



APPROVED

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
MINUTES

Tuesday, April 11, 2023, 6:30 P.M.

MEETING LOCATION

Judge Henry Ramsey Jr. South Berkeley Senior Center
2939 Ellis Street,
Berkeley, CA 94703

1. CALL TO ORDER & ROLL CALL BY VICE-CHAIR HARRIS AT 6:35 P.M.

Present: Board Member Regina Harris (Vice-Chair)
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Deborah Levine
Board Member Cheryl Owens
Absent: Board Member John Moore (Chair)
ODPA Staff: Hansel Aguilar, Director of Police Accountability
Beneba Thomas, Investigator
Jose Murillo, Policy Analyst
BPD Staff: Lt. Tate
BPA Rep.: Sgt. LeDoux
CAO Staff: Deputy City Attorney Mattes (Via Zoom)

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Calavita/Leftwich) **Motion Carried by Unanimous Consent.**

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None Abstain: None Absent: Moore

3. PUBLIC COMMENT

APPROVED

- In-Person Public Comment (1 Speaker)
 - o Speaker 1 asked a series of questions to the Board in light of the City Council's closed session on Thursday, April 13th to discuss the appointment of a permanent Police Chief. Those questions were the following:
 - Are the members of this Board satisfied with the selection process of the new police chief?
 - Does the Board think that the top candidate for the police chief position meets the needs of the Berkeley community and is the right candidate for the job?
 - Does the Board know how many candidates were interviewed for the position?
- Virtual Public Comment (1 Speaker)
 - o Speaker 2 advises the Board to avoid blindly recommending EIS practices from other jurisdictions without assessing the specific challenges faced by the Berkeley police department. The speaker also highlights the integration of the Board's recommendations within BPD's 2022 Annual Report on Police Equipment and Community Safety Ordinance. He notes that there is a pattern of BPD deploying less-lethal technology and patrol rifles but scarcely having to fire them.

4. APPROVAL OF MINUTES

Motion to approve Special Meeting Minutes of March 25, 2023.

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None Abstain: None Absent: Moore.

Motion to approve Regular Meeting Minutes of March 29, 2023, with revisions.

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None Abstain: None Absent: Moore.

- The following changes were made:
 - o Under Item 11.b. of the March 29th minutes, Board member Owens' vote was corrected from "No" to "Yes" as it relates to the motion to ask staff to inquire about the next public safety policy committee meeting and request additional time for the PAB to respond with the requested information.

- Under Item 11.c. of the March 29th minutes, Board member Owens' vote was corrected from "Yes" to "No" as it relates to the motion to create and appoint board members to a subcommittee to explore issues and solutions regarding conflicts of interest with legal counsel.
- Under Item 11.c. the text "Chair Moore, Board member Leftwich, and Board member Levine are appointed to the subcommittee" was added

5. ODPa STAFF REPORT

- Director Aguilar reported on the following:
 - **Staff Activity:**
 - ODPa staff attended the AXON conference on March 31st. Staff got to learn about different technologies available for law enforcement agencies and their capabilities--including features that promote transparency and oversight. Staff got to learn about different drone capabilities and reporting features, developments in stun gun ("taser") equipment, and more.
 - Staff continues to work on the ODPa-PAB annual report. The report must be sent to the CAO for review before it can be made public. We appreciate everyone's patience.
 - **Announcements and Reminders:**
 - This is a reminder that there is a NACOLE webinar on April 25th. If you are interested in listening to this webinar, please let us know. The presentation is titled "Shielded: How the Police Became Untouchable" and is presented by Joanna Schwartz, professor of Law at UCLA.
 - This is a reminder that if you are interested in the CACOLE webinar, please let staff know ASAP so that we may enroll you. Scheduled to take place from May 29th to May 31st.

6. CHAIR AND BOARD MEMBERS' REPORTS

- No report from the Chair and vice-Chair
- Board member Calavita reports on what the role of the Board was in the selection of the Police Chief process.

Motion to allow members of the public to ask questions as it relates to Board member Calavita's report.

Moved/Second (Levine/Owens) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

7. CHIEF OF POLICE'S REPORT

- Lt. Tate, on behalf of Interim Chief Louis, reports the following:
 - o One Officer resigned since the last PAB regular meeting, leaving the profession completely.
 - o The BPD hired Epic Recruiting to help updated recruiting materials. Services include updating brochures, video content, and more.
 - o The recruitment team attended 21 recruiting events in March which yielded over 150+ potential officer applicants and 70+ potential dispatcher applicants.
 - o Members of the Department's Community Services Bureau and Strategic Analysis team supported a Community Crime Meeting on March 28th. Over 200 attendees tuned in to the meeting where BPD staff were able to provide information on crime trends and public safety.
 - o A report on cases of interest is provided.
- Q & A:
 - o Vice-Chair Harris commends the BPD for their swift work in the reported cases of interest.
 - o Board member Leftwich follows up on her request for a BPD liaison for the PAB.
 - Answer: Lt. Tate has heard of the request but does not have an update. She will make a note for the Chief.
 - o Director Aguilar ask if an exit interview was conducted with the officer who resigned to help identify any potential retention patterns.
 - Answer: Lt. Tate states that she does not have any information on that.
 - o Vice-Chair Harris asks to be reminded of the current staffing levels of the BPD.
 - Answer: The information was not available at that moment.
 - o Board member Calavita follows up on Director Aguilar's question by asking if exit interviews are generally conducted.
 - Answer: Yes, exit interviews are generally requested but whether they are conducted depends on whether or not the departing officer opts to do so.

8. TRAINING ON EARLY WARNING SYSTEMS BY CAPTAIN CHRIS BOLTON (RETIRED).

- Captain Chris Bolton (retired) conducted a presentation on Early Intervention Systems. See pages 18 to 47 of the agenda packet for the presentation.

9. SUBCOMMITTEE REPORTS (DISCUSSION AND ACTION) *

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

- a. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Owens)
- Board member Owens states that the subcommittee continues to gather information and that there are no additional updates at this time.

Motion to request that the Chair compose a letter directed to the City Council, articulating concerns about the actions being taken in the police chief appointment process, considering that the potential appointment was supposed to take place after the conclusion of the pending investigations.

Moved/Second (Levine/Owens) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

- b. Regulations Subcommittee (Chair: Calavita)
- Board member Calavita reports that the subcommittee has finalized the proposed draft of the permanent regulations. The draft will be voted on later in the meeting.
- c. Conflict of Interest (Chair: Leftwich)
- Board member Leftwich reports that the subcommittee has met for its first meeting. The subcommittee will be recommending that the Board ask the CAO for their conflict of interest determination procedures. The subcommittee will meet again on Thursday (April 13) to draft this letter.

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

10. OLD BUSINESS (DISCUSSION AND ACTION)

- a. PAB's response to the Public Safety Policy Committee's questions regarding...
 - i. Unmanned Aerial Systems

Motion to approve the proposed memorandum with the requested edits and send it to the Public Safety Policy Committee.

Moved/Second (Owens/Levine) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

- A revision was made in the final sentence of the second paragraph on page 2, which now indicates the need to comply with the existing definition of "exigent circumstances" through appropriate mechanisms.
- A revision was made in the first paragraph of page 3, the first sentence was to indicate the need to comply with the existing definition of "exigent circumstances" through appropriate mechanisms.

ii. Fixed Camera Surveillance Systems

Motion to approve the proposed memorandum with the requested edits and send it to the Public Safety Policy Committee.

Moved/Second (Owens/Levine) **Motion Carried.**

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

- A revision was made in section two of the second page. The response to the question noted in section two now starts with "Although these cameras could be a helpful investigative tool."
- A work cited section was added to the end of the memorandum.

11. NEW BUSINESS (DISCUSSION AND ACTION)

- a. Review of the PAB's proposed permanent regulations.

Motion to approve the proposed permanent regulations with edits and move them to the next stage.

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

- Edits were typographical. No revisions to the content were made. DPA Aguilar provides information regarding the next steps in the process.

- b. Review of the BPD's 2022 Annual Report on Police Equipment and Community Safety Ordinance.

Motion to approve the BPD's 2022 Annual Report on Police Equipment and Community Safety Ordinance with edits.

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

- It was necessary to modify the wording in the final paragraph of page 4 of the memo to enhance its clarity.

12. PUBLIC COMMENT

- In-Person Public Comment (2 Speakers)
 - o Speaker 1 expresses gratitude to the Board for their proposal to draft a letter to the Council, which would articulate their apprehensions regarding moving forward with the appointment of a police chief given the pending investigations. In addition to expressing appreciation for the Board's motion, Speaker 1 also encourages them to take further action on the matter at hand.
 - o Speaker 2 notes that the acoustics in the room are not very good which made it difficult for her to hear. In addition, she notes that there are a few sections in the regulations that do not appear complete and should be revisited. Noting that what might seem obvious to some may not be for others and should therefore be spelled out.
- Virtual Public Comment (1 Speaker)
 - o Speaker 3 states that he found the presentation by Captain Bolton very interesting. He expresses concerns that although the intention is to support officers, the implementation of such a program may be seen as punitive. He further states that he does not believe the Board has the power to veto an appointment and that any concerns the Board may have about the Chief should be put in writing.

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 RECOMMENDATION TO ADMINISTRATIVELY CLOSE CASE NO. 27

Motion to administratively close case no.27

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

14. PRESENTATION OF RECOMMENDATION TO ADMINISTRATIVELY CLOSE CASE NO. 28

Motion to administratively close case no.28

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

15. PRESENTATION OF RECOMMENDATION TO ADMINISTRATIVELY CLOSE CASE NO. 30

Motion to administratively close case no.30

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

Ayes: Calavita, Harris, Leftwich, Levine, and Owens.

Noes: None

Abstain: None

Absent: Moore.

END OF CLOSED SESSION

16. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

- Case numbers 27, 28, and 30 were administratively closed.

17. ADJOURNMENT

Motion to adjourn the meeting.

Moved/Second (Owens/Calavita) **By general consent, the meeting was adjourned at 9:52 p.m.**

Minutes Approved on: April 26, 2023

Hansel Aguilar, Commission Secretary: 