

DRAFT

Annual Report of the Police Review Board of The University of California, Berkeley April 10, 2017

This DRAFT report describes the principal activities of the Police Review Board (“PRB” or “Board”) for the period from January 1, 2016 through December 31, 2016, as well as the complaints lodged during that period with the University of California, Berkeley, Police Department (“UCPD” or “Department”) and their disposition. The report will be finalized after receiving public comments. The Board has scheduled a public meeting for April 21, and will discuss the draft report and the Board’s activities.

The Police Review Board’s Responsibilities and this Report

The PRB has two standing responsibilities, which are (1) to consider the merits of appeals from the disposition by UCPD of civilian complaints about the conduct of sworn UCPD officers; and (2) to monitor and review departmental policies and procedures, particularly with respect to how UCPD processes civilian complaints and the quality of UCPD interactions with the campus community. As part of the latter monitoring function, the Board is tasked with preparing an annual report, addressing the cases decided on appeal and the information forwarded by UCPD to the Board outside of the appeals process. The Board should hold a public meeting at least once each academic year to receive community input and discuss a draft of its annual report. The Police Review Board Procedures for Handling Civilian Complaints Against Sworn Members of the Police Department (“PRB Procedures”) may be found [here](#). In addition to its two standing responsibilities, the Board is occasionally given special assignments by the Chancellor.

This report covers one calendar year. During this period, the Board decided one appeal from the Department’s decisions on civilian complaints; the Board is current in handling its appellate docket.

Membership of the Police Review Board and Contact Information

Under policies adopted in 2001 by the University of California, Berkeley, the Board has eight deliberating and voting members: a chair, two faculty representatives, two student representatives (one undergraduate and one graduate student), a representative of the Berkeley community bordering the campus, a representative of campus staff, and a person who formerly had professional experience in law enforcement. The UCPD designates a liaison officer to provide information to the Board and to coordinate UCPD’s efforts to respond to the PRB’s questions or requests. The Board reports to the

Vice Chancellor for Administration and Finance. Scott Bidy has been in this role since March 1, 2016; prior to this date, John Wilton served in this role.

Four members have served on the Board during the entire reporting period of January 1, 2016 through December 31, 2016: Charles Weisselberg (faculty) was chair until June 30, 2016 and Laura Kray (faculty) has been chair since July 1, 2016. Community Representative John Cummins and Retired City of Berkeley Police Chief Doug Hambleton have also served during the entire review period. Faculty representative Michael Harris served through summer 2016 and was replaced by Suzanne Miles who was appointed in October 2016. Since summer 2016, Jerome Navarro has served as GA Representative (replacing Andrew Brighton) and Bulmaro Vicente has served as the ASUC's representative (replacing Marium Navid). Two staff representatives have served during this period: Camille Fernandez until summer 2016 and Elizabeth Geno since summer 2016. John Cummins rotated off the board in December 2016 and was replaced by Nikki Jones in January 2017.

Current PRB members are:

John Cummins (Community Representative)
Elizabeth Geno (Staff Representative)
Doug Hambleton (Law Enforcement Representative)
Laura Kray (Chair)
Suzanne Miles (Faculty Representative)
Jerome Navarro (Graduate Assembly Representative)
Bulmaro Vicente (ASUC Representative)
Nikki Jones (Faculty Representative)

Lieutenant Joey Williams has served in the UCPD liaison role for the entire review period.

On July 1 2016, Elizabeth Albee replaced Kathleen Moore as the staff assistant to the Board.

The Chair of the PRB may be contacted at: ljkray@berkeley.edu. Ms. Albee may be contacted at: ealbee@berkeley.edu. Information about the Police Review Board, its mission, the rules under which it operates, and its annual activities is available on the [Board's website](#). The PRB reports to the Vice Chancellor for Administration and Finance, whose office is described [here](#).

Overview of the Board's Activities from January 2016 through December 2016

During this one-year period, the Board adjudicated one appeal from the UCPD's disposition of civilian complaints. As part of its oversight function, the Board reviews civilian complaints filed with the Department along with the Department's response letters, including informal resolutions of civilian complaints. The Department sometimes prepares "work file memos" to document civilian complaints or inquiries that are resolved without full investigations.

The Board is awaiting receipt of the Department's materials related to a complaint that arrived in December 2016. The delay in receiving the complaint can be attributed to the pending finalization of a non-disclosure agreement that Board members will be required to sign going forward prior to receiving confidential personnel materials.

During the 2016 calendar year, the PRB met on three occasions, in addition to its May 6, 2016 public meeting: November 10, 2016 and December 6, 2016.

The next sections of this report address appeals from the Department's dispositions of civilian complaints, and our review of all civilian complaints filed with the UCPD.

Appeals

The Board's primary function is to decide appeals from the Department's dispositions of civilian complaints. When an appeal is lodged, a three-member panel of the Board is appointed and reviews the civilian's complaint and the investigative findings of the UCPD. Under the Board's procedures, the panel has three options. It may summarily affirm the investigation, remand to UCPD with a request for further investigation or clarification, or refer the appeal to the full Board for an external investigation with an outside investigator. Summary affirmance is appropriate "when it is readily apparent that the Department's investigation was complete and its findings correct on the evidence presented, so that further investigation or hearing by the Board would be highly unlikely to lead to a different conclusion than that reached by the Department." (PRB Procedures, §III.4.)

The one appeal that was reviewed during this period pertained to an incident that occurred during a concert at the Greek Theater on October 22, 2015; the original complaint was filed on November 30, 2015. The Complainant made two allegations against the officer: (1) unprofessional conduct in speaking to the Complainant and (2) lack of due process in interviewing third-party witnesses. The Department's internal investigation determined that the complaint of unprofessional conduct was "not sustained," meaning that the investigation disclosed insufficient evidence to prove or disprove the allegation; the Department also determined that the lack of due process complaint was "unfounded," meaning that the act(s) complained of did not occur. A three-member panel was appointed and conducted an initial review of the investigation report and supplemental materials provided by the Complainant. The panel summarily affirmed the Department's findings.

Civilian complaints

Pursuant to the PRB's procedures, in all cases in which the Department resolves a civilian complaint and no appeal is taken to the Board, the Department is to supply the Board with a copy of the complaint and the Department's "Sufficiency Review Board report" for the case. The "Sufficiency Review Board report" is essentially a short letter to the complainant, which provides the Department's conclusions as to each of the allegations. The PRB Chair is entitled to ask the Department for a copy of the Department's entire investigative record in these cases, and the Chair may share the record with other Board members upon permission from the Vice Chancellor. (See PRB Procedures, §VIII.1.a.) The Department is also tasked with providing the Board with an annual report on complaints and inquiries that are resolved without a full investigation. The Board may pose questions to the Department based on the information it receives. (See PRB Procedures, §VIII.1.b.)

The Board has not received any civilian complaints to review from January 2016 through December 2016. While we have been notified that a complaint arrived in December 2016 that we expect to review, we are awaiting finalization of a newly instituted non-disclosure agreement that all Board members must first sign.

The 2016 Annual Public Meeting

The Board held its annual public meeting on May 6, 2016. We had very sparse attendance -- 1 member of the public and 1 Daily Cal reporter. The Chief and Capt. Harris were there. We had an open discussion with the Chief, Board, and reporter about some future steps with the Department, including how to monitor for racial trends in traffic stop data. There were no significant comments on the draft report.

The 2017 Annual Public Meeting

The meeting is scheduled for April 21, 2017 at 2 PM in Anderson Auditorium at the Haas Business School. Anderson Auditorium is located on the ground floor of the faculty building at Haas. The Board will discuss this draft report at the meeting, and will finalize the report after receiving public comments.

UC Berkeley Police Review Board

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