

OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING**

**Tuesday, January 31, 2023  
6:30 P.M.**

**Board Members:**

JOHN MOORE III. CHAIR  
KITTY CALAVITA

REGINA HARRIS  
JULIE LEFTWICH  
DEBORAH LEVINE

CHERYL OWENS  
ISMAIL RAMSEY

**PUBLIC ADVISORY**

**THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH  
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of the attendees. Therefore, no physical meeting location will be available.

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.

The Police Accountability Board and Office of the Director of Police Accountability (ODPA) were created to provide independent civilian oversight of the Berkeley Police Department. They review and make recommendations on police department policies, and investigate complaints made by members of the public against police officers. For more information, contact the ODPA.

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)

## 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** (5 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)  
Regular meeting of January 11, 2023
5. **ODPA STAFF REPORT** (5 MINUTES)  
Announcements, updates, and other items.
6. **CHAIR AND BOARD MEMBERS' REPORTS** (5 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 (discussion and action) (10 min)**  
 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)
    - i. Update on subcommittee activity.
9. **OLD BUSINESS (discussion and action) (15 min)**
- a. Update on the discussion regarding future access to BPD Internal Affairs Bureau Reports and information (Calavita)
10. **NEW BUSINESS (discussion and action) (10 min)**
- a. Nomination and election of PAB Chairperson and Vice-Chairperson (10 min) – (ODPA Staff)
  - b. Discussion regarding the possibility of bringing in Captain Bolton, national consultant on Early Intervention Systems, to do a presentation (5 min) – (Calavita)
  - c. Notice of potential topics of interest for future PAB review (5 min) – (ODPA Staff)
    - i. Budget Review Authority under Section 125(21) of the Charter
    - ii. Overtime Usage of BPD
  - d. In-Person Transition Plan and Meeting Places (5 min) – (ODPA Staff)

VENUE	LOCATION	AVAILABILITY & NOTES
South Berkeley Senior Center	2939 Ellis St, Berkeley, CA 94703	– available to book meeting space; MPR is the largest room to allow for distancing
North Berkeley Senior Center	1901 Hearst Ave, Berkeley, CA 94709	– <u>not available until after April 15</u> ; currently in use as homeless warming center
Frances Albrier Recreation Center	2800 Park St, Berkeley, CA 94702	the Social Hall is available for commission meetings (large room, good for distancing)
James Kenney Recreation Center	1720 Eighth St, Berkeley, CA 94710	Community Room (upstairs; smaller than Albrier social hall, but larger than NBSC classrooms)
Live Oak Recreation Center	1301 Shattuck Ave., Berkeley, CA 94704	Fireside Room or Creekside Room (smaller than Albrier social hall, but larger than NBSC classrooms)

**11. 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 items on this agenda only.)*

**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 take action on the following matter(s):*

**12. PRESENTATION OF RECOMMENDATIONS REGARDING CASE NO.**

**2488 (5 MIN)**

**13. PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT**

**NO. 17 (5 MIN)**

**14. CONTINUED PRESENTATION OF RECOMMENDATION(S) REGARDING**

**COMPLAINT NO. 19 (5 MIN)**

**15. PRESENTATION OF OBJECTION ACCEPTANCE FOR CASE NO. 21 (5**

**MIN)**

**16. PENDING CASE UPDATES (5 MIN)**

**END OF CLOSED SESSION**

**17. ANNOUNCEMENT OF CLOSED SESSION ACTION (1 minute)**

**18. ADJOURNMENT (1 minute)**

#### Communications Disclaimer

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions or committees, are public record 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 [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

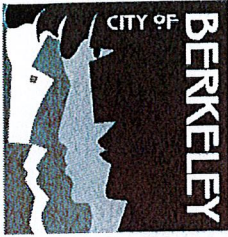


**POLICE ACCOUNTABILITY BOARD (PAB)  
REGULAR MEETING ATTACHMENTS  
January 11, 2023**

<b><u>MINUTES</u></b>	
January 11, 2023 Regular Meeting Draft Minutes	Page 9
<b><u>ADMINISTRATIVE MATERIALS</u></b>	
Stipend Report	Page 13
<b><u>AGENDA-RELATED</u></b>	
Item 8. – 01-31-2023 PAB Subcommittee List.	Page 15
Item 10.a – Section I “Elections” of the PAB’s standing rules	Page 17
Item 9.a. – Memorandum to the Interim Chief of Police regarding future access to BPD Internal Affairs Bureau Reports and information.	Page 19
<b><u>COMMUNICATIONS</u></b>	
None	







OFFICE OF THE DIRECTOR  
OF POLICE ACCOUNTABILITY

**DRAFT**

**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING  
MINUTES  
(draft)**

**Wednesday, January 11, 2023, 6:30 P.M.**

*Virtual Meeting*

**No physical location; meeting held exclusively through videoconference and teleconference.**

**1. CALL TO ORDER & ROLL CALL BY CHAIR MOORE AT 6:43 P.M.**

- Present: Board Member John Moore (Chair)  
Board Member Kitty Calavita  
Board Member Regina Harris  
Board Member Juliet Leftwich  
Board Member Deborah Levine  
Board Member Cheryl Owens  
Board Member Ismail Ramsey
- Absent: None.
- ODPA Staff: Hansel Aguilar, Director of Police Accountability  
Beneba Thomas, DPA Investigator  
Jose Murillo, Associate Management Analyst
- BPD Staff: Interim Chief Louis  
Lt. Reece

**2. APPROVAL OF AGENDA (5 MINUTES)**

**Motion to approve the agenda.**

Moved/Second (Leftwich & Levine) – MOTION CARRIED

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

Noes: None      Abstain: None      Absent: None

3. **PUBLIC COMMENT**

- 3 Speakers.

4. **APPROVAL OF MINUTES (5 MINUTES)**

(Regular meeting of December 9, 2022.)

**Motion to approve the regular meeting minutes for December 9, 2022**

Moved/Second (Owens & Leftwich) – MOTION CARRIED

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

Noes: None      Abstain: None      Absent: None

5. **ODPA STAFF REPORT (5 MINUTES)**

(Announcements, updates, and other items.)

- Director Aguilar provides an update on the current work of the Office of the Director of Police Accountability (ODPA). He also provided additional information regarding the status of PAB and staff vacancies.
- Director Aguilar and ODPA staff answer questions from the PAB member.

6. **CHAIR AND BOARD MEMBERS' REPORTS (5 MINUTES)**

- No announcements or updates were made by the Chair or Board members.

7. **Chief of police's report (10 minutes)**

- Interim Chief Louis provided updates on staffing, cases of interest, and policy being worked on by BPD. As it relates to policy, she informs the PAB that BPD is working on a surveillance technology acquisition report and drone policy that will be presented to the PAB for review and recommendation. The policy is being reviewed by the City Attorney's office.

8. **SUBCOMMITTEE REPORTS (discussion and action) (10 min)**

- a. Controlled Equipment Subcommittee. (Welcome more Board members to join.) (Chair: Moore)
  - Chair Moore invites additional board members to join the subcommittee.
- b. Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations (Chair: Owens)



**11. PUBLIC COMMENT (TBD)**

- 1 speaker.

**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 take action on the following matter(s):*

**12. PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT #21 (10 MIN)**

**Motion to administratively close complaint #21.**

Moved/Second (Owens & Leftwich) Motion Carried.

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

Noes: None                      Abstain: Ramsey                      Absent: None

**13. PRESENTATION OF RECOMMENDATION(S) REGARDING COMPLAINT #30 (10 MIN)**

**Motion to defer further action to the next regular meeting in order for the ODPa to gather requested information.**

Moved/Second (Owens & Harris) Motion Carried.

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

Noes: None                      Abstain: None                      Absent: None

**14. PENDING CASE UPDATES (5 MIN)**

- Item deferred to the next meeting

**END OF CLOSED SESSION**

**15. ANNOUNCEMENT OF CLOSED SESSION ACTION (1 minute)**

- Chair Moore reports the closed session actions.

**16. ADJOURNMENT (1 minute)**

- Meeting adjourned at 9:45 pm.

	Chief of Police Process 10-4	Chief of Police Process 10-6	PAB Mtg Oct 12	TOTAL OCT	PAB Mtg Nov 9	PAB Spec Mtg Nov 15	Nov 29 Policy Dmrtwn Task Force 8	TOTAL NOV	PAB Hearing 12-2	PAB Spec Mtg Dec 5	12-14 Pol&Practices re Dmrtwn Task	TOTAL DEC	TRAINING	TOTAL QUARTER
Kitty Calavita	\$0	\$107	\$107	\$214	\$107	\$25	\$300	\$107	\$107	\$20	\$300	\$0	\$814	
Regina Harris	\$0	\$107	\$107	\$214	\$107	\$0	\$107	\$0	\$107	\$0	\$107	\$428	\$428	
Julie Leftwich	\$20	\$80	\$107	\$300	\$107	\$0	\$300	\$0	\$107	\$0	\$107	\$20	\$727	
Deborah Levine	\$20	\$80	\$107	\$300	\$107	\$0	\$300	\$107	\$107	\$0	\$300	\$900	\$900	
Chip Moore	\$20	\$80	\$107	\$207	\$0	\$25	\$239	\$0	\$107	\$20	\$127	\$573	\$573	
Cheryl Owens	\$0	\$107	\$107	\$214	\$107	\$25	\$300	\$0	\$107	\$20	\$127	\$641	\$641	
*Nathan Mizell	\$20	\$80	\$107	\$300	\$107	n/a	\$300	\$0	\$107	\$0	\$107	n/a	n/a	
x-Izzy Ramsey	\$0	\$107	\$107	n/a	\$107	\$0	n/a	\$107	\$107	\$0	n/a	n/a	n/a	

\* paid monthly

x do not claim

No color = n/a

red color - cap/mo.

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charges p/mtg

City Charter Section 11(a): Each Board member is entitled to receive a stipend of \$107 for each regular/special Board meeting attended, and \$20 per hour for each hour of training attended as provided in Section 12 and each subcommittee meeting attended as a member of a subcommittee. Excluding participation in trainings, the total stipend paid may not exceed \$300 per month per Board member.



**POLICE ACCOUNTABILITY BOARD  
SUBCOMMITTEES LIST  
01-26-2023**

<b>Subcommittee</b>	<b>Board Members</b>	<b>Chair</b>	<b>BPD Reps</b>
<b>Regulations</b> Formed 7-7-21 Renewed 6-22-22	Calavita Leftwich Owens  <u>Public:</u> Kitt Saginor		Lt. Dan Montgomery
<b>Fair &amp; Impartial Policing Implementation</b> Formed 8-4-21 Renewed 9-14-22	Calavita Moore Owens Ramsey  <u>Public:</u> George Lippman Elliot Halpern	<b>Calavita</b>	Sgt. Peter Lee
<b>Mental Health Response</b> Formed 11-10-21 Scope expanded 3-9-22	Harris Levine  <u>Public:</u> Elena Auerbach		Sgt. Joe LeDoux
<b>Fixed Surveillance Cameras (Policy 351)</b> Formed 2-9-22	Ramsey		
<b>Controlled Equipment Use &amp; Reporting</b> Formed 5-11-22	Moore Ramsey	<b>Moore</b>	Sgt. Peter Lee Sgt. Joe LeDoux
<b>Chief of Police Process</b> Formed 9-30-22	Leftwich Levine Moore		

<b>Drone Use Policy</b> Formed 11-9-22	Requires Assignment		
<b>Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations</b> Formed 11-15-22	Calavita Moore Owens	<b>Owens</b>	



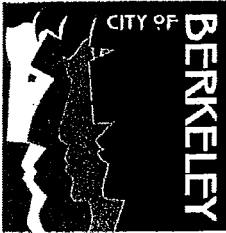
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POLICE ACCOUNTABILITY BOARD STANDING RULES  
SECTION I. ELECTIONS

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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.





Office of the Director of  
Police Accountability (ODPA)

## MEMORANDUM

Date: Friday, January 20, 2023  
To: Jennifer Louis, Interim Chief of Police  
From: Hansel A. Aguilar, Director of Police Accountability   
Cc: John Moore, Police Accountability Board Chair;  
Farimah Brown, City Attorney;  
Re: Request for the Continuous Production of Complaints Filed with the  
Berkeley Police Department's Internal Affairs Bureau

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### Background:

On January 11, 2023, the Police Accountability Board (hereinafter "the Board" or "PAB") unanimously voted to request that the Berkeley Police Department's Internal Affairs Bureau (IAB) routinely provide all records of internal and external complaints and investigations undertaken or received by the IAB. Through its letter of support attached hereto as Attachment 1, the PAB formally requests that IAB works with the ODPa to implement a system that ensures the timely transmittal of the requested documents in compliance with local, state, and federal laws. The Board makes its request under the powers granted by the Berkeley City Charter in §125(3)(a) and §125.20(a)-(c).

The Board requests these documents in good faith to effectively perform its functions as an oversight body, promote public trust, and perform its charter mandates duties as advisers to the public, City council, and City Manager as it relates to the operations of the Berkeley Police Department.

### Recommendations:

The ODPa provides the following recommendations:

1. The IAB should provide a monthly report to the ODPa of all external and internal complaints filed with the IAB. A potential format for this report could look like Table 1:

Table 1

IAB Case #	Allegations	Summary	Name of complainant	Name of Officer	Findings per allegations	Corrective Action	Received by IAB on	Closed on	Date Disposition Letter sent to the complainant
					(i.e. sustained, not sustained, unfounded, exonerated)				

2. Provide complete copies of all external and internal complaints filed with the IAB.
3. Upon completion of the relevant investigation, the IAB should provide the ODPa with a copy of all files, transcripts, and records related to the complaint.

**Rationale for Recommendation(s):**

Current procedures impede the PAB and ODPa from fully performing their Charter-mandated responsibility to advise and make recommendations to the public, City Council, and City Manager regarding the operations of the Berkeley Police Department.<sup>1</sup> For an oversight body to function effectively, it must be kept apprised of the relevant developments within their respective police department so that the oversight agency may help improve the quality of a department’s internal investigations of alleged misconduct while reassuring the community at large that discipline is being imposed when appropriate, while also increasing the transparency of the disciplinary process.<sup>2</sup> Through the review of the complaint files processed by the IAB, the PAB hopes to improve the public’s trust in the procedures for investigating alleged misconduct.

A recurring review of IAB complaints can be an effective way of demystifying the IAB investigation process, confirming its procedural strengths, and detecting trends and common practices of the department. Currently, the PAB does not receive any information from the IAB as to the nature of the complaints received by their office. This is a major barrier to the PAB’s ability to identify and report on any training and/or policy issues that may have risen during the IAB’s investigation.<sup>3</sup> Through a

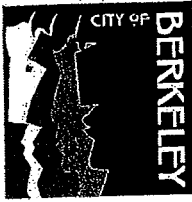
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<sup>1</sup> Berkeley City Charter §125(3)(a)  
<sup>2</sup> <https://www.nacole.org/benefits>  
<sup>3</sup> Berkeley City Charter §125(16)(b)(2) & §125(16)(b)(4)

recurring review process, the PAB can be more proactive in addressing training and/or policy issues promptly while providing feedback and suggestions as to the processing of the investigations themselves.

The ODPa recognizes that a recurring report may place a strain on the current staff levels of the IAB. For that reason, the ODPa recommends that the Department consider working with IT to implement the utilization of software or technological tools to streamline the ODPa access to those files to the extent allowed by local, state, and federal law. Doing so will reduce the amount of staff time necessary to respond to ODPa information requests made under Berkeley Charter §125(20)(a)(3) while ensuring that the PAB and ODPa have continuous access to the most up-to-date information. Alternatively, the Department could consider appointing or hiring a dedicated liaison to exclusively focus on the processing of this and other ODPa/PAB requests.





POLICE ACCOUNTABILITY BOARD

January 19, 2023

*Via Email to [JLouis@cityofberkeley.info](mailto:JLouis@cityofberkeley.info)*

Jennifer A. Louis  
Interim Chief of Police  
2100 Martin Luther King, Jr. Way  
Berkeley, CA 94704

**RE: REQUEST FOR THE CONTINUOUS PRODUCTION OF COMPLAINTS FILED WITH THE BERKELEY POLICE DEPARTMENT'S INTERNAL AFFAIRS BUREAU**

Interim Chief Louis:

On January 11, 2023, the Police Accountability Board (PAB) unanimously voted to request that the Department routinely provide all records of external and internal complaints and investigations undertaken or received by the Internal Affairs Bureau (IAB). The PAB makes this request under the powers granted by Berkeley City Charter §125(3)(a) and §125.20(a)-(c). We ask that the BPD, in coordination with the Office of the Director of Police Accountability, develop a process to ensure routine access to these records.

For an oversight body to function effectively, to advance public trust and “to advise and make recommendations to the public, City Council, and City Manager regarding the operation of the Berkeley Police Department, including all written policies, practices, and procedures in relation to the Berkeley Police Department” (Berkeley City Charter §125(3)(a)) it must be kept apprised of relevant developments in that Department. Accordingly, the Police Accountability Board requests that the Department routinely provide all records of internal and external complaints and investigations undertaken or received by the IAB. These records should be provided monthly.

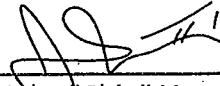
The Board is acutely aware of issues of confidentiality and Board Members have been trained in all POBRA issues and State law relating to peace officer confidentiality. As the Board regularly receives confidential materials in processing complaints submitted to it, Board Members have extensive experience in handling confidential records. The Board is committed—as is no doubt

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the City and the Police Department—to maintaining public trust, ensuring maximally effective oversight going forward, and ensuring transparency consistent with local, state, and federal law.

The PAB looks forward to strengthening our partnership to better serve the valued members of our community.

Sincerely,



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Mr. John "Chip" Moore (Jan 19, 2023 16:08 PST)

**John "Chip" Moore**  
Chair | Police Accountability Board