police to the Department of Justice in Washington, D.C., to hear a presentation by **Center for Policing Equity**, as well as remarks from Attorney General Loretta Lynch. The Commission’s vice-chair attended the annual conference of the **International Association of Chiefs of Police** in October, joining the BPD Chief other command staff in Philadelphia for this multi-day event offering dozens of educational and training opportunities.
- This year’s outreach efforts to publicize the work of the Police Review Commission included Commissioners staffing a table at the **Berkeley Juneteenth Festival**, and participating locally in **National Night Out**, an evening of neighborhood strengthening and crime prevention awareness.



IX. MEETINGS AND HEARINGS

2016

Type of Meeting or Hearing	Number
Regular PRC Meeting	19
Special PRC Meeting	2
Boards of Inquiry (BOI)	6*
BOI Special Meetings	1
Body-worn & Dash Cameras	15
December 7-8 Investigation	6
Fair & Impartial Policing	10
General Orders on Crowd Control, etc.	15
Media Credentialing	1
Mutual Aid Pacts	3
Surveillance and Community Safety Ordinance	2
Transgender General Order	2
TOTAL	82

* One of the six cases brought to a BOI was dismissed because the complainant did not appear; dismissal is required under the PRC Regulations for such failure to appear.



2016 MEETINGS AND HEARINGS

January

7 Body-worn & Dash Cameras
13 Body-worn & Dash Cameras
13 Regular Meeting
21 Body-worn & Dash Cameras
27 Body-worn & Dash Cameras
27 December 7-8 Investigation
27 Regular Meeting

February

10 Body-worn & Dash Cameras
10 Regular Meeting
18 General Orders on Crowd Control, etc.
24 Body-worn & Dash Cameras
24 December 7-8 Investigation
24 Regular Meeting

March

9 Body-worn & Dash Cameras
9 Transgender General Order
9 Regular Meeting
10 December 7-8 Investigation
16 Transgender General Order
16 General Orders on Crowd Control, etc.
23 Body-worn & Dash Cameras
23 December 7-8 Investigation
23 Regular Meeting
24 General Orders on Crowd Control, etc.
25 BOI, Complaint #2390

April

4 General Orders on Crowd Control, etc.
6 Body-worn & Dash Cameras
13 General Orders on Crowd Control, etc.
13 Regular Meeting
19 General Orders on Crowd Control, etc.
20 Body-worn & Dash Cameras
25 December 7-8 Investigation
27 Body-worn & Dash Cameras
27 Regular Meeting

May

3 Body-worn & Dash Cameras
5 Body-worn & Dash Cameras
5 BOI Special Meeting, Complaint #2391
10 General Orders on Crowd Control, etc.
11 Body-worn & Dash Cameras
11 Regular Meeting
16 Body-worn & Dash Cameras
23 December 7-8 Investigation
25 General Orders on Crowd Control, etc.
25 Regular Meeting

**June**

1 General Orders on Crowd Control, etc.
6 BOI, Complaint #2395
8 Special Meeting
8 General Orders on Crowd Control, etc.
8 Regular Meeting
20 BOI, Complaint #2397
22 General Orders on Crowd Control, etc.

July

13 Regular Meeting
18 Fair & Impartial Policing
21 General Orders on Crowd Control, etc.
27 General Orders on Crowd Control, etc.
27 Regular Meeting

August

1 Fair & Impartial Policing
3 General Orders on Crowd Control, etc.
10 Special Meeting
19 BOI, Complaint #2385
23 Fair & Impartial Policing
31 General Orders on Crowd Control, etc.

September

12 BOI, Complaint #2400 (**Dismissal*)
14 Regular Meeting
19 Fair & Impartial Policing
21 Mutual Aid Pacts
21 Regular Meeting

October

3 Fair & Impartial Policing
10 Fair & Impartial Policing
13 Media Credentialing
13 Regular Meeting
21 Surveillance and Community Safety Ordinance
26 Mutual Aid Pacts
26 Regular Meeting

November

1 Fair & Impartial Policing
2 Surveillance and Community Safety Ordinance
9 Regular Meeting
14 Fair & Impartial Policing
15 BOI, Complaint #2402
21 Fair & Impartial Policing

December

7 Fair & Impartial Policing
8 Mutual Aid Pacts
14 Regular Meeting

* Dismissal: In this case, a Board of Inquiry was convened, but the complainant did not appear within 30 minutes of the noticed hearing time. In such cases, under the PRC's Regulations, the complaint must be dismissed..

