



**POLICE ACCOUNTABILITY BOARD**  
**REGULAR MEETING PACKET**  
**Wednesday, June 21, 2023**  
**6:30 PM**

Board Members:

JOHN MOORE III. (CHAIR)  
KITTY CALAVITA

JULIE LEFTWICH

REGINA HARRIS (VICE-CHAIR)  
LEAH WILSON

**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

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## **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, June 21, 2023**

**Board Members:**

JOHN MOORE III. (CHAIR)

REGINA HARRIS (VICE-  
CHAIR)

KITTY CALAVITA

JULIE LEFTWICH

LEAH WILSON

**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 (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this 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** (2 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.)*

### **CLOSED SESSION**

The Police Accountability Board will convene in closed session to meet concerning the following:

4. **CONFERENCE WITH LABOR NEGOTIATORS; GOVERNMENT CODE SECTION 54957.6** (20 MINUTES)  
Negotiator: Tim Davis, Burke, Williams & Sorensen, LLP  
Employee Organization: Berkeley Police Association

### **END OF CLOSED SESSION**

5. **ANNOUNCEMENT OF CLOSED SESSION ACTIONS** (1 MINUTE)

6. **APPROVAL OF MINUTES (5 MINUTES)**  
Regular Meeting Minutes for June 7, 2023
7. **ODPA STAFF REPORT (10 MINUTES)**  
Announcements, updates, and other items.
8. **CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)**  
Announcements, updates, and other items.
9. **CHIEF OF POLICE'S REPORT (10 MINUTES)**  
Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.
10. **SUBCOMMITTEE REPORTS (Discussion & Action) (10 MINUTES) \***  
Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:
  - a. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Calavita)
    - i. Activity Report
  - b. Body-Worn Camera Policy (Chair: Harris)
    - i. Activity Report
  - c. Conflict of Interest (Chair: Leftwich)
    - i. Activity Report
11. **NEW BUSINESS (Discussion & Action) (55 MINUTES)**
  - a. Adoption of a resolution recognizing Maritza Martinez for her 24 years of service to the City of Berkeley, (ODPA Staff) – (5 min)
  - b. Adoption of a resolution adopting NACOLE's Code of Ethics (Moore) – (5 min)
  - c. Consideration of the proposed procedures for the continuous review of commendations. – (5 min)
  - d. Review of commendation nominations for sworn officers of the Berkeley Police Department. – (10 min)
  - e. Presentation of Policy Complaint No. 2023-PR-0003. (ODPA Staff) – (15 min)
  - f. PAB Charter, Rules, and Policies: Overview of PAB Roles and Responsibilities and Discussion of Needed Clarifications or Gaps (Wilson & ODPA Staff) – (10 min)

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

**12. 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.)*

**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):*

13. Presentation of Findings and Recommendations report of Case No. 32 – (15 Min)

**END OF CLOSED SESSION**


**14. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)**

**15. 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, 5<sup>th</sup> Floor, Berkeley, CA 94704  
TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955  
Website: [www.cityofberkeley.info/dpa/](http://www.cityofberkeley.info/dpa/) Email: [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)





**POLICE ACCOUNTABILITY BOARD**

Regular Meeting

**DRAFT MINUTES**

**Wednesday, June 7, 2023**

**Board Members:**

John Moore (Chair)  
Kitty Calavita

Juliet Leftwich

Regina Harris (Vice Chair)  
Leah Wilson

**Meeting Location:**

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

**1. CALL TO ORDER BY CHAIR MOORE AT 6:30 PM AND ROLL CALL**

**Present:** Board Member John Moore (Chair)  
Board Member Regina Harris (Vice-Chair)  
Board Member Kitty Calavita  
Board Member Juliet Leftwich  
Board Member Leah Wilson

**Absent:** None

**ODPA Staff:** Hansel Aguilar, Director of Police Accountability  
Jose Murillo, Associate Management Analyst  
Jayson Wechter, Investigator (*via Zoom*)

**BPD Staff:** Chief Louis  
Lt. Reece

**CAO Staff:** Stephen Hylas

**2. APPROVAL OF AGENDA**

**Motion to approve the agenda.**

Moved/Second (Harris/Wilson) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

### 3. PUBLIC COMMENT

- 0 Speakers

### 4. APPROVAL OF MINUTES

#### **Motion to approve the May 24<sup>th</sup> Regular Meeting minutes with edits.**

Moved/Second (Harris/Wilson) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

The edits were the following:

- Former board member Levine's name was removed from the minutes.
- On page 5 of the minutes (page 11 of the agenda packet), the sentence "Board Member Leftwich states that she believes the PAB needs more clarity around the distribution of labor with communications" was changed to read "...the PAB needs more clarity around communication protocols"

### 5. ODPa STAFF REPORT

ODPA staff provide the following information:

- Report from staff regarding their attendance at the CACOLE 2023 Annual Conference.
- Report from staff regarding the adoption of NACOLE's Code of Ethics.
- Update Report from staff regarding the ODPa's budget request (and subsequent PAB Resolution) to Council for additional ODPa staff.
- Report on the City Council's June 6<sup>th</sup> action to approve the BPD's 2022 controlled equipment annual report.
- Report on staff's participation in NACOLE's use of force training which was facilitated by Captain Fomby, a former member of the BPD.
- Reminder about the upcoming Juneteenth festival and the ODPa's and PAB's participation in the event.

### 6. CHAIR AND BOARD MEMBER REPORTS

Chair Moore reports the following:

- Ask board members to make themselves available for Juneteenth to help with outreach.
- Hopes that everyone had a chance to read the article on the interview he did with the Berkeleyside and informs the Board that a new article is set to be put forward by the Daily Californian where he talks about the Board.

## 7. CHIEF OF POLICE REPORT

Chief Louis reports on the following:

- On June 3<sup>rd</sup> suspect entered a business and approached a female victim who was alone at the business at the time. The suspect sexually battered the victim and then fled when the victim ran from the business screaming. The suspect's image was captured on private surveillance cameras and on June 4<sup>th</sup>, a patrol officer identified the suspect in the Downtown area and detained him.
- On May 31<sup>st</sup> a suspect stole a catalytic converter and was confronted by the victim. The suspect swung a metal tool at the victim, narrowly missing him. The suspect fled in his vehicle and when an officer saw and tried to detain him, the suspect fled and ran from his vehicle, leaving it behind. The vehicle was towed and the registered owner of the vehicle attempted to pick it up claiming that his vehicle was stolen out of Oakland. However, the picture of the registered owner matched the description of the suspect and after further investigation, the suspect was arrested. The individual had a history of prior arrests for catalytic converter thefts.
- Staffing remains the same as the last meeting. There are three new graduating recruits and four new hires will be sent to the police academy. One new dispatcher has been brought on to the team within the last week with a few more currently in the background check process.
- The Chief presented to the personnel board to update the dispatcher job description to minimize the number of candidates who might self-select out of applying as a result of specific language in the current description.
- The Chief requested approval for a new job classification for the BPD who will be the second of command of the department. One of the current Captain positions will be converted to Deputy chief.
- The Chief thanks Director Aguilar for his participation in the Captain selection panel that will help establish a new eligibility list. Chair Moore was invited to participate but was unable to attend due to a personal emergency.
- The Military Equipment report pursuant to AB 481 is currently in the final stages. The report is very similar to the Controlled Equipment report that was reviewed by the PAB.
- The Automatic License Plate Reader (ALPR) policies have been sent to the DPA for dissemination and the BPD awaits PAB feedback. Director Aguilar acknowledged that due to a secretarial oversight on his behalf, he had not forwarded the policies to the PAB. He confirmed at the meeting that he was in receipt of the policies and forwarded them to the PAB.

## 8. SUBCOMMITTEE REPORTS

- a. Body-Worn Camera Policy Subcommittee (Chair: Harris)

- The BWC subcommittee will be meeting tomorrow. Some changes are being discussed.
  - b. Conflict of Interest Subcommittee (Chair: Leftwich)
- Chair Leftwich met with City Attorney Brown. They discussed the topic of the PAB having an outside council under certain circumstances in which a conflict of interest arises.
  - c. Policies and Practices Relating to the Downtown Task Force and Bike Unit Allegations (Chair: TBD)
- Board Member Calavita reports that the subcommittee met on June 2<sup>nd</sup> and will be meeting in a week. She clarifies that the subcommittee is conducting a policy review and would like to communicate to the public that the final work product would be an analysis of the policies that may need to be reviewed or modified in light of the allegations.
- Board Member Calavita asks the CAO where the independent investigator's report will go and if the Board will receive a copy of the report and information will be released to the public.
- DCA Hylas request that the Board communicate their request in writing. Director Aguilar will provide the communication to the CAO.

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

## 9. NEW BUSINESS

- a. Discussion on the PAB's participation at the Juneteenth festival on Sunday, June 18, 2023, from 11:00 am to 7:00 pm (ODPA Staff) – (10 Minutes)
  - i. Overview of the day.
  - ii. Shift Sign-ups.
- ODPA staff provides the Board an overview of their plans for the Juneteenth Festival taking place on June 18<sup>th</sup> from 11 am to 7 pm. They ask for Board member volunteers to help with the outreach efforts.
  - b. Discussion and Action on the PAB's current subcommittee list, the appointment of new members as needed, and the consideration and action of the ODPA's recommendations as to each subcommittee (Moore & ODPA Staff) – (20 minutes)

The Board examines its existing subcommittee list to determine which ones need an extension or should be dissolved. The objective of this evaluation is to effectively manage the Board's workload considering the vacant positions on the Board.

**Motion to reinstate the regulations subcommittee for another year pending the approval of the permanent regulations.**

Moved/Second (Calavita/Harris) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**Motion to extend the Fair & Impartial subcommittee for another year.**

Moved/Second (Wilson/Calavita) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

- Board Member Wilson is appointed to the Fair & Impartial subcommittee by Chair Moore and Vice-Chair Harris steps down.

**Motion to dissolve the Mental Health Response subcommittee.**

Moved/Second (Harris/Leftwich) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**Motion to combine the Fixed Surveillance Camera Policy subcommittee and Drone Use Policy subcommittee into the “Surveillance Technology Policy Subcommittee”**

Moved/Second (Calavita/Leftwich) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**Motion to dissolve the Controlled Equipment Use & Reporting Subcommittee.**

Moved/Second (Calavita/Wilson) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**Motion to dissolve the Chief of Police Hiring Process subcommittee.**

Moved/Second (Leftwich/Calavita) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**Motion to dissolve the Charter Section 125 Review Subcommittee.**

Moved/Second (Harris/Leftwich) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Moore, and Wilson.

Noes: None.

Abstain: None.

Absent: None.

**10. PUBLIC COMMENT (TBD)**

1 Speaker.

- Speaker 1: States that she is interested in the Board's policy work. She is also interested in knowing what the conditions of the City of Berkeley's jail are like.

**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):*

**11. Case updates**

- Director Aguilar and Investigator Wechter provide case status updates to the Board.

**END OF CLOSED-SESSION**

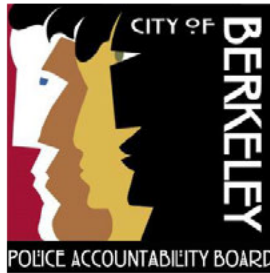
**12. ANNOUNCEMENT OF CLOSED-SESSION ACTION**

Chair Moore reports that Director Aguilar and Investigator Wechter provided case status updates to the Board.

**13. ADJOURNMENT**

**Motion to adjourn the meeting.**

Moved/Second (Leftwich/Harris) **By general consent, the meeting was adjourned at 8:47 pm**



**SUBCOMMITTEES LIST  
6-16-2023**

| <b>Subcommittee</b>  | <b>Board Members</b>  | <b>Chair</b> | <b>BPD Reps</b>    |
|--|---|--------------|--------------------|
| <b>Regulations</b><br>Formed 7-7-21<br>Renewed 6-7-2023  | Calavita<br>Leftwich<br><br><u>Public members:</u><br>Kitt Saginor                            |              | Lt. Dan Montgomery |
| <b>Fair &amp; Impartial Policing Implementation</b><br>Formed 8-4-21<br>Renewed 6-7-2023                     | Calavita<br>Moore<br>Harris<br><br><u>Public members:</u><br>George Lippman<br>Elliot Halpern | Calavita     | Sgt. Peter Lee     |
| <b>Surveillance Technology Policy</b><br>Formed 6-7-2023   | Calavita<br>Moore   |              |                    |
| <b>Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations</b><br>Formed 11-15-22 | Calavita<br>Moore   |              |                    |
| <b>Body-Worn Camera Policy</b><br>Formed 03-15-23  | Harris<br>Leftwich  | Harris       |                    |
| <b>Conflict of Interest</b><br>Formed 03-29-23   | Moore<br>Leftwich   | Leftwich     |                    |





## MEMORANDUM

**Date:** June 16, 2023  
**To:** Honorable Members of the Police Accountability Board  
**From:** Hansel A. Aguilar, Director of Police Accountability  
**Re:** Resolution Recognizing Maritza Martinez for 24 Years of Dedicated Service

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The purpose of this memo is to bring your attention to the notification of a staff retirement at the Office of the Director of Police Accountability (ODPA). Maritza Martinez, currently serving as the ODPA office specialist has announced her retirement effective June 23, 2023. I have drafted a resolution to recognize and commend Maritza Martinez for her exceptional 24 years of service to the City of Berkeley. Maritza has displayed unwavering commitment and dedication throughout her tenure, making significant contributions to civilian oversight in Berkeley.

Maritza's outstanding service spans over two decades, during which she has provided invaluable support to the Police Review Commission, the Office of the Director of Police Accountability, and the Police Accountability Board. Her professionalism and expertise have been evident in all aspects of her work, where she has consistently upheld the principles of transparency, accountability, and justice.

Moreover, Maritza's contributions to civilian oversight have played a vital role in fostering trust and strengthening the relationship between our community and law enforcement agencies. Her tireless efforts have significantly advanced policies and practices that promote fairness, equity, and the protection of civil liberties within the City of Berkeley.

In light of Maritza's remarkable leadership, integrity, and passion for promoting justice, I have drafted a resolution to recognize and commend her exceptional service. This resolution aims to express our deepest gratitude and extend heartfelt thanks to Maritza for her unwavering dedication.

I kindly request your support in approving and presenting this resolution to Maritza Martinez. Additionally, we plan to send copies of the resolution to the Mayor, all members of the City Council, and the City Manager, ensuring that Maritza's outstanding contributions are acknowledged by the entire City administration.



## RESOLUTION NO. 2023-0003

### RESOLUTION RECOGNIZING MARITZA MARTINEZ FOR HER 24 YEARS OF DEDICATED SERVICE TO THE CITY OF BERKELEY

---

**WHEREAS**, Maritza Martinez has served the City of Berkeley with unwavering commitment and dedication for 24 years; and

**WHEREAS**, Maritza Martinez's outstanding service has included 22 years of devoted support to civilian oversight in Berkeley, starting with her invaluable contributions to the Police Review Commission and subsequently the Office of the Director of Police Accountability and the Police Accountability Board; and

**WHEREAS**, Maritza Martinez has demonstrated exceptional professionalism and expertise in her roles, consistently upholding the principles of transparency, accountability, and justice in all aspects of her work; and

**WHEREAS**, Maritza Martinez's contributions to civilian oversight in Berkeley have played an instrumental role in fostering trust and strengthening the relationship between the community and law enforcement agencies; and

**WHEREAS**, Maritza Martinez's tireless efforts have contributed to the advancement of policies and practices that promote fairness, equity, and the protection of civil liberties within the City of Berkeley; and

**WHEREAS**, Maritza Martinez's leadership, integrity, and passion for promoting justice have left an indelible impact on the City of Berkeley and its residents;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Berkeley Police Accountability Board and the Office of the Director of Police Accountability hereby recognize and commend

Maritza Martinez for her exceptional 24 years of service to the City and extend its deepest gratitude for her dedicated service to civilian oversight in Berkeley; and

**BE IT FURTHER RESOLVED** that this resolution be presented to Maritza Martinez as a token of the City's appreciation, accompanied by heartfelt thanks and well wishes for a fulfilling and successful future.

**BE IT FURTHER RESOLVED** that copies of this resolution be sent to Maritza Martinez, the Mayor of the City of Berkeley, all members of the City Council, and the City Manager as a testament to the City's gratitude for her exceptional service and dedication.

Adopted on June 26, 2023.

Public

**RESOLUTION VOTING RESULTS**

| <b><u>Board member</u></b> | <b><u>Aye</u></b> | <b><u>No</u></b> | <b><u>Abstain</u></b> | <b><u>Absent</u></b> |
|----------------------------|-------------------|------------------|-----------------------|----------------------|
| Calavita                   |                   |                  |                       |                      |
| Harris                     |                   |                  |                       |                      |
| Leftwich                   |                   |                  |                       |                      |
| Moore                      |                   |                  |                       |                      |
| Wilson                     |                   |                  |                       |                      |
| <b>Total</b>               |                   |                  |                       |                      |

**CERTIFICATION**

I, John Moore, as Chair of the Police Accountability Board, hereby certify the accuracy of the voting results contained in this document.

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Moore,  
Chair of the Police Accountability Board

I, Hansel A. Aguilar, witnessed the signing of this document and can confirm that the signature, whether physical or electronic, belongs to John Moore. I have signed this document below as a witness to the signing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hansel A. Aguilar,  
Director of Police Accountability &  
Secretary to the Police Accountability  
Board



## MEMORANDUM

**Date:** June 16, 2023  
**To:** Honorable Members of the Police Accountability Board  
**From:** Hansel A. Aguilar, Director of Police Accountability  
**Re:** RESOLUTION OF THE POLICE ACCOUNTABILITY BOARD & OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY OF THE CITY OF BERKELEY ADOPTING THE NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT'S CODE OF ETHICS

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Pursuant to the last regular Board meeting, the purpose of this memo is to bring your attention to a draft resolution for the Police Accountability Board and the Office of the Director of Police Accountability to jointly adopt the National Association for Civilian Oversight of Law Enforcement's (NACOLE) Code of Ethics as the guiding principles and standards for our work.

The Police Accountability Board and Office of the Director of Police Accountability are established entities within the City of Berkeley, entrusted with promoting public trust through independent, objective, civilian oversight of the Berkeley Police Department. Our mission also includes facilitating community participation in the development and review of Police Department policies, practices, and procedures, as well as ensuring prompt, impartial, and fair investigations of complaints against sworn employees of the Berkeley Police Department.

Civilian oversight practitioners hold a unique role as public servants responsible for overseeing law enforcement agencies. We are entrusted by the community, government, and law enforcement to conduct our work with professionalism, fairness, and impartiality. We must uphold the highest ethical standards to maintain the integrity and effectiveness of our oversight efforts.

In light of this, the NACOLE has developed a comprehensive Code of Ethics that outlines principles and standards to guide the conduct and professionalism of civilian oversight practitioners. Adherence to this Code of Ethics not only enhances our effectiveness but also improves the perception of our civilian oversight bodies by the public.

It is worth noting that the original oversight body in the City of Berkeley, the Police Review Commission, also adopted the NACOLE Code of Ethics during its tenure. By aligning ourselves with this established standard, we demonstrate our commitment to maintaining consistency and building upon the foundation laid by our predecessors.

Therefore, we propose the adoption of the NACOLE Code of Ethics by the Police Accountability Board and Office of the Director of Police Accountability. This resolution will solidify our dedication to upholding the highest ethical standards in our oversight work.

If adopted, we intend to send copies of this resolution to the National Association for Civilian Oversight of Law Enforcement, the Mayor of the City of Berkeley, all members of the City Council, the City Manager, the Chief of Police, and the President of the Berkeley Police Association. By doing so, we aim to reaffirm our commitment to ethical practices and ensure transparency in our oversight efforts.



## RESOLUTION NO. 2023-0002

### **RESOLUTION OF THE POLICE ACCOUNTABILITY BOARD & OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY OF THE CITY OF BERKELEY ADOPTING THE NATIONAL ASSOCIATION FOR CIVILIAN OVERSIGHT OF LAW ENFORCEMENT'S CODE OF ETHICS.**

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**WHEREAS**, the Police Accountability Board and Office of the Director of Police Accountability are established to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and provide a means for prompt, impartial, and fair investigations of complaints brought by members of the public against sworn employees of the Berkeley Police Department; and

**WHEREAS**, civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies, entrusted by the community, government, and law enforcement to conduct their work in a professional, fair, and impartial manner; and

**WHEREAS**, the National Association for Civilian Oversight of Law Enforcement (NACOLE) has developed a Code of Ethics that sets forth principles and standards to guide the conduct and professionalism of civilian oversight practitioners; and

**WHEREAS**, adherence to the NACOLE Code of Ethics enhances the effectiveness, integrity, and public perception of civilian oversight bodies; and

**WHEREAS**, the original oversight body in the City of Berkeley, the Police Review Commission, has also adopted the NACOLE Code of Ethics;

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Police Accountability Board and Office of the Director of Police Accountability of the City of Berkeley that they hereby adopt



Public

the National Association for Civilian Oversight of Law Enforcement's Code of Ethics as the guiding principles and standards for their work.

**BE IT FURTHER RESOLVED** that copies of this resolution be sent to the National Association for Civilian Oversight of Law Enforcement, the Mayor of the City of Berkeley, all members of the City Council, the City Manager, the Chief of Police and the President of the Berkeley Police Association as an affirmation of our commitment to upholding the highest ethical standards in our oversight efforts.

Adopted on June 26, 2023.

Public

### **RESOLUTION VOTING RESULTS**

| <b><u>Board member</u></b> | <b><u>Aye</u></b> | <b><u>No</u></b> | <b><u>Abstain</u></b> | <b><u>Absent</u></b> |
|----------------------------|-------------------|------------------|-----------------------|----------------------|
| Calavita                   |                   |                  |                       |                      |
| Harris                     |                   |                  |                       |                      |
| Leftwich                   |                   |                  |                       |                      |
| Moore                      |                   |                  |                       |                      |
| Wilson                     |                   |                  |                       |                      |
| <b>Total</b>               |                   |                  |                       |                      |

### **CERTIFICATION**

I, John Moore, as Chair of the Police Accountability Board, hereby certify the accuracy of the voting results contained in this document.

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Moore,  
Chair of the Police Accountability Board

I, Hansel A. Aguilar, witnessed the signing of this document and can confirm that the signature, whether physical or electronic, belongs to John Moore. I have signed this document below as a witness to the signing.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hansel A. Aguilar,  
Director of Police Accountability &  
Secretary to the Police Accountability  
Board



## MEMORANDUM

**Date:** June 16, 2023  
**To:** Honorable Members of the Police Accountability Board (PAB)  
**From:** Hansel Aguilar, Director of Police Accountability  
Jose Murillo, Policy Analyst  
**Re:** Recommendations for Scheduled Review of Commendations of Berkeley Police Department Officers.

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### Background:

According to Section 125(26) of the Berkeley City Charter, the Police Accountability Board is mandated to establish a regular recognition program for exceptional service provided by sworn employees of the Police Department to the public, community, or the Department itself. The Board implemented this program as Section L, titled "Commendations of Berkeley Police Department Personnel," within the Standing Rules, which were ratified by the City Council on December 14, 2021.

Section L outlines that the Police Accountability Board frequently receives commendations from both external sources, such as the public, and internal sources within the Berkeley Police Department (BPD). These commendations serve the purpose of acknowledging and honoring individual officers, civilian employees, or groups within the BPD. The responsibility of including commendations on the Board's agenda rests with the Board secretary, who adds them as they are received. Any Board member interested in proposing a commendation must submit their proposal to the secretary.

To qualify for a commendation, BPD personnel must have displayed extraordinary service or acted in an exceptional manner, exemplifying qualities like valor, bravery, exceptional handling of challenging situations, actions surpassing typical duties, or

exceptional compassion. A motion for commendation must receive a majority vote from the Board members present during a meeting to pass. Following the meeting, the Board secretary communicates the Board's decision in writing to the City Council and forwards the commendation to the Chief of Police. The Chief of Police is requested to include the commendation in the personnel file of the officers or employees who were commended.

The Board has encountered challenges in reviewing commendations on a rolling basis due to a significant workload. As a consequence, commendations have not been promptly assessed, leading to a backlog of commendations awaiting review. Recognizing the need to alleviate this workload, the Office of the Director of Police Accountability (ODPA) presents the following recommendations for the Board's consideration. These recommendations aim to streamline the commendation review process and ensure that commendations are evaluated promptly.

**Recommendations:**

To help prevent future backlogs and streamline the commendation review process, the Office of the Director of Police Accountability presents the following recommendations:

1. **Quarterly Review**: The Board should adopt a quarterly review system, wherein commendations are reviewed at the last meeting of each quarter. During this meeting, commendation nominations will be assessed, and any awards will be formally presented at the first meeting of the following quarter. For example, commendations would be reviewed in the second meeting of March, and the commendation awards would be presented in the first meeting of April. This structured timeline will ensure regular and timely evaluation of commendations. For this method to work, the Board and ODPA should request the BPD to forward any commendations received by their department one week ahead of the meeting before the last meeting of the quarter. This will help ensure that ODPA staff has enough time to distribute the materials to the Board and that the Board has enough time to review them.
2. **Categorization**: To facilitate a speedy and efficient review, the Board should consider delegating to the Secretary the categorization of the commendations in

to the respective categories of the extraordinary service or exceptional acts that exemplify the qualities of:

- Valor
  - Bravery,
  - Exceptional handling of challenging situations,
  - Actions surpassing typical duties, or
  - Exceptional compassion
3. **Pre-Submission of Nominations**: To enhance efficiency, Board members should be encouraged to submit their commendation nominations ahead of time. These nominations can be noted on the agenda, allowing the Board to proceed with a formal vote during the meeting. This approach eliminates the need for a lengthy review process during the meeting, streamlining the commendation selection and decision-making.
4. **“Notable Service” Packet**: In cases where commendations are not nominated for formal Board recognition, it is recommended to compile a "Notable Service" packet. This packet would include other commendations that were not nominated but still deserving of recognition. By gathering these commendations together, the Board can acknowledge and appreciate outstanding acts of service that may not have been formally presented, ensuring a comprehensive recognition of noteworthy actions within the department.

Implementing these recommendations will help the Board maintain a consistent review schedule, reduce backlogs, and streamline the commendation process, ensuring that deserving individuals or groups within the Berkeley Police Department receive appropriate recognition promptly.



## POLICY COMPLAINT NOTICE

**Date:** June 16, 2023  
**To:** Honorable Members of the Police Accountability Board  
**From:** Hansel A. Aguilar, Director of Police Accountability  
Jose Murillo, Policy Analyst  
**Subject:** Notice of Policy Complaint No. 2023-PR-0003

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### Background:

On May 29, 2023, the Office of the Director of Police Accountability (ODPA) received a policy complaint form, along with additional attachments, via email at [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info). Policy Analyst Murillo examined the complaint and brought it to the attention of Director Aguilar.

On June 16, 2023, Policy Analyst Murillo reached out to the complainant to gather more information and inform them about the upcoming Board presentation scheduled for June 21, 2023. Murillo assured the complainant that they would have the opportunity to express their concerns directly to the Board. Additionally, Murillo informed the complainant that the Berkeley Police Department (BPD) would also be given time to address any questions and provide further details.

After reviewing the complaint and having a conversation with the complainant, the following concerns were identified:

1. Concerning the adequacy of Dispatch's response to an ongoing property crime, including the complainant's desire to understand how calls are prioritized:

The complainant reports that their neighbor contacted the Berkeley Police Department to report a property crime in progress. They allege that the dispatcher displayed insolence and asked difficult-to-answer questions, such as requesting the color of the car in the dark. Additionally, the complainant's neighbor claims that the dispatcher hung up on them when they called back to report that the suspect had left the scene and stopped at another vehicle down the block. The complainant contacted the dispatcher to question them, and although the dispatcher acknowledged receiving the first call, they denied receiving the second call. The complainant states that they were not informed at any point that more urgent calls were being prioritized over theirs.

2. Regarding the BPD's policy and practice concerning property crimes in progress:

The incident that prompted the aforementioned calls was a result of a crime in progress. The complainant expresses that an officer contacted them after the incident but could provide little assistance in addressing their situation. The complainant feels that the response to this incident indicates a lack of a clear policy within the BPD for responding to property crimes.

3. Concerning the availability of Dispatcher call transcript records through a public records request, along with any relevant exceptions:

The complainant states that they requested the call transcripts through the City of Berkeley's NextRequest portal. However, they were informed that the requests were exempt from disclosure and that a subpoena would be necessary to obtain them.

**Recommendations:**

The Board, per Section G "Policy Complaints and Reviews," has several potential actions to consider concerning the policy complaint, including:

1. Accepting the policy complaint and assigning a Board member to research the issue.
2. Accepting the policy complaint and asking staff to investigate or research the issue.
3. Accepting the policy complaint and establishing a subcommittee to review the matter.
4. Requesting further inquiry and assigning a Board member to research the issue.
5. Requesting further inquiry and asking staff to further research the issue.
6. Reject the policy complaint.

The ODPa suggests the following options in the order they are presented:

1. Requesting further inquiry and assigning Vice-Chair Harris to further research the issue given her dispatch background.
2. Accepting the policy complaint and assigning Vice-Chair Harris to further research the issue given her dispatch background.
3. Requesting further inquiry and asking staff to further research the issue.
4. Accepting the policy complaint and asking staff to investigate or research the issue.

The ODPa staff provides these recommendations considering the Board's current level of experience with dispatcher operations. While staff can conduct research on the issue, having firsthand knowledge from Board members would enhance the quality of the review. In the case that the Board elects to assign a member to conduct a further inquiry, the assigned Board member would receive the necessary support from staff to carry out the inquiry effectively.





# POLICY COMPLAINT FORM

Office of the Director of Police Accountability (DPA)

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

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

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

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

Date Received:

May 29, 2023

DPA Case # 2023-PR-0003

1

Name of Complainant: ASTA LISA

Mailing Address: [Redacted] Street City State Zip

Primary Phone: [Redacted] Alt Phone: ( )

E-mail address: [Redacted]

Occupation: N/A Gender: N/A Age: N/A

Ethnicity:  Asian  Black/African-American  Caucasian  
 Latino/Hispanic  Multiethnic:  Other: N/A

2

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

Dispatch call handling  
Police policy on property crimes in progress

3

Location of Incident (if applicable) [Redacted]

Date & Time of Incident (if applicable) 0030 5/4/2023

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

Peter Hess called 911 about catalytic converter theft - process.  
Alleges dispatcher insolent + asked color of car is dark. Asked how caller  
knew perpetrators were sometimes armed + hung up on him. Mr. Hess called  
again after hitting his car's panic button. Car squealed away. Stopped at  
1679 San Lorenzo. Called 911 again. Alleges dispatcher angrier +  
more hostile + hung up on caller. I spoke with Mr. McClain who  
said he remembered 1<sup>st</sup> call. He denied 2<sup>nd</sup> call. at no time did  
dispatcher say there were more urgent calls to attend to.

4

What changes to BPD policy, practice, or procedure do you propose?

City website says, "If you see someone suspiciously tampering with a vehicle, please report it immediately."

As dispatcher did not site calls for medical emergencies or more pressing crime, he could have done his job, not hung up, + behaved professionally.

5

Use this space for any additional information you wish to provide about your complaint. (Or, attach relevant documentation you believe will be useful to the Police Accountability Board in evaluating your complaint.)

I spoke with Mr McClain in the days after the 911 calls for property crime in process for which Dr. Hess alleges he hung up on him twice. I have called Ms Jasper, the supervisor. Mr. McClain's attitude to me was, "there were 60 calls for catalytic converters that day." This is immaterial to his performance as dispatcher. After speaking with Officer Yu, it doesn't sound like the department has a crime policy for property crime. Ms Jasper has never returned my call after we spoke + she said she would clarify events + call me.

6

**CERTIFICATION**

I hereby certify that, to the best of my knowledge, the statements made on this complaint are true.

Signature of Complainant

5/25/2023

Date

7

How did you hear about the Director of Police Accountability or Police Accountability Board?

Internet

Berkeley Police Dept. officer Yu

Newspaper: \_\_\_\_\_

Referred by: \_\_\_\_\_

Other: \_\_\_\_\_