



Office of the Mayor

## SUPPLEMENTAL AGENDA MATERIAL

**Meeting Date:** December 14, 2021

**Item Number:** # 48

**Item Description:** Ratification of the Police Accountability Board's Standing Rules

**Supplemental/Revision Submitted By:** Mayor Arreguin

**“Good of the City” Analysis:**

*The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.*

According to Article XVIII, Section 125 (13)(c) of the City Charter, “The [Police Accountability] Board shall establish rules of procedure governing the conduct of business, which shall be subject to ratification by the City Council.”

On October 27, 2021 the PAB adopted permanent rules which are now before the City Council for ratification.

Mayor Arreguin is proposing amendments to Section J, “Appointment of Members of the Public to Subcommittees” to require an application process for members of the public to serve on Board subcommittees and other changes regarding the conduct of Board subcommittees.

Since the Board is currently without permanent standing rules, the “good of the City” requires acceptance of this Supplemental material so that the Council can consider these amendments and ratify permanent rules tonight. Standing rules are necessary for the orderly conduct of the Police Accountability Board, which was created by the voters in November 2020 and has been meeting since July 2021.

***Consideration of supplemental or revised agenda material is subject to approval by a two-thirds vote of the City Council. (BMC 2.06.070)***

A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.



## Police Accountability Board Standing Rules

Approved Oct. 27, 2021

### Including Mayor's Proposed Amendments

#### A. PURPOSE

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

#### B. AMENDMENTS AND REVISIONS

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

#### C. AGENDA ITEMS – REGULAR MEETINGS

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

#### D. COMMUNICATIONS

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

#### E. MEETING PROCEDURES

1. Items shall be introduced by the Board member or staff member who proposed the item. The Chair shall then allow an initial period for discussion by recognizing Board members in rotation to ensure that each Board member has the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of two minutes to speak each time they are given the floor.
2. After a motion on the item is made and seconded, the Chair will recognize the maker of the motion, and then the seconder, to speak. After that, the Chair will recognize Board members in rotation, giving each Board member the opportunity to speak before a Board member is allowed to speak again. Board members are allowed a maximum of one minute to speak each time they are given the floor, and must confine their remarks to the merits of the motion. The Chair may give the maker of the motion an additional minute to speak before putting the matter to a vote.

3. A pending motion may be modified by a “friendly amendment”; that is, by a proposed amendment that is accepted by the maker and seconder of the motion.
4. Action on a motion may be by either voice or general consent. In either case, the Chair shall repeat, or ask the Board secretary to repeat, the motion before the action.
5. Guest speakers who are not on the agenda may address the Board only by general consent, or upon a formal motion.
6. None of these procedural rules shall supersede the procedures set forth in Robert’s Rules of Order.

*F. PUBLIC COMMENT*

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

*G. POLICY COMPLAINTS AND REVIEWS*

1. A request for the Board to review a BPD policy, practice, or procedure may be initiated by a member of the public by filing a policy complaint on [a](#) form provided by the Office of the Director of Police Accountability, and is considered a “policy complaint.”
  - a) Policy complaints should be reviewed by staff and brought to the Board for discussion and action within 30 days of filing or the next regular meeting of the Board if the 30 days has expired.
  - b) Additionally, a public comment period shall be agendized immediately preceding consideration of the policy complaint, limited to comments on that complaint. Policy complainants will be allowed to speak for five minutes. Other members of the public will be allowed up to three minutes; the time allotted is subject to the discretion of the Chair, who will consider the number of persons wishing to speak. Board members may ask policy complainants brief questions. The BPD will be given an opportunity to respond to the Board. The Board may accept the policy complaint upon a majority vote.
2. The Board may initiate a review of a BPD policy, practice, or procedure upon a majority vote.
3. a) For policy complaints or policy reviews, Board members shall then determine how to proceed. Possible actions include, but are not limited to: considering the issue as a whole Board, assigning a Board member to research the issue, asking staff to investigate or research the issue, or establishing a

subcommittee. If a subcommittee is created it will seek BPD involvement in its policy review and, upon completing its review, will present its conclusions and recommendations to the full Board.

- b) The full Board may recommend to the BPD, City Manager, or City Council that the BPD adopt a new policy, revise an existing policy, or take no action. Upon conclusion, a policy complaint shall be formally closed by a majority vote of the Board.

#### *H. REGULAR MEETINGS*

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

Regular meetings shall commence at 7:00 p.m., and shall be held at a location or locations as may be determined by the Board, or virtually via teleconference when allowed by an emergency order.

#### *I. ELECTIONS*

1. Elections shall be held during the second January meeting of each year. During the Board meeting preceding the election meeting, the nomination of the Chair will precede the nomination of the Vice-Chair, and the following nomination process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A Board member nominates another Board member or themselves. A Board member must be present in order to be nominated and may decline the nomination.
  - c) The nomination is seconded (the nomination fails if there is no second).
2. At the second January meeting of the year, the following election process will be followed for each office:
  - a) Additional nominations shall occur in accordance with section I.1.
  - b) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - c) Board members pose questions to each candidate.
  - d) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.

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

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

1. In accordance with the City Charter, the Chair may appoint members of the public to subcommittees to which they have applied to through an open application process in which they have expressed an interest. Candidates for the Board subcommittees must complete and file an application form with the Office of the Director of Police Accountability. Subcommittee vacancies shall be widely advertised and publicly posted. The Board will launch an initial application process to solicit interest from Berkeley residents who wish to serve on Board subcommittees. After the initial application period, the Board will accept applications on a rolling basis and make such appointments annually. Such appointments are subject to approval of the Board. Members of the public seeking to serve on a subcommittee must: a) be residents of the City of Berkeley; **b) must submit an application detailing their interest and qualifications** -and ~~bc~~) present themselves at a Board meeting before or at the time of the appointment and speak on the public record on their intent to serve and what they will bring to the subcommittee work and deliberations. The Chair shall endeavor to appoint members to subcommittees in a manner that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City. Toward that end, in soliciting applications for Board subcommittees, the Director of Police Accountability shall reach out to civic, community, and civil rights organizations, among others.
2. Members of the public appointed to subcommittees are non-voting members and may not be selected to be the subcommittee Chair
3. Board members must constitute a majority of membership of any subcommittee; ~~but a subcommittee may convene and conduct business even if Board members are not a majority of subcommittee members present.~~ However, a quorum of voting members must be present to convene a meeting.
4. The term of appointment for members of the public appointed to subcommittees shall be one year and members can serve consecutive terms shall not exceed the life of the subcommittee. If a subcommittee must be reauthorized, any members of the public serving on the subcommittee must be reappointed by the Chair, subject to the approval of the Board.

5. A public member of a subcommittee who is absent from two consecutive subcommittee meetings is automatically removed from the subcommittee, but may be reinstated by the Chair if good cause for the absences is shown.
6. The Chair, subject to the approval of the Board, may remove a member of the public from a subcommittee for good cause. Examples of good cause are: failure to work cooperatively with subcommittee members; unruly or disruptive behavior at meetings; or failure to participate in the work of the subcommittee.
7. All actions by the Chair to appoint, reappoint, or remove a member of a public to or from a subcommittee shall occur at a Board meeting.
- ~~7.8.~~ In accordance with the City Charter, policy subcommittee members shall not have access to confidential personnel file information or any other confidential information.

#### *K. MUTUAL AID AGREEMENTS*

The Board shall constitute a mutual aid subcommittee no later than the first meeting in February of each year to review the compendium of agreements made between the BPD and other law enforcement entities. The Board or the subcommittee may determine which agreements to review.

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

1. The Board regularly receives copies of communications praising Berkeley Police Department (BPD) personnel for noteworthy service; these commendations are both external (from members of the public) and internal (from fellow BPD or City of Berkeley employees). This process shall be used when the Board desires to bestow additional recognition upon those BPD personnel, or when a Board member on his or her own initiative wants the Board to recognize BPD personnel.
2. The Board may commend or otherwise honor with a special award or recognition an individual sworn officer or civilian employee of the BPD, or a group of officers and/or employees of the BPD, such as a team or division.
3. The Board secretary shall agendize commendations the Board receives from the BPD periodically, as received. A Board member wishing to initiate a commendation or other honor from the Board shall submit the proposal to the Board secretary for placement on the Board agenda in accordance with Section C of these rules. The proposal shall include the name of the person or group to be honored, and a description of the noteworthy action.
4. For the Board to issue a commendation or other honor, the BPD officer, employee, or group must be found to have performed an extraordinary service or performed in an extraordinary manner that meets one or more of the following criteria:
  - a) Exceptional valor, bravery, or heroism;
  - b) Superior handling of a difficult situation;
  - c) An action or performance that is above and beyond typical duties;
  - d) Extraordinary compassion, empathy, or kindness.

5. A motion to commend or otherwise honor BPD personnel shall include the act or incident giving rise to the honor and describe how it meets the above criteria. The motion must receive a majority of affirmative votes of Board members present at the meeting to pass.
6. Following the meeting, the Board secretary shall communicate the Board's action in writing to the City Council, and shall also forward the commendation to the Chief of Police, with a request that the commendation or other honor be placed in the personnel file of each sworn officer or civilian employee commended.

###