



Hansel Alejandro Aguilar
Director of Police Accountability
haguilar@berkeleyca.gov

March 21, 2024

Re: Findings and Recommendations in ODPa Complaint # 2023-CI-0002

Dear Mr.

I would like to start by extending my sincere apologies for the delayed response to your complaint. We understand the importance of timely communication and regret any inconvenience or distress this delay may have caused you.

I am writing to inform you of the conclusion of the investigation into your complaint filed with the Office of the Director of Police Accountability (ODPA), under the complaint number 2023-CI-0003. During the thorough review and consideration of all available evidence, including Body-Worn Camera footage, officer and witness interviews, and pertinent Berkeley Police Department (BPD) policies, our office faced obstacles in being able to complete the investigation in the Charter mandated 120-days timeframe¹. Consequently, the decision has been made to administratively close² this case.

The determination to administratively close a case is not taken lightly. It is made based on specific regulations and criteria that govern our operations and mandate closure under certain conditions, such as when investigations exceed the stipulated time frames without the possibility of tolling or extension under Government Code section 3304(d)(2)(D). In your case, despite our best efforts to conduct a thorough investigation, procedural constraints and the complexities involved in coordinating with multiple entities led to unavoidable delays.

We understand that this outcome may be disappointing, and I wish to convey our deepest regrets for any distress or inconvenience this protracted process may have caused you. It is important to note that administrative closure does not constitute a judgment on the merits of the complaint but rather reflects procedural necessities mandated by the governing legal framework.

¹Berkeley Charter Section 125(18)(e) requires that the investigation be completed in one hundred and twenty (12) days. See [https://berkeley.municipal.codes/Charter/125\(18\)\(e\)](https://berkeley.municipal.codes/Charter/125(18)(e))

² Section II.D.VI of the Interim Regulations indicates that one of the grounds to administrative close a case include: "Failure of ODPa staff to timely complete its investigation, as set forth in Section II.C.1"

See [https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA Interim Regs_ Approved 2021-10-05.pdf](https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA%20Interim%20Regs%20Approved%202021-10-05.pdf)

While this concludes the formal process under the purview of the ODP, you may consider other avenues for addressing your concerns, including civil litigation or contacting other appropriate governmental entities. For additional support and guidance, you might reach out to community advocacy groups or legal resources such as:

ACLU of Northern California

39 Drumm Street • San Francisco, California 94111

Phone: (415) 621-2493

Fax: (415) 255-1478

TTY: (415) 863-7832

https://www.aclunc.org/home?gclid=EAIaIQobChMIucLuzLGXhAMVOEt_AB1vBgoNEAAYASAAEgJ6GvD_BwE

State of California Commission on Peace Officer Standards and Training (POST)

Phone: (916) 227-2822

Email address: ComplaintIntake@post.ca.gov

<https://post.ca.gov/public-complaints>

FBI San Francisco

450 Golden Gate Avenue, 13th Floor

San Francisco, CA 94102-9523

Phone: (415) 553-7400

<https://tips.fbi.gov/home>

Our commitment to ensuring justice and upholding the principles of fairness and accountability in law enforcement remains steadfast. Your experience and feedback are valuable to us and contribute to our ongoing efforts to improve our processes and strengthen the trust between the community and the police department.

Thank you for bringing your concerns to our attention, and please do not hesitate to reach out if you need further assistance or information.

Sincerely,



Hansel Alejandro Aguilar
Director of Police Accountability

Via email only

REFERENCES:

BPD Policies

[berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley PD Policy Manual.pdf](https://berkeleyca.gov/sites/default/files/documents/RELEASE_20240301_T161429_Berkeley_PD_Policy_Manual.pdf)

OPERATING AUTHORITY

- [City of Berkeley City Charter Section 125](https://berkeley.municipal.codes/Charter/125)
<https://berkeley.municipal.codes/Charter/125>
- [POLICE ACCOUNTABILITY BOARD and OFFICE of the DIRECTOR OF POLICE ACCOUNTABILITY Interim Regulations for Handling Complaints Against Sworn Officers of the Police Department](https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA_Interim_Regs_Aproved.2021-10-05.pdf)
https://berkeleyca.gov/sites/default/files/2022-02/PAB-ODPA_Interim_Regs_Aproved.2021-10-05.pdf
- [Public Safety Officers Procedural Bill of Rights Act \(Government Code Sections 3300-3312\)](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=4.&title=1.&part=&chapter=9.7.&article=)
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=4.&title=1.&part=&chapter=9.7.&article=