



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA PACKET**

**Wednesday, January 10, 2024  
6:30 P.M.**

Board Members

John Moore III (Chair)  
Kitty Calavita  
Leah Wilson  
Joshua Cayetano

Regina Harris (Vice-Chair)  
Julie Leftwich  
Brent Blackaby  
Alexander Mozes

**MEETING LOCATION**

North Berkeley Senior Center  
1901 Hearst Avenue  
Berkeley, CA 94709  
([Click here for Directions](#))

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

# **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.

# January 10, 2024 Regular Meeting Agenda



**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING AGENDA  
Wednesday, January 10, 2024  
6:30 P.M.**

Board Members

John Moore III (Chair)  
Kitty Calavita  
Leah Wilson  
Joshua Cayetano

Regina Harris (Vice-Chair)  
Julie Leftwich  
Brent Blackaby  
Alexander Mozes

**MEETING LOCATION**

North Berkeley Senior Center  
1901 Hearst Avenue  
Berkeley, CA 94709  
([Click here for Directions](#))

**PUBLIC NOTICE**

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 5339 6072**. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

## LAND ACKNOWLEDGMENT

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 AND 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.*

4. **APPROVAL OF MINUTES** (5 MINUTES)
  - a. Minutes for the Regular Meeting of December 6, 2023
5. **ODPA STAFF REPORT** (10 MINUTES)

Announcements, updates, and other items.

- Introduction to Rex Brown, the City of Berkeley's inaugural Diversity, Equity & Inclusion (DEI) Officer.
- Update on the PAB-ODPA Annual Report
- Notice of Release of the 2024 RIPA Annual Report<sup>1</sup>

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<sup>1</sup> <https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>

## **6. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)**

Announcements, updates, and other items.

## **7. CHIEF OF POLICE'S REPORT (10 MINUTES)**

Crime/cases of interest, community engagement/department events, staffing, training, and other items of interest.

## **8. SUBCOMMITTEE REPORTS (10 MINUTES)**

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

## **9. LEGISLATIVE AND POLICY UPDATES (5 MINUTES)**

Report on any pertinent legislative updates or policy changes concerning civilian oversight and/or policing practice, covering:

- California Legislation/Case Law<sup>2,3</sup>
- City of Berkeley Ordinances<sup>4</sup>
- BPD Lexipol Policies<sup>5</sup>

## **10. NEW BUSINESS (25 MINUTES)**

- a. Nomination of candidates for the positions of Chair and Vice-Chair for the 2024 Calendar Year as outlined in Section 1(a) to Section 1(c) of the Standing Rules of the Police Accountability Board. (15 MINUTES)
- b. Presentation of New Policy Complaint Number 2023-PR-0009 (ODPA) (10 MINUTES)

## **11. PUBLIC COMMENT (TBD)**

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<sup>2</sup> <https://leginfo.legislature.ca.gov/>

<sup>3</sup> <https://post.ca.gov/Status-of-Current-Legislation>

<sup>4</sup> <https://berkeley.municipal.codes/>

<sup>5</sup> <https://berkeleyca.gov/safety-health/police/policy-training-materials>



*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.*

**12. CLOSED SESSION**

**CLOSED SESSION ITEMS**

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):

Case Updates Regarding Complaints Received by the ODP:

- a. 2023-CI-0004
- b. 2023-CI-0006
- c. 2023-CI-0008
- d. 2023-CI-0009
- e. 2023-CI-0010
- f. 2023-CI-0011
- g. 2023-CI-0012
- h. 2023-CI-0013
- i. 2023-CI- 0014
- j. 2023-CI- 0015
- k. 2023-CI- 0016
- l. 2023-CI- 0017
- m. 2023-CI- 0018
- n. 2023-CI- 0019
- o. 2024-CI- 0001

**END OF CLOSED SESSION**

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

**14. ADJOURNMENT (1 MINUTE)**

### **Communications Disclaimer**

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions, or committees, are public records and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.

#### Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

#### SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

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#### **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)

December 6, 2023, Regular Meeting Draft Minutes



**POLICE ACCOUNTABILITY BOARD**  
REGULAR MEETING MINUTES  
**Wednesday, December 6, 2023**  
**6:30 P.M.**

Board Members

John Moore III. (Chair)  
Kitty Calavita  
Brent Blackaby

Julie Leftwich  
Joshua Cayetano

Regina Harris (Vice-Chair)  
Leah Wilson  
Alexander Mozes

**MEETING LOCATION**

North Berkeley Senior Center  
1901 Hearst Avenue  
Berkeley, CA 94709  
([Click here for Directions](#))

Meeting Recording: <https://youtu.be/DHWsfjKGwHY>

Minutes

**1. CALL TO ORDER AND ROLL CALL AT 6:32 PM**

**Present:** Board Member John Moore (Chair)  
Board Member Kitty Calavita  
Board Member Juliet Leftwich  
Board Member Leah Wilson  
Board Member Brent Blackaby  
Board Member Joshua Cayetano  
Board Member Alexander Mozes

**Absent:** Board Member Regina Harris (Vice-Chair)

**ODPA Staff:** Hansel Aguilar, Director of Police Accountability  
Jayson Wechter, Investigator  
Jose Murillo, Program Analyst  
Keegan Horton, Investigator

**BPD Staff:** Captain Durbin

**CAO Staff:** Iris Mattes, Deputy City Attorney  
**CMO Staff:** Carianna Arredondo, Assistant to the City Manager

## 2. APPROVAL OF AGENDA

### **Motion to approve the agenda.**

Moved/Second (Calavita/Cayetano) Approved by unanimous consent.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

## 3. PUBLIC COMMENT

1 Physically Present Speakers

0 Virtually Present Speakers

## 4. APPROVAL OF MINUTES

### **Motion to approve the meeting minutes for the special meeting of November 8, 2023.**

Moved/Second (Calavita/Leftwich) Motion Carries.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

## 5. ODPa STAFF REPORT

Director Aguilar provides updates on PAB and ODPa attendance at the 2023 NACOLE conference, the ODPa-PAB Annual Report, the introduction of a new case management system for the ODPa, and offers a staffing update. New ODPa Investigator Keegan Horton introduces himself to the PAB and the public.

## 6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore provides an update to the PAB about his attendance at NACOLE. Additionally, he shares information on a presentation given by the PAB-ODPa to a class at Berkeley High School.

## 7. CHIEF OF POLICE'S REPORT

Captain Durbin, on behalf of Chief Louis, reports on community-relevant cases, provides staffing updates and recruitment/retention, and addresses updates related to PAB requests. She fields questions from Board Members.

## 8. SUBCOMMITTEE REPORTS

The Off-Duty Conduct policy subcommittee and the Lexipol Policy Review subcommittee present a status update on their ongoing activities.

### **Motion to appoint Kitt Saginor to the Lexipol Policy Review Subcommittee as a public member.**

Move/Second (Leftwich/Calavita) Motion Carries.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

## 9. NEW BUSINESS

### a. Discussion and action regarding the 2024 PAB Meeting Schedule

**Motion to adopt the proposed regular meeting schedule and maintain the meeting on Wednesdays with a start time of 6:30 P.M.**

Moved/Second (Blackaby/Calavita) Motion Carries.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

### b. Discussion and action regarding the 2024 PAB Strategic Planning Session

The PAB discusses potential topics for their 2024 strategic planning session. Board Member Leftwich and Board Member Mozes volunteer to help organize the session and bring back a proposed agenda to the PAB in their second January meeting.

### c. Discussion and action regarding the Agenda & Rules Council Committee's referral of Councilmember Harrison's Draft Resolution "Opposition to Police Brutality and Use of Force on Nonviolent Protesters" for review to the PAB.

**Motion to adopt Board Member Calavita's proposed response to the City Council's Agenda & Rules Committee's referral with edits is on the table.**

Moved/Second (Cayetano/Blackaby) Motion Carries.

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

## 10. PUBLIC COMMENT

0 Physically present speakers.

0 Virtually present speakers.

**11. CLOSED SESSION at 9:10 PM**

**CLOSED SESSION ITEMS**

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):

Case Updates Regarding Complaints Received by the ODPa

Regarding Items 12.a. – 12.j.:

Director Aguilar provides case updates to the Board including the presentation of findings and newly accepted complaints.

**Motion to administratively close ODPa Complaint No. 2023-CI-0003**

Moved/Second (Leftwich/Mozes)

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, Mozes, and Wilson.

Noes: None. Abstain: None. Absent: Harris.

**Motion to sustain allegations 1 and 3 in ODPa Complaint No. 2023-CI-0007**

Moved/Second (Cayetano/Leftwich)

Ayes: Blackaby, Calavita, Cayetano, Leftwich, Moore, and Wilson.

Noes: Mozes. Abstain: None. Absent: Harris.

**END OF CLOSED SESSION**

**12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS**

Chair Moore announces the closed-session actions.

**13. ADJOURNMENT**

**Motion to adjourn.**

(Wilson/Blackaby) The meeting was adjourned at 9:12 P.M by unanimous consent.

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Minutes Approved on: \_\_\_\_\_

Hansel Aguilar, Commission Secretary: \_\_\_\_\_

Biography of Rex Brown, City of Berkeley's inaugural  
Diversity, Equity & Inclusion Officer



Internal

## INTRODUCING REX BROWN



In his current role as City of Berkeley’s inaugural Diversity, Equity & Inclusion Officer, Rex will work to champion the City’s commitment to DEI efforts across the entire organization and the larger community. Rex has extensive experience developing teams and establishing results based strategic frameworks with leaders at all levels to carry out comprehensive enterprise-level transformations. As the Senior Director of Diversity at the largest state agency, Department of Social and Health Services, and Executive Administrator for the Governor’s first Business Diversity Subcabinet — he built DEI initiatives as an inaugural and early-stage leader.

Prior to his selection as City of Berkeley’s Diversity, Equity & Inclusion Officer, Rex led the Seattle Human Services Department’s Division of Safe and Thriving Communities focusing on social impact investments in Black and Indigenous People of Color (BIPOC) community safety and violence prevention. Prior to this, Rex led the Washington Subcabinet on Business Diversity at the Office of Minority and Women’s Business Enterprises (OMWBE). In this inaugural Subcabinet role, he conducted the first Statewide Disparity Study in 2019. In the past, Disparity Studies have been used to determine contract fairness largely in the transportation industry by comparing the number of individuals or groups seeking contracts and those actually selected. Rex innovated this usage to include all statewide contracting (goods and services, client services and public works) to address systemic.

Rex has a law Degree from Boston College Law School (BC Law) and a Bachelor’s of Arts & Sciences Degree with a double-major in English and Philosophy at Boston College. As an alum of BC Law, Rex took up leadership of the Black Alumni Network (BAN) as its president, and during his tenure refocused BAN’s African American student recruitment/retention efforts as an integral component of BC Law’s mission for social justice, oversaw establishment of the Ruth Arlene W. Howe Scholarship (first African American female faculty member to achieve tenure and the rank of full professor at BC Law), and helped guide the selection of BC Law School’s first African-American dean.

Rex is passionate about ending systemic racism and creating a community where everyone is free from violence and thrives with health, a home, students graduate, and families are financially stable.

## List of current PAB Subcommittees



**SUBCOMMITTEES LIST**  
As of 12-06-2023

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

<b>Lexipol Policy Review</b> Formed 11-08-2023	Leftwich Cayetano Mozes	Leftwich	
<b>Budget Review</b> Formed 11-08-2023	Wilson Blackaby		
<b>Commendations</b> Formed 11-08-2023	Moore Blackaby Harris		
<b>Off-Duty Conduct</b>	Cayetano Harris		Lt. Rittenhouse

Section I. “Elections” of the PAB’s Standing Rules

### *SECTION 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.

Presentation materials for Policy Complaint Number  
2023-PR-0009



## MEMORANDUM

**Date:** Friday, January 5, 2024  
**To:** Honorable Members of the Police Accountability Board  
**From:** Hansel A. Aguilar, Director of Police Accountability *HA*  
Jose Murillo, Program Analyst *JM*  
**Subject:** Notice of Policy Complaint No. 2023-PR-0009

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The purpose of this memorandum is to introduce policy complaint number 2023-PR-0009 to the Police Accountability Board which was filed with the Office of the Director of Police Accountability (ODPA) on October 10, 2023.

### Background:

On October 10, 2023, a completed policy complaint form was filed with the Office of the Director of Police Accountability (ODPA) (See Attachment 1). This complaint raised concerns about an incident witnessed on October 7th, 2023, around 6:00 pm near the intersection of University Avenue and California Street in Downtown Berkeley, CA. According to the complainant, a Caucasian male who appeared to be in his thirties, wearing a red shirt and carrying a backpack, was stopped by a Berkeley police officer while cycling on the sidewalk. The complainant claims that the officer proceeded to handcuff the individual and conduct a brief interrogation. The man was subsequently released. The complainant stated that they observed several police vehicles arrive and leave the scene, with the officers appearing to engage in conversations (See Attachment 1).

The complainant did not specify any particular policy they wished to examine but expressed an interest in gaining a clearer understanding of detainment and arrest policies and procedures (Attachment 1). On November 3, 2023 ODPA staff contacted the



Complainant to clarify her request and provide additional information on the policy review process. Through the conversation, the complainant stated that it would perhaps be more appropriate to file a personnel complaint and that they would be filing one with our office. Several weeks passed and a complaint was not filed. ODPa staff once again reached out on December 8, 2023, to verify that a complaint had not been filed. The complainant confirmed that the complaint had not been filed nor would it be. They expressed a desire not to proceed with the complaint.

**Potential Area(s) of Review:**

According to the initial information, the following policies could have been relevant based on the description of the events:

- BPD Policy 300, titled "Use of Force"
- BPD Policy 302, titled "Application of Handcuffs and Restraints"
- BPD Policy 311, titled "Searches and Seizures"

Given the limited amount of information, conducting a policy review would be challenging without additional context that could help ascertain whether the existing policies warrant a reassessment.

**Recommendation:**

Upon receiving a policy complaint, the Board can choose from several potential courses of action<sup>1</sup>, which include but are not limited to:

1. Accepting the policy complaint and assigning a Board member to investigate.
2. Accepting the policy complaint and directing ODPa staff to carry out an investigation.
3. Accepting the policy complaint and establishing a subcommittee to investigate the matter.
4. Temporarily deferring acceptance of the policy complaint and assigning a Board member to investigate it before formal acceptance.

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<sup>1</sup> [Section G. "Policy Complaints and Reviews" of the PAB's Standing Rules](#)

5. Temporarily deferring acceptance of the policy complaint and instructing ODPA staff to investigate the matter.
6. Rejecting the policy complaint.

Based on the available information, ODPA staff believes that the Board should consider rejecting this policy complaint as a stand-alone review and instead refer some of the topics that this complaint touches on for consideration to existing subcommittees.

The information presented highlights a potential topic for consideration by the budget subcommittee: the allocation of police resources. The complainant expressed confusion about the substantial police presence at the scene (refer to Attachment 1). The PAB, if it chooses to do so, could delve into the question of police resource distribution and the budgetary implications. The Berkeley City Auditor's Report titled "Berkeley Police: Improvements Needed to Manage Overtime" touches on this issue in the context of the integration of staffing projections to meet public safety demands into budgetary decision-making<sup>2</sup>. To enhance the subcommittee's budget recommendations, it could be beneficial to understand the typical response for varying calls for service and analyze any observed patterns in the types of calls and/or their geographical location that could impact the need for changes in the BPD's staffing distribution.

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<sup>2</sup> [Berkeley Police: Improvements Needed to Manage Overtime](#)

# ATTACHMENT 1



# 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:

10/10/2023

DPA Case # 2023-PR-0009

**1** Name of Complainant: \_\_\_\_\_  
Last First Middle

Mailing Address: \_\_\_\_\_  
Street City State Zip

Primary Phone: \_\_\_\_\_ Alt Phone: ( ) \_\_\_\_\_

E-mail address: \_\_\_\_\_

Occupation: Berkeley Law School Student, Year 3 Gender: F Age: 22

Ethnicity:  Asian  Black/African-American  Caucasian  
 Latino/Hispanic  Multiethnic: \_\_\_\_\_  Other: \_\_\_\_\_

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

Please review the specific incident detailed below.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3** Location of Incident (*if applicable*) North side of intersection of University Ave. and California St.

Date & Time of Incident (*if applicable*) About 6:00pm on October 7th, 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.

\_\_\_\_\_

Please see document attached below.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4

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

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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.)

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6

**CERTIFICATION**

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

 \_\_\_\_\_  
Signature of Complainant

10/09/23 \_\_\_\_\_  
Date

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

- Internet
- Berkeley Police Dept.
- Newspaper: \_\_\_\_\_
- Referred by: \_\_\_\_\_
- Other: Law School Community

I am concerned about an incident I witnessed on October 7<sup>th</sup>, 2023, at about 6:00pm on the north side of the intersection of University Avenue and California Street in Downtown Berkeley, CA. An individual was arrested and released within about five minutes. Other bystanders and I were astounded by the situation and would like an explanation of the incident to assuage our concerns.

I was standing at the #88 bus stop on the north side of University Avenue, just west of the intersection of University Avenue and California Avenue. There is a small parking lot on the north side of University Avenue at that spot. I was standing on the sidewalk between the parking lot and the street. A white man wearing a red shirt and a backpack who appeared to be in his 30s rode his bike out of the parking lot onto the sidewalk next to me. At exactly that moment, a Berkeley police vehicle pulled up to the man on the bicycle on the north curb on University Avenue just west of the intersection of University Avenue and California Avenue. The police officer asked the man on the bicycle to stop, which the man immediately did. The police officer got out of his car and immediately took off the man's backpack and threw it to the ground. The police officer then immediately handcuffed the man's hands behind his back and threw the bicycle to the ground. A woman on a bicycle was across the street on the south side of University Avenue and shouted, surprised, to the handcuffed man with the red shirt, asking him what was the matter. The man shouted back to her that he didn't know what was going on and that he thought maybe something happened down the street and that "they think I did something." Quickly, more police vehicles began arriving and congregating at the north side of the intersection of University Avenue and California Avenue. I think about five police vehicles in total arrived within a minute or so. The police officer walked the handcuffed man over to a police vehicle parked on the east side of California street just north of the intersection of University Avenue and California Avenue and had him stand against the vehicle with the back of his legs against the left side of the hood of the vehicle. The original police officers and several others then began questioning the handcuffed man in the red shirt for a couple of minutes. The police officers then released the man and he picked up his bicycle and backpack and rode west down University Avenue with the woman who had shouted to him and had also been waiting for him through this entire interaction. The police officers then began talking to each other. We couldn't hear what they were saying, but they appeared to be either shouting at each other or laughing. The police officers then all drove away from the scene within about two minutes.

Other bystanders and I couldn't understand why the man on the bicycle was arrested so quickly and why so many police officers arrived at the scene, suggesting that the man was a dangerous suspect, only for the man to be so quickly released and for all the police officers to leave. We would like some assurance that the police officers had probable cause for the arrest. Thank you for your review of this incident.

I took the following photo of three of the police vehicles that were present at the scene. At least two other vehicles were also present but had driven away at the point when I took the photo. The license numbers in view are, from left to right in the image, 1634860, 1636853, and 1634859.

