



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

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

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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

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.

Item 2

Oath of Office and Confidentiality for David Williams, Nominated by
Councilmember Taplin



Oath of Office & Confidentiality

Police Accountability Board

I, **David Williams**, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

I further swear (or affirm) that I will abide by and maintain the confidentiality of the personnel files of sworn employees of the Police Department and all other matters that are confidential pursuant to state and federal law.

Signature

Police Accountability Board

The above Oath was subscribed and sworn to before me this _____ day of _____, 2024.

Hansel A. Aguilar

Secretary of the Police Accountability
Board

Item 4

July 10, 2024 Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, JULY 10, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

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 uncended 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** (1 MINUTE)
2. **ADMINISTER OATH OF OFFICE & CONFIDENTIALITY TO NEW MEMBERS**
(ODPA) – (3 MINUTES)
 - a. District 2 – David Williams (nominated by Councilmember Taplin)
3. **ROLL CALL** (2 MINUTES)
4. **APPROVAL OF AGENDA** (2 MINUTES)
5. **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, except confidential personnel matters.

6. **APPROVAL OF MINUTES** (5 MINUTES)
 - a. Minutes for the Regular Meeting of June 26, 2024
7. **ODPA STAFF REPORT** (10 MINUTES)

Announcements, updates, and other items.

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

Announcements, updates, and other items.

9. CHIEF OF POLICE'S REPORT (10 MINUTES)

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

10. 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.

11. NEW BUSINESS (1 HOUR 45 MINUTES)

- a. Discussion and action on the "Policy and Practices Related to the Downtown Task Force and Bike Unit Allegations" Subcommittee's Report (Calavita) – (30 Minutes)
- b. Discussion and action on the PAB Policy Review Subcommittee's proposal to submit a Public Records Act request to the California Highway Patrol for vehicle pursuit data submitted by the BPD. (Leftwich) – (15 Minutes)
- c. Discussion and action on a proposal to systematize Board training as authorized by Section 125(12) of the Berkeley City Charter (ODPA) – (15 Minutes)
- d. Discussion and action on the BPD's 2023 Annual Military Equipment Report (ODPA) – (15 Minutes)
- e. Discussion and action on the introduction of the Office of Strategic Planning and Accountability (OSPA) – (15 minutes)

12. 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, except confidential personnel matters.

13. 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):

a. Case Updates and Recommendations Regarding Complaints Received by the ODPa:

- | | | | |
|------|--------------|-------|--------------|
| i. | 2023-CI-0012 | vii. | 2024-CI-0004 |
| ii. | 2023-CI-0014 | viii. | 2024-CI-0006 |
| iii. | 2023-CI-0016 | ix. | 2024-CI-0009 |
| iv. | 2023-CI-0019 | x. | 2024-CI-0011 |
| v. | 2024-CI-0001 | xi. | 2024-CI-0012 |
| vi. | 2024-CI-0003 | | |

END OF CLOSED SESSION**14. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)****15. ADJOURNMENT (1 MINUTE)****Off Agenda Reports****1. Legislative Updates Relevant to the PAB's Work**

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.

Contact the Director of Police Accountability (Board Secretary) at:

1947 Center Street, 5th Floor, Berkeley, CA 94704

TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955

Website: <https://berkeleyca.gov/safety-health/police-accountability>

Email: dpa@berkeleyca.gov

NOTICE OF TEMPORARY LOCATION

Please note that the ODPa is currently operating from a temporary location at **2020 Milvia Street, Suite 250, Berkeley, CA**. For in-person visits, appointments are strongly encouraged and can be made by calling our main line. Mail can still be received at 1947 Center Street.

Item 6

Minutes for the Regular Meeting of June 26, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
WEDNESDAY, JUNE 26, 2024
6:30 P.M.

Board Members

John Moore III (Chair)
Kitty Calavita
Brent Blackaby
Alexander Mozes

Leah Wilson (Vice-Chair)
Juliet Leftwich
Joshua Cayetano

MEETING LOCATION

2020 Milvia Street, Suite 250
Berkeley, CA 94704

Video Recording: <https://youtu.be/7WP3wji7ALA?si=fum14X4DKP69S9wB>

Minutes

1. CALL TO ORDER AND ROLL CALL

Present: Board Member John Moore (Chair)
Board Member Leah Wilson (Vice-Chair)
Board Member Juliet Leftwich
Board Member Joshua Cayetano

Absent: Board Member Brent Blackaby¹
Board Member Calavita²
Board Member Alexander Mozes³

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

¹ Absent on a leave of absence approved by Councilmember Humbert.

² Absent on a leave of absence approved by Mayor Arreguín.

³ Absent on a leave of absence approved by Councilmember Kesarwani.

BPD Staff: Chloe Park, ODPa Intern
Deputy Chief Tate
Lt. Bonaventure
CAO Staff: DCA James Chang
CMO Staff: Dr. Carianna Arredondo, Assistant to the City Manager
Rex Brown, DEI Officer

2. APPROVAL OF AGENDA

Motion to defer Item 9.a to a regular meeting scheduled in July.

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

Motion to approve the agenda.

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

3. PUBLIC COMMENT

1 Physical Present Speaker(s)

0 Virtually Present Speaker(s)

4. APPROVAL OF MINUTES

a. Minutes for the Regular Meeting of June 5, 2024

Motion to approve the regular meeting minutes of June 5, 2024

Moved/Second (Leftwich/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

5. ODPa STAFF REPORT

Director Aguilar introduces new staff to the PAB and updates on the annual review of BPD Policy 300 "Use of Force." He recaps his and Board Member Mozes' attendance at the CEBCP 2024 Symposium and informs the PAB of upcoming ODPa items. Dr. Arredondo updates on the approval of Council Item 13, a contract with Live Free for Gun

Violence Intervention and Prevention, including a timeline for implementation. DEI Officer Brown provides an update on his office's activities. Director Aguilar fields questions from the PAB.

6. CHAIR AND BOARD MEMBERS' REPORTS

Chair Moore expresses gratitude to Board Members and staff for their participation in the Berkeley 2024 Juneteenth Festival and thanks Vice Chair Wilson for chairing the June 5th regular meeting.

7. CHIEF OF POLICE'S REPORT

Deputy Chief Tate presented updates from the June 25 budget Council meeting, emphasizing funding and implementation for the early intervention and prevention system. She also announced the establishment of the Office of Strategic Planning and Accountability (OSPA) within BPD. Deputy Chief Tate further discussed BPD's session with a PAB subcommittee on reviewing the vehicle pursuit policy, provided updates on ABLE training, highlighted notable cases, and addressed questions from the PAB.

8. SUBCOMMITTEE REPORTS

The Regulations subcommittee, Policy subcommittee, and Budget and Metrics Subcommittee deliver updates on their activities to the PAB.

9. NEW BUSINESS

- a. Continued discussion and action relating the interconnection between the Specialized Care Unit (SCU) and the BPD. (ODPA)

Item deferred to a regular meeting scheduled in July.

- b. Discussion and action on the July 18th Community Forum at the Hope Center (ODPA)
 - i. Topics
 - ii. Reports
 - iii. Designated Speakers
 - iv. Other logistics

Motion to designate Board Member Cayetano as a designated speaker for the PAB and ODPa July 18th Community Forum at the Hope Center.

Moved/Second (Moore/Wilson) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

- c. Discussion and action on Chair Moore's proposal to the PAB to initiate a policy review on Computer Voice Stress Analysis (CVSA) technology and its use by the BPD (MOORE)

Motion to accept Chair Moore's proposal to the PAB to initiate a policy review on Computer Voice Stress Analysis (CVSA) technology and its use by the BPD.

Moved/Second (Wilson/Cayetano) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

10. PUBLIC COMMENT

1 Physical Present Speaker(s)

0 Virtually Present Speaker(s)

11. 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):

- a. Case Updates and Recommendations Regarding Complaints Received by the ODPa:

- | | | | |
|------|--------------|-------|--------------|
| i. | 2023-CI-0009 | viii. | 2024-CI-0004 |
| ii. | 2023-CI-0012 | ix. | 2024-CI-0005 |
| iii. | 2023-CI-0014 | x. | 2024-CI-0006 |
| iv. | 2023-CI-0016 | xi. | 2024-CI-0009 |
| v. | 2023-CI-0019 | xii. | 2024-CI-0011 |
| vi. | 2024-CI-0001 | xiii. | 2024-CI-0012 |
| vii. | 2024-CI-0003 | | |

Motion to accept ODPa staff recommendations in ODPa Case Number 2024-CI-0005.

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

Motion to accept ODPa staff recommendations in ODPa Case Number 2023-CI-0009

Moved/Second (Wilson/Leftwich) Motion carried.

Ayes: Cayetano, Leftwich, Wilson, and Moore

Noes: None. Abstain: None. Absent: Blackaby, Calavita, and Mozes

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore reports the closed session actions.

13. ADJOURNMENT

Motion to adjourn. Moved/Second (Leftwich/Wilson) The meeting was adjourned at 8:19 PM by unanimous consent.

Item 10

List of Current PAB Subcommittees & Liasons



SUBCOMMITTEES LIST

Subcommittee	Board Members	Chair	BPD Reps
Regulations Formed 7-7-21 Renewed 6-7-2023	Calavita Leftwich <u>Public members:</u> Kitt Saginor	N/A	Lt. Dan Montgomery
Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 6-7-2023	Calavita Wilson <u>Public members:</u> George Lippman	Calavita	Sgt. Peter Lee
Surveillance Technology Policy Formed 6-7-2023	Calavita Moore	N/A	N/A
Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22	Calavita Moore	Calavita	N/A
Body-Worn Camera Policy Formed 03-15-23	Leftwich Cayetano	Leftwich	N/A
Conflict of Interest Formed 03-29-23	Leftwich Wilson	Leftwich	N/A
Unnamed – Policy Complaint 2023-PR-0003 Formed June 21, 2023	Wilson [Vacant]	Wilson	N/A

Updated on 06/18/2024

Policy Reviews Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Lexipol Review"	Leftwich Cayetano Mozes <u>Public members:</u> Kitt Saginor	Leftwich	N/A
Budget & Metrics Formed 11-08-2023 Scope Expanded 03-02-2024	Wilson Blackaby	N/A	N/A
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Commendations"	Moore Blackaby	N/A	N/A
Off-Duty Conduct	Cayetano Leftwich	N/A	Lt. Rittenhouse
Operations & Processes Formed 03-02-2024	Wilson Mozes	TBD	TBD

LIAISON LIST¹

Liaison Name	Assignment
Cayetano	Represent the PAB in the EIS Request for Proposal Process

POLICY COMPLAINTS ASSIGNED TO INDIVIDUAL BOARD MEMBERS²

Policy Review Number	Assigned Board Member
2023-PR-0006	Chair Moore
2024-PR-0003	Chair Moore

¹ Liaison list does not include topics that were originally assigned to a Board Member but later assigned to a subcommittee.

² This list does not include policy complaints that were originally assigned to an individual Board Member but later assigned to a subcommittee.

Item 11.a.

Materials to Be Included in a Supplemental Packet

Item 11.b.

Memorandum Titled "Request to Submit a Public Records Act (PRA)
Request to the California Highway Patrol (CHP) for Berkeley Police
Department (BPD) Vehicle Pursuit Data"



MEMORANDUM

Date: July 5, 2024
To: Honorable Members of the Police Accountability Board
From: Juliet Leftwich, Chair of the PAB Policy Subcommittee
Hansel A. Aguilar, Director of Police Accountability *HA*
Jose D. Murillo, ODPa Policy Analyst *JM*
Subject: Request to Submit a Public Records Act (PRA) Request to the California Highway Patrol (CHP) for Berkeley Police Department (BPD) Vehicle Pursuit Data

The purpose of this memorandum is to seek authorization from the PAB to submit a PRA request on behalf of the board to the CHP, requesting all CHP 187A "Allied Agency Vehicle Pursuit Report" Forms submitted by the BPD over the last ten years.

Background:

Vehicle Code Section 14602.1 states that "every state and local law enforcement agency, including but not limited to, city police departments and county sheriff's offices, shall report to the Department of the California Highway Patrol, on an approved form, all vehicle pursuit data."¹ That form is Form CHP 187A "Allied Agency Vehicle Pursuit Report."²

The BPD currently operates under General Order V-6 "Vehicle Pursuits"³ and transmits data to the CHP as mandated. The PAB Policy Review subcommittee ("Subcommittee") has requested this data from the BPD but was informed that the BPD was not the custodian of records for Form CHP 187A; rather, the BPD retains failure to stop data, but that data includes incidents where an individual fails to stop upon request, as well

¹ Vehicle Code Section 14602.1:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=VEH§ionNum=14602.1.

² Form CHP 187A "Allied Agency Vehicle Pursuit Report": <https://www.chp.ca.gov/Documents/Chp187A.pdf>

³ BPD General Order V-6 "Vehicle Pursuits": <https://berkeleyca.gov/sites/default/files/2022-05/V-06%20Vehicle%20Pursuits%202010.pdf>

as vehicle pursuits. Accordingly, the BPD data is overinclusive. To further inform their policy recommendations, the Subcommittee would like to analyze the data contained on those forms and any existing data sets used by the CHP to produce their Annual SB 719 Report to the Legislature on Police Pursuits⁴ and is seeking approval from the PAB to make that request.

Recommendation:

The PAB is recommended to approve the request from the PAB Policy Review Subcommittee to submit a PRA request to the CHP, seeking all CHP 187A Forms submitted by the BPD and relevant datasets for the past ten years.

⁴ CHP Annual SB 719 Report to the Legislature on Police Pursuits: [chp.ca.gov/Documents/2022 Police Pursuits Report to the Legislature 3.pdf](http://chp.ca.gov/Documents/2022%20Police%20Pursuits%20Report%20to%20the%20Legislature%203.pdf)

Item 11.c.

Materials to Be Included in a Supplemental Packet

Item 11.d.

Memorandum Titled “Berkeley Police Department’s 2023 Annual Military
Equipment Report” with Respective Attachments



MEMORANDUM

Date: Friday, July 05, 2024

To: Honorable Members of the Police Accountability Board (PAB)

From: Hansel A. Aguilar, Director of Police Accountability (DPA) 
Jose D. Murillo, Policy Analyst 

Subject: Berkeley Police Department's 2023 Annual Military Equipment Report

The purpose of this memorandum is to present the Police Accountability Board (PAB) with a summary of the Berkeley Police Department's (BPD) 2023 Annual Military Equipment Report and outline its requirements under California Assembly Bill 481 (AB 481)¹.

Background:

On June 26, 2024, Berkeley Chief of Police Jennifer Louis provided to the PAB a copy of the BPD's 2023 Annual Military Equipment Report per AB 481 which regulates the use of military equipment by law enforcement agencies. The bill requires these agencies to:

1. Obtain approval from their governing body before acquiring or using military equipment.
2. Create a detailed military equipment use policy.
3. Publish an annual report on the use of military equipment.
4. Hold a community engagement meeting to discuss the use of such equipment.

¹ California Assembly Bill 481: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB481

5. Provide an opportunity for public comment on the use of military equipment.

The aim is to ensure transparency, accountability, and community involvement in decisions regarding the acquisition and use of military equipment by law enforcement.

The information required in this report under AB 481 is similar to the City of Berkeley's ordinance. However, Berkeley's BMC 2.100 Police Equipment and Community Safety Ordinance², which involves a review process by the PAB before submission to the City Council, demands more detailed tracking of police equipment than Assembly Bill 481. Specifically, the City ordinance requires the police department to document all instances where military equipment was deployed and used (64 incidents in 2023), whereas Assembly Bill 481 only mandates tracking of equipment that was used (16 incidents in 2023)³. As a result, the PAB has already reviewed the instances where the BPD has used military equipment included in the Police Equipment and Community Safety Ordinance 2023 Annual Report⁴.

Additionally, unlike BMC 2.100, AB 481 requires California police departments to "hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment."⁵ The law does not mandate the military equipment report to be the sole topic on the agenda and it would be acceptable for the law enforcement agency to include it as one topic among others, as long as the other requirements are met: the meeting should be conveniently located, well publicized, and allow the general public to discuss and ask questions about the report, funding, and acquisition of equipment.

² Ch. 2.100 Police Equipment and Community Safety Ordinance | Berkeley Municipal Code:
<https://berkeley.municipal.codes/BMC/2.100>

³ In the Police Equipment and Community Safety Ordinance 2023 Annual Report, instances where military equipment was used are highlighted in yellow to distinguish them from instances where the equipment was only deployed.

⁴ BPD Police Equipment and Community Safety Ordinance 2023 Annual Report:
<https://berkeleyca.gov/sites/default/files/documents/2023%20Annual%20Military%20Equipment%20Report%20%28AB481%29.pdf>

⁵ California Government Code Section 7072(b):
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=12.8.&article=

Neighboring agencies like the Alameda County Sheriff's Office⁶, Oakland Housing Authority Police Department⁷, Richmond Police Department⁸, Hayward Police Department⁹, and others host community engagement meetings focused on sharing information and addressing questions regarding the military equipment owned by each agency.

On March 15, 2024, through the City of Berkeley's Next Request Portal, a Public Records Act request labeled as PRA Request Number 24-378 was submitted to the BPD. The request sought "all minutes for any AB 481 Community Engagement Meetings that the Berkeley Police Department has hosted since 2022." The BPD could not provide any responsive records as a community engagement meeting covering this report had not been hosted.

The convening of this community engagement meeting is mandatory within 30 days of submitting and publicly releasing the report. The report is set to be presented to the City Council at the July 23, 2024 Regular Meeting and has already been publicly released on the BPD's website¹⁰.

Recommendation:

Although the PAB does not serve as the governing body that approves the military equipment report under AB 481, it may make recommendations to the City Council regarding the Berkeley Police Department's operational compliance with AB 481 requirements, as outlined in Berkeley Charter Section 125(3)(a)(1)¹¹. Under this authority, the PAB should strongly consider recommending to Council and the Chief of Police to host a community engagement meeting per the requirements of AB 481.

⁶ Alameda County Sheriff's Office AB 481 Community Engagement Meeting Information: <https://www.alamedacountysheriff.org/Home/Components/News/News/48/15>

⁷ Oakland Housing Authority Police Department AB 481 Community Engagement Meeting Information: <http://www.oakha.org/OHA-PD/MilitaryEquipmentUse/Pages/default.aspx>

⁸ Richmond Police Department AB 481 Community Engagement Meeting Information: <https://ci.richmond.ca.us/4248/Assembly-Bill-AB-481---Military-Equipmen>

⁹ Hayward Police Department AB 481 Community Engagement Meeting Information: <https://www.hayward-ca.gov/police-department/transparency/proposed-military-equipment-use-policy>

¹⁰ Policy & Training Materials | City of Berkeley (berkeleyca.gov): <https://berkeleyca.gov/safety-health/police/policy-training-materials>

¹¹ Berkeley Charter Section 125(3)(a)(1): [https://berkeley.municipal.codes/Charter/125\(3\)\(a\)\(1\)](https://berkeley.municipal.codes/Charter/125(3)(a)(1))

Attachments:

1. BPD Staff Report Titled "Assembly Bill 481, 2023 Annual Military Equipment Report"
2. BPD 2023 Annual Military Equipment Report



Office of the City Manager

ACTION CALENDAR
July 23rd, 2024

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jennifer Louis, Chief of Police
Subject: Assembly Bill 481, 2023 Annual Military Equipment Report

RECOMMENDATION

Adopt a Resolution approving the 2023 Annual Military Equipment Report.

FISCAL IMPACTS OF RECOMMENDATION

The fiscal impacts are limited to staff time for reporting and continuous training.

CURRENT SITUATION AND ITS EFFECTS

Assembly Bill 481 mandates an annual report on law enforcement use of specified military equipment be provided to the governing body of the agency.

BACKGROUND

On May 11th, 2021 the City of Berkeley adopted the Police Equipment and Community Safety Ordinance, Ordinance NO. 7,760-N.S. The Police Equipment and Community Safety Ordinance requires the Police Department submit to Council for approval an annual report on the usage and deployment of specified equipment. The 2023 annual report pursuant to this ordinance was approved by the Police Accountability Board on April 23, 2024 and the City Council approved the annual report on June 4, 2024.

On September 30, 2021, after the City of Berkeley adopted our City ordinance, Assembly Bill 481 was approved by California Governor Gavin Newsom, requiring law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment as defined in Assembly Bill 481. Like the Police Equipment and Community Safety Ordinance, this bill required an approval process for the continued use of military equipment that law enforcement agencies already possessed. In accordance with the assembly bill, the Berkeley Police Department authored Policy 709, Military Equipment policy, which was approved by the City Council on July 26, 2022.

Also similar to Berkeley's Police Equipment and Community Safety Ordinance, Assembly Bill 481 requires law enforcement agencies to submit to the governing body an annual report for each type of military equipment they possess. The required information in the annual report per Assembly Bill 481 is similar to the City of Berkeley ordinance. However, Berkeley's Police Equipment and Community Safety Ordinance requires the capturing of significantly more details on police equipment compared to Assembly Bill 481. The City ordinance requires the police department track all cases where military equipment was deployed and used (64 incidents in 2023) whereas Assembly Bill 481 only requires the tracking of military equipment that was used (16 incidents in 2023). Thus, the City ordinance provides greater detail to the Council, Police Accountability Board and community as a whole.

Additionally, the equipment required to be reported on slightly differ. Below is a table comparing the list of equipment required to be reported on per the Police Equipment and Community Safety Ordinance and Assembly Bill 481. The differences are highlighted and appear at the end of both lists.

Police Equipment and Community Safety Ordinance (City Ordinance)	Assembly Bill 481
• M4/Patrol Rifle Associated .223 duty and training rounds • Remington 700 Precision Rifle Associated .308 rounds • Barret Model 99 Precision Rifle Associated .50 rounds • Penn Arms single 40MM launcher • Milkor LTL 40 MM multi-launcher Associated 40mm rounds • FN 303 Launcher Associated FN rounds Associated FN Pava rounds • Chlorobenzylidene Malononitrile and <u>Oleoresin capsicum</u> • Light/sound distraction device • Long Range Acoustic Device (LRAD) • 36" batons • <u>Oleoresin capsicum (OC spray)</u>	• M4/Patrol Rifle Associated .223 duty and training rounds • Remington 700 Precision Rifle Associated .308 rounds • Barret Model 99 Precision Rifle Associated .50 rounds • Penn Arms single 40MM launcher • Milkor LTL 40 MM multi-launcher Associated 40mm rounds • FN 303 Launcher Associated FN rounds Associated FN Pava rounds • Chlorobenzylidene Malononitrile and <u>Oleoresin capsicum</u> • Light/sound Diversionary Device • Long Range Acoustic Device (LRAD) • Mobile Command Vehicle • ReconRobotics Recon Scout XT Robots • Andros Remotec HD-1 Hazardous Duty Robot

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

It is required by law and policy that an annual report on military equipment be submitted to the City Council.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Jennifer Louis, Chief of Police, (510) 981-5700

Mike Durbin, Investigations Division, (510) 981-5810

Peter Lee, Provisional Lieutenant Patrol Division, (510) 981-5801

PLee@BerkeleyCA.Gov

Attachments:

1: Annual Military Equipment Report

2: Resolution

RESOLUTION NO. ##,###-N.S.

Annual Reporting and Impact Statements: Police Equipment and
Community Safety Ordinance

WHEREAS, California Governor Gavin Newsom passed Assembly Bill 481 governing the funding, acquisition and use of military equipment on September 30, 2021; and

WHEREAS, Government Code 7071(a) requires all law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment; and

WHEREAS, the Berkeley City Council approved Berkeley Police Department Policy 709, Military Equipment Use Policy, on July 26th 2022; and

WHEREAS, Government Code 7072 (a) requires any agency that receives approval for a Military Equipment Use Policy submit to the governing body an Annual Military Equipment Report;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it approves the Berkeley Police Department's 2023 Annual Military Equipment Report.

Berkeley Police Department
2023 Annual Military Equipment Report



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Our Mission, Vision and Values

Our **Mission** is to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect.

The Berkeley Police Department **Vision** is:

We will be a team of leaders at every level. We will foster strong relationships with our community, inspiring trust through our service, building on our historic tradition of progressive policing, and dedicated to the safety of all. As members of this community, we will provide proactive law enforcement and problem solving, holding these as our core **Values**:

- **Integrity:** We are ethical, fair, and trustworthy in all we do.
- **Safety:** We strive to keep our community and each other safe.
- **Respect:** We will fulfill our duties with dignity, compassion, and empathy.
- **Diversity:** We value the strength of a diverse workplace and community. We endeavor to reflect the community we service, promoting inclusion and fairness.
- **Professionalism:** We are committed to organizational excellence through progressive training, positive attitude and superior performance.



BACKGROUND

On September 30, 2021, Assembly Bill 481 was approved by California Governor Gavin Newsom, requiring law enforcement agencies to obtain approval of the applicable governing body (Mayor and City Council), by adoption of a military equipment use policy prior to funding, acquisition, or use of military equipment as defined in AB 481. This bill required the same approval process for the continued use of military equipment that law enforcement agencies already possessed. In accordance with the assembly bill, the Berkeley Police Department authored Policy 709, Military Equipment Policy, which was approved by the City Council on July 26, 2022.

Furthermore, Assembly Bill 481 requires law enforcement agencies to submit to the governing body an annual report for each type of military equipment. The Annual Report must contain the following information:

- (1) A summary of how the military equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns received concerning the military equipment.
- (3) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
- (5) The quantity possessed for each type of military equipment.
- (6) If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.



Inventory of Military Equipment

The Berkeley Police Department does not possess any tactical equipment that was obtained from the military nor does the Berkeley Police Department receive surplus military equipment from any organization.

Below is a list and inventory of military equipment (as defined in Assembly Bill 481) that is possessed by the Berkeley Police Department. The list includes consumable military equipment, namely ammunition and diversionary devices. The inventory of consumable military equipment varies throughout the year due to training. While the Berkeley Police Department strives to be accurate in its reporting, the inventory of consumable equipment in this report are captured in a moment in time and are approximate.

- M4/Patrol Rifle (96)
 - Associated .223 duty and training rounds (59,440)
- Remington 700 Precision Rifle (6)
 - Associated .308 rounds (2,400)
- Barret Model 99 Precision Rifle (1)
 - Associated .50 rounds (500)
- Penn Arms single 40MM launcher (20)
- Milkor LTL 40 MM multi-launcher (2)
 - Associated 40mm rounds (637)
- FN 303 Launcher (8)
 - Associated FN rounds (5,813)
 - Associated FN Pava rounds (181)
- Chlorobenzylidene Malononitrile and Oleoresin capsicum/tear gas (300)
- Light/sound Diversionary Device (110)
- Long Range Acoustic Device (LRAD) (2)
- Mobile Command Vehicle (1)
- ReconRobotics Recon Scout XT Robots (2)
- Andros Remotec HD-1 Hazardous Duty Robot (1)

An internal equipment audit was conducted to gather and confirm data for this report. Based on this audit, it was determined that there were no identified violations of equipment use, or any complaints concerning the above listed equipment.



Summary of Military Equipment Usages

The variety of equipment provides the Berkeley Police Department with options that assist in critical incidents and bring dangerous situations to a safe resolution. While the Berkeley Police Department possess the above listed military equipment, officers de-escalated almost all the situations that might have otherwise warranted the use of it. The use of military equipment is governed by Berkeley Police Department Policies and local, state, and federal laws. The use of the military equipment is restricted to only officers who have been trained in the use of the specific equipment.

The Berkeley Police Department responded to 63,691 calls for service with 5,306 stops conducted in 2023. Five of the 5,306 stops resulted in the use of the Penn Arms 40MM launcher, also known as “less lethal.” These statistics illustrate the extremely rare instances (0.00094%) that less lethal munitions are used in relation to overall contacts.

Military Equipment Usages

M4/Patrol Rifle

The M4 patterned rifle/patrol rifle is intended as a means to safely stop a lethal threat. While a pistol is the firearm that all officers are minimally equipped with, the rifle is an ancillary firearm for situations where increased distance and accuracy are needed to safely resolve the situation. The patrol rifle is used only in situations when a potential life-threatening situation exists. The following outlines the one incident where the patrol rifle was used:

- 1) Officers responded to an active shooter in another city. Witnesses reported multiple shots fired with an employee shot. Patrol rifle deployed as officers made entry into the business and contacted a suspect who was armed with a firearm. Officers shot the suspect and located the victim employee deceased.

Penn Arms 40MM & FN 303 Launcher

The purpose of the Penn Arms 40MM and FN 303 launcher is to preserve life, minimize the use of force and allow time for de-escalation. Less lethal projectiles allow the user to maintain a safe distance from a subject who is armed and/or demonstrates the intent to be violent. The ability to maintain a safe distance – while still providing a level of control over the subject – allows



officers to employ de-escalation techniques, request additional resources and develop a plan to safely resolve the situation with the least amount of risk.

The following are summaries of five incidents where the Penn Arms 40MM launcher was used. In one of the five incidents, the FN303 launcher was used as well:

- 1) Officers responded to a disturbance call from a neighbor. Officers knew the subject they were to contact had felony warrants for his arrest for firearm violations. Additionally, officers had previously recovered a bulletproof vest during a visit to this apartment, and on another day the subject had barricaded himself in his apartment when officers attempted to contact him. On this night, Officers contacted the subject who shined a flashlight at an officer's eyes, blinding the officer on purpose. The suspect had a power drill and refused multiple requests and orders for him to put the power drill down. Patrol rifle and 40MM launcher were deployed. A trained negotiator took over communication with the subject and utilized de-escalation techniques. The subject placed the power drill down but lifted his jacket to reveal a 7" fixed-blade dagger on his belt. The subject was agitated, verbally aggressive, and cursed at officers. He was also incoherent and rambled about telepathy. The subject needed to be detained before the situation became any more dangerous. Officers launched 40MM rounds at the subject. Other officers grabbed the subject before he could grab for the dagger. The subject was immediately provided medical attention. He was arrested for the warrants and for violating an elder abuse restraining order by being at that apartment.
- 2) A partially naked suspect under the influence of narcotics entered a restaurant that had a stay-away court order against him. The subject violated the stay-away court order when he walked in and then climbed into the ceiling. The employees called the police as the suspect climbed back down and started throwing things. 40mm launcher deployed as officers arrived on the scene. Officers tried to talk to him, but he was yelling nonsensically as he retreated into the kitchen area and armed himself with a fire extinguisher. Officers ordered the subject to drop the fire extinguisher, but he did not comply and started spraying the fire extinguisher at the officers. He raised the fire extinguisher while moving towards an officer as if to assault the officer with it. Another officer saw this and launched a 40MM launcher round at the suspect. The subject continued to threaten officers with the fire extinguisher. The officer launched another 40MM launcher round at the suspect who then ran upstairs and barricaded himself in the bathroom. Many attempts to de-escalate the subject through the locked bathroom door were made but to no avail. The subject continued to spray the fire extinguisher at officers from under the closed door. Ultimately, officers had to force entry into the bathroom and detain the subject who was in the process of hanging himself. He was admitted to the hospital and placed on a psychiatric evaluation hold. A criminal case was



sent to the District Attorney's Office for review. An employee of the business was injured in this incident and the subject caused close to \$20,000 in damages to the business.

- 3) The Berkley Fire Department reported a person who attempted to run into the fire station as the garage door was closing. This subject then fled from the fire station and onto the roof of a large warehouse. Officers arrived on the scene and saw the suspect on the roof. The suspect was running back and forth from one side of the roof to the other. The subject ripped cable wires from the roof and used them to climb into the warehouse where he started a fire. Officers entered the warehouse to put the fire out as the suspect climbed back onto the roof. The subject threw items from the roof at officers. Attempts to de-escalate and negotiate with the subject were not effective. Officers suspected the subject to be under the influence of narcotics. One officer launched two 40MM launcher rounds at the subject that caused him to run away from the officer to the parking lot where he was detained. The suspect was transported to the hospital by the fire department and later to jail for burglary, vandalism, arson, and probation violation.
- 4) A community member called the police and reported that his son was vandalizing their home. The son is known to officers as someone who uses narcotics and is extremely violent towards police officers. The father advised that his son had just left the residence and was vandalizing cars in front. 40MM launcher deployed as a group of officers approached the suspect and ordered him to the ground. Officers noted the suspect had vandalized a neighbor's vehicle next to where he was standing. The suspect did not comply with the officer's orders and charged at a police vehicle. He jumped onto the hood of the police vehicle, smashed the windshield, and stomped on the light bar on the vehicle's roof. While on top of the police vehicle, the suspect ripped out an antenna. While the suspect was stomping on the roof of the police vehicle, an officer launched a 40MM round at the suspect, but it missed. The suspect then sat on the roof of the police vehicle as officers attempted to talk to the suspect. Officers were able to safely pull the suspect off the roof of the vehicle and detain him. He was placed on a psychiatric evaluation hold and the criminal case was forwarded to the District Attorney's office for review.
- 5) A community member requested a Police officer conduct a welfare check on a subject who was banging his head against a van. When the officer arrived at the scene, a shirtless man ran up to the police vehicle with a large knife and stabbed at the police vehicle several times. The officer sped away to gain distance from the subject. After gaining distance from the subject, the officer exited his police vehicle and employed de-escalation techniques. The subject refused to drop the knife and pointed the knife at the officer on several occasions in a threatening manner. More officers arrived to assist. Patrol Rifle, 40MM launcher, and FN 303 launchers were deployed. Officers continued to speak to the subject and attempted to de-escalate, but the man rambled about the FBI ruining his life and was yelling at officers. This was an extremely dangerous situation as the man refused to drop the knife. Officers launched 40MM and FN303 rounds at the man causing him to drop the knife. Officers immediately



detained the man and medical attention was provided. He was placed on a psychiatric evaluation hold. The criminal case was forwarded to the District Attorney's Office.

Mobile Command Vehicle (MCV)

This vehicle is used as a mobile command post for any large-scale events or as a communications center in the event the communications center in the Public Safety Building is inoperable. Some examples of large-scale events include Solano Stroll, Juneteenth, 4th of July, Cal Berkeley football games, critical incidents or natural disasters. In 2023, the MCV was utilized as a command post during the Cal Berkeley football games that took place in Berkeley. Below is list of the dates the Cal Berkeley football team played in Berkeley and when the MCV was used:

Sept. 9, 2023
Sept. 16, 2023
Sept. 30, 2023
Oct. 17, 2023
Oct. 28, 2023
Nov. 11, 2023

ReconRobotics Recon Scout XT Robots (Throw Bot)

The Recon Scout XT robot is intended to safely provide police officers valuable information during high-risk, rapidly evolving situations via real-time audio and video footage. It can be operated a distance away, creating space between the officer and potential danger, thus decreasing the likelihood of injury to those involved in the event, or even a violent encounter between police officers and a dangerous subject. This asset furthers our commitment to the sanctity of life by offering time and distance in critical incidents.

Andros Remotec HD-1 Hazardous Duty Robot

The Remotec HD-1 robot is used as a means to approach hazardous situations where a potentially lethal threat such as an explosive device exists. The Remotec HD-1 robot allows for the examination and manipulation of an object or potential explosive device without unnecessarily putting a bomb technician's life at risk.

Light/Sound Diversionary Device

The use of a diversionary device is to create a reactionary gap of a person by temporarily disorienting them and enable arrest. This gap gives officers an opportunity to apprehend a suspect while using the minimal amount of force possible. They can also be used to safely



invoke a response or redirect the attention of subjects who are either feigning injury, ignoring police commands or are unresponsive while posing a threat to the public.

Long Range Acoustic Device (LRAD)

The LRADs are designed for clear long-range communication or communications with occupants and suspects during high-risk warrant services. The LRAD's ability to communicate clearly over a long distance is far superior to any megaphone or Public Address (PA) system mounted to a police vehicle.

The following are the four high-risk search warrants in 2023 where the throw bot, LRAD, Andros Remotec HD-1 Hazardous Duty Robot, and diversionary device were utilized:

- | |
|--|
| 1) The Special Response Team conducted two search warrants at two residences in connection to a violent robbery of a Berkeley business where an elderly victim was pistol-whipped multiple times. A firearm and evidence were recovered during the service of these high-risk search warrants and several individuals were arrested. The LRAD and light/sound diversionary devices were used during the service of both warrants. |
| 2) A victim called the police and reported being a victim of an armed robbery. The victim memorized the suspect's license plate and provided it to the police. This vehicle was involved in numerous other Berkeley crimes. Officers located the armed robbery suspect's vehicle and initiated a vehicle stop, but the vehicle failed to yield. A pursuit was initiated. Officers lost sight of the vehicle on the freeway but located the vehicle at a residence outside of Berkeley. A high-risk search warrant was served by the Special Response Team at this residence. The throw bot, LRAD, and light/sound diversionary devices were used during the service of this warrant. Evidence was recovered from the search warrant and the suspect was apprehended at a later time. |
| 3) Several robberies occurred outside of Berkeley where the suspects evaded CHP in a stolen vehicle. Police officers from another agency located the suspect vehicle parked in Berkeley and surveilled it and requested Berkeley Police for assistance. Berkeley officers successfully detained the violent suspects after they attempted to flee. Several officers were hurt during the detention and a firearm with an extended magazine was located in the stolen vehicle the suspects were in. Property from armed robbery victims were located in the stolen vehicle. One of the suspects detained had a warrant stemming from a Berkeley robbery. Further investigations connected these suspects and their associates to 16 different Bay Area criminal cases that included shootings, robberies, burglaries, and other crimes. The suspects were arrested. At a later time, The Special Response Team served a high-risk search warrant on the suspects' residence in another city. The throw bot, Andros Remotec HD-1 Hazardous Duty Robot, LRAD, and light/sound diversionary devices were used during the service of this warrant. Two suspects were arrested for robbery and firearm |



violations. Evidence that included two handguns and two assault rifles was recovered from this search warrant.

Drone/Unmanned Aerial System (UAS)

The Berkeley Police Department does not possess any UAS, also commonly known as a drone, but requested mutual assistance for a drone in the below two incidents. Drones are used in limited situations to enhance the Department's mission of protecting lives. The use of a drone below was governed by Berkeley Municipal Code 2.99.020. Both uses of drones were approved by the City Manager through the proper chain of command under the exigent circumstances exception.

It should be noted that reporting on the use of a drone in a mutual assistance capacity in Berkeley is the responsibility of the agency that provided the assistance. The Berkeley Police Department is not required to report on the mutual assistance drone usages to prevent double reporting, but to ensure transparency, below are details of the two incidents where a drone was utilized. The two incidents were also reported in the Berkeley Police Department's Annual Surveillance Technology Report in November of 2023.

- 1) On 01/19/23, the Berkeley Police Department Special Response Team responded to Oakland to serve a search and arrest warrant at a property related to an armed robbery that occurred in Berkeley on 11/23/22. Four suspects were able to elude capture the day of the robbery and investigating detectives learned the suspects were in possession of an Ak-47 and another rifle in addition to the handguns used in the robbery. The UAV was requested to search the property in Oakland from overhead and search the property and residence for a suspect believed to be inside the residence with a gun. By sending the UAV in before officers, the risk of a lethal confrontation is significantly reduced. *Subsequently the City Council was notified of the temporary use of surveillance technology in exigent circumstances.*
- 2) On 03/07/23, two separate armed robberies via gun occurred within 30 minutes of each other in Berkeley. The suspect vehicle was spotted by BPD Officers, pursued and lost in the Richmond area. The investigation led to an address in the City of San Pablo where the suspect vehicle was found in the driveway with the license plates now removed. A search warrant was obtained for the address and a K-9 Unit was requested and approved to locate the suspect. The responding CCCSD K-9 Unit advised BPD that before they send the K-9 into a residence they first clear the house with a UAV. Realizing that CCCSD was going to utilize a UAV to assist in our investigation, BPD officers made a request to utilize the technology per the Surveillance Ordinance. *Subsequently the City Council was notified of the temporary use of surveillance technology in exigent circumstances.*



Fiscal Cost

Funding for all training and ongoing cost in military equipment are sourced from the Berkeley Police Department's existing budget. The only military equipment that was purchased in 2023 was consumable equipment that included .223 ammunition, .50 cal ammunition, 40MM launcher training ammunition, diversionary devices, and tear gas that are used in training. The projected military equipment acquisitions in 2024 will be for .223 and .308 ammunition.

The Berkeley Police Department conducts in-house training on all specialized equipment that the department possesses. This ensures officers are fully trained to utilize the tools in the department's possession to safeguard our community. The cost of in-house training is staff time. Some of the training on specialized equipment must be conducted externally. The fiscal cost on external training related to military equipment in 2024 included expenses from firearms armorer courses (\$2,235.42), Special Response Team training (\$4,100.64), bomb technician training (3,244.94), and less lethal instructor training (\$325). Additionally, eight police recruits attended the police academy where they received Patrol Rifle training. The total cost of the police academy \$16,424.55.

M4/Patrol Rifle

Rifle prices, like other firearms, will range depending on current market demand and availability. While M4 rifles purchased several years ago cost between \$1,000 and \$1,200 each, current rifles cost between \$1,400 and \$1,600. It should be expected that these prices will fluctuate and likely increase over time.

Ammunition costs fluctuate with the costs of components (brass, primers, gunpowder, and bullets) and supply/demand. Current costs for .223 Remington range from \$0.50 to \$0.75 a round for training ammunition (55 grain) and \$1.25 to \$1.50 a round for duty ammunition (62 grain). 130 cases of .223 ammunition were acquired in 2023 with a fiscal impact of \$35,00.30. The projected acquisition of .223 ammunition in 2024 is approximately 50,000 rounds for training.

Every officer that is authorized to carry a rifle on duty must attend a minimum 16-hour CA POST approved rifle instruction course before being authorized to carry the rifle on duty. This course may be administered by Berkeley Police Firearm Instructors or by other POST approved agencies. Tuition for the CA POST approved class is dependent



on the hosting agency. If conducted in-house the cost only includes the officer's hourly wage, range fee, and ammunition costs (all vary). Outside agencies charge between \$25 to \$500 depending on the range location and duration (some classes are 32-hours while POST only requires 16-hours.) Additionally, all officers who are issued a rifle receive specific 8-hour rifle training every two years by POST certified Berkeley Police Department Firearm Instructors.

Typical round count for such classes range between 800 rounds and 1200 rounds per student. Additionally, all officers issued a rifle receive specific 8-hour rifle training every two years by a BPD firearm instructor which constitutes an additional 500 or so rounds per officer.

Maintenance costs vary depending on use over time. Traditionally, various springs and pins need to be replaced every five years and may cost between \$3 and \$30 per rifle. Other parts such as the barrel and bolt need to be replaced around ten years and range between \$150 and \$300 per rifle.

Penn Arms 40MM Single Launcher

Penn Arms 40MM single launchers purchased by the department cost \$815.00 each. Ongoing cost for Penn Arms single launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region. In 2023, 2,000 40MM launcher training ammunition and training reload kits were purchased with a fiscal impact of \$11,48.47.

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Department Firearms Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house; thus, the cost only includes staff time, range fees, and projectile costs, which all vary.

Maintenance costs vary depending on use. Generally, various springs and pins need to be replaced every 5 years which can cost \$3 to \$30.



Milkor LTL Multi-Launcher

Milkor LTL Multi-Launchers purchased by the department cost \$3,950.00 each. The ongoing cost for the Milkor LTL launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Firearm Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house; thus, the cost only includes the officer's hourly wage, range fees, and projectile costs which all vary.

Maintenance costs vary depending on use. Generally, various springs and pins need to be replaced every 5 years which can cost \$3 to \$30.

FN 303 and FN Pava Impact Projectile

FN 303s purchased by the department cost \$800.00 each. Ongoing cost associated with the FN303 launcher should be based on the projectiles used in training and on duty. This will fluctuate based on department trainings, projectile availability and events that unfold in the city and surrounding region.

Every officer authorized to deploy a less lethal launcher must pass a certification course administered by a Berkeley Police Firearm Instructor. The certification class consists of classroom, range qualification and scenario application if the venue allows. This class is largely handled in house; thus, the cost only includes the officer's hourly wage, range fees, and projectile costs which all vary.

Maintenance costs vary depending on use. Generally, O-rings need to be replaced every 3,000 rounds and cost \$30 per kit.

Chlorobenzylidene Malononitrile and Oleoresin Capsicum ("tear gas")

The cost for CS canisters ranges from \$20.00 to \$39.00 per unit. The cost for OC canisters ranges from \$36.00 to \$44.00 per unit. Training is conducted by a Police Officer Standard Training (POST) certified Berkeley Police chemical agent training officer. The cost of training is staff time. In 2023, 96 units of tear gas were purchased to replace expired ones and the remaining units that were set to expire in 2024.



Remington 700 Rifle

The initial cost to purchase this rifle with its associated components is approximately \$10,000 dollars each. Their average life span is 10-years at which time it will likely need to be replaced. Ongoing cost for all firearms should be based on the ammunition used in training and on duty and maintenance. This will fluctuate based on training.

The cost associated with training is the staff time, range fees, and cost of spent ammunition. Special Response Team (SRT) members train once a month and, on average, each member shoots approximately 50-rounds. Currently, there are only 4 members shooting at each training day. This equates to approximately 2,400 rounds of ammunition being fired per year. This does not include special training days or attendance to training schools/classes. A single box of 20-rounds costs approximately \$20 dollars or \$1 dollar per round. Authorized and trained Berkeley Police armorers service and provide regular maintenance of the rifles. The cost of maintenance is staff time. The projected acquisition of .308 ammunition in 2024 is approximately 6,000 rounds for training.

ReconRobotics Recon Scout XT

The initial cost for the Recon Scout XT robot was about \$12,500 per unit in 2010. There are no ongoing costs associated with the use of the Recon Scout XT robot. Being that it is battery operated, there is a nominal cost associated with charging the Recon Scout XT robot's batteries, and the batteries of the OCU (controller).

The Recon Scout XT robot is fairly simple to operate, thus there is no cost associated with training officers in its use. Generally, the Recon Scout XT robot is robust and does not need regular repair or service. The cost of training is staff time.

Andros Remotec HD-1 Hazardous Duty Robot

The Hazardous Duty Robot was purchased in 2008 for \$214,496. Being that it is battery operated, there is a nominal cost associated with charging the robot. Maintenance of the Hazardous Duty Robot is conducted by the Berkeley Police Bomb Technicians.

Berkeley Police Bomb Technicians are trained during regular bomb squad training sessions and maintain their skills through training scenarios. The cost of training and maintenance is limited to staff time.



Light/Sound Diversionary Device

Diversionary Devices cost approximately \$45 per unit. Purchases for these tools are made when inventory becomes low, based upon critical incident usage and Special Response Team trainings that incorporate live devices. \$2,716.25 was spent in 2023 to acquire 48 diversionary devices that replaced ones that expired or were used during training.

Only trained and qualified personnel are permitted to deploy diversionary devices. These trained Berkeley Police officers are typically members of the Berkeley Police Department Special Response Team who receive monthly training which includes training in the deployment of diversionary devices. The cost of training is staff time.

Long Range Acoustic Device (LRADS)

The LRAD 450XL and the LRAD 100X were purchased in 2018. The total cost for both the LRADs, rechargeable battery packs and accessories was \$49,999. Training is conducted by Berkeley Police personnel who are trained in the use and procedures of the LRAD. The cost to train is staff time.

Mobile Command Vehicle (MCV)

The Mobile Command Vehicle was purchased in 2003 for \$230,800. The ongoing cost associated to the MCV is the cost of gasoline and maintenance of the vehicle. Both gasoline and maintenance are received at the City Corporation Yard. Training is conducted in-house, by the Berkeley Police personnel, who are trained in the operation of the vehicle. The training cost is staff time.

The expected useful lifespan of the MCV was 15 years and was eligible for replacement in 2018. A replacement fund for the MCV currently amounts to \$383,183.66 with \$10 added into this fund a month. The vehicle is still in functioning, but will need to be replaced in the near future.

Barrett Model 99 Rifle

The retail cost of the Barrett Model 99 Rifle is approximately \$12,500. The Department of Justice provided the Barrett Modell 99 Rifle to the Berkeley Police Department in 2007. The ongoing cost related to this rifle is the cost of ammunition and training.



The ammunition has a retail cost of approximately \$6 dollars per bullet; \$60 for a box of 10 and \$600 for a case of 10 boxes, plus shipping and handling. The cost associated with training is the staff time, range fees, and cost of spent ammunition. In 2023, 500 rounds of .50 caliber ammunition was purchased for an amount of \$3,768.38.



CONCLUSION

This Annual Military Equipment Report not only fulfills the obligations set forth in Assembly Bill 481 and Policy 709, it also reaffirms the commitment the Berkeley Police Department has to transparency with our community and elected officials. Continuing to build upon the trust we have with our community is the cornerstone of the Berkeley Police Department. The training and equipment outlined in this report allow for the Berkeley Police Department to achieve our mission in keeping our community safe.

The Berkeley Police Department will continue to foster strong relationships and safeguard our diverse community. We will continue to share information and be transparent with our community. Any questions, concerns or complaints regarding the equipment can be directed to the Office of Strategic Planning and Accountability, Internal Affairs Bureau, or the Police Accountability Board.

Office of Strategic Planning and Accountability:

(510) 981-5796

PLee@cityofberkeley.info

Internal Affairs:

(510) 981-5706

JJones@cityofberkeley.info

Police Accountability Board:

(510) 981-4950

DPA@cityofberkeley.info

Item 11.e.

Correspondence to Council from the City Manager's Office with the
Subject Line "Introducing the Office of Strategic Planning and
Accountability (OSPA)"

Murillo, Jose

From: Louis, Jennifer A.
Sent: Friday, June 28, 2024 9:21 PM
To: Aguilar, Hansel
Subject: Introducing the Office of Strategic Planning and Accountability (OSPA)
Attachments: 2024-06-28 Introducing the Office of Strategic Planning and Accountability (OSPA).pdf

Good evening,

Please see attached and may I ask you to share this with the Board as I know they requested more detail about this new office. I'm happy to answer any additional questions as needed.

Jen

Chief Jennifer Louis

BERKELEY POLICE DEPARTMENT



Office of the City Manager

June 28, 2024

To: Honorable Mayor and Members of the City Council
From: *Dee* Dee Williams-Ridley, City Manager
Re: Introducing the Office of Strategic Planning and Accountability (OSPA)

The Berkeley Police Department is proud to announce the establishment of the Office of Strategic Planning and Accountability (OSPA). The OSPA is composed of a dedicated manager leading a team of analysts and reports directly to the Chief of Police. The office will be led by Arlo Malmberg, who will serve as the Strategic Planning and Accountability Manager. Crime Analyst Rita Delucchi has been appointed as the first analyst to join the team. The department is currently in the process of hiring a second analyst to support the office's operations.

The primary mission of the OSPA is to support the development of policies and strategies that promote equity, efficiency, and effectiveness in our public safety efforts. At the same time, the OSPA will focus on optimizing our operations, ensuring departmental accountability, and managing risk. By leveraging data and technology, the OSPA will support our officers and the community we serve in making informed decisions and solving complex problems. Key objectives of the OSPA include:

Strategic Planning:

- Providing officers with data-driven insights to support long-term problem solving and effective policing strategies
- Optimizing the allocation of personnel and equipment resources to maximize our impact and better serve our community, including areas that have been traditionally underserved
- Harnessing intelligence and data to strategically deploy resources, reduce the harms of crime, and ensure fair and impartial policing
- Facilitating regional collaboration to address cross-jurisdictional issues and share best practices
- Utilizing cutting-edge technology to enhance public safety and officer safety while protecting individual privacy rights

Accountability:

- Strengthening inspection and audit protocols to build efficiency, monitor effectiveness, and ensure the best use of department resources
- Managing and improving our Early Intervention System to proactively identify and address potential issues, supporting officer wellness and professional development
- Collaborating with officers to develop policies and procedures that meet training needs, achieve desired outcomes, and align with community standards and best practices
- Supporting the Department's partnership with the Police Accountability Board (PAB) and the Office of the Director of Police Accountability (ODPA) by providing essential data and insights to demonstrate how departmental policy is developed, applied and reviewed.

The establishment of the OSPA represents the Berkeley Police Department's ongoing commitment to innovation, evidence-based, data-driven, and problem-oriented policing. Through this new office, we aim to enhance public safety, strengthen community trust, and provide our officers with the tools and support they need to serve our community with the highest standards of accountability and professionalism.

cc: LaTanya Bellow, Deputy City Manager
Anne Cardwell, Deputy City Manager
Jenny Wong, City Auditor
Mark Numainville, City Clerk
Jennifer Louis, Chief of Police
Matthai Chakko, Assistant to the City Manager
Farimah Brown, City Attorney

Legislative Updates Relevant to the PAB's Work



MEMORANDUM

Date: July 2, 2024
To: Honorable Members of the Police Accountability Board
From: Hansel Aguilar, Director of Police Accountability *HA*
Keegan Horton, ODPa Investigator *KH*
Jose Murillo, ODPa Policy Analyst *JM*
Subject: Legislative Updates

The purpose of this memorandum is to provide a legislative update to the PAB, enabling them to stay informed about changes in local, state, and federal law.

State Legislative Updates¹

The ODPa has identified the following state legislation as relevant to the work of the PAB:

- **AB-2020 “Survivors of Human Trafficking Support Act.”** This bill would require a county that has an interagency sexual assault response team to establish a survivor review board.
Status: In committee: Referred to suspense file.
- **AB 2541 “Peace officer training: wandering.”** Would require POST to develop guidelines addressing wandering associated with Alzheimer’s disease, autism, and dementia.
Status: In Senate. Held at Desk.
- **AB-3021 “Criminal Procedure: interrogations.”** This bill would require a peace officer, prosecuting attorney, or investigator for the prosecution, prior to interviewing a family member of a person who has been killed or seriously injured by a peace officer, to clearly identify themselves, if the interview takes place in person, to show identification, and to state specified information.
Status: In committee: Referred to suspense file.

¹ <https://post.ca.gov/Status-of-Current-Legislation>

Lexipol Policy Update

The following updates have been made to the BPD's Lexipol KMS system:

- **BPD Policy 1106 Fair and Impartial Policing: Special Order 2023-0001.** Reassigned from 1105 to 1106.
- **BPD Policy 1104 Response to AB 1950.** Reassigned from 1105 to 1104. Use of more concise language. Removes child endangerment, child abuse, domestic violence (m243(e)(1) and m 273.5), violations of a protective or stay away order, and elder and dependent abuse exception to the one-year probation limit. Increases documentation requirements.

City of Berkeley Council Meeting Update

The following items being considered by the City Council are relevant to the PAB:

July 9, 2024 City Council Regular Meeting Agenda Packet²

Consent Calendar:

- Item 4 - Police Accountability Board—Appointment of New Member
 - From: City Manager
 - Recommendation: Adopt a Resolution appointing a new member to the Police Accountability Board nominated by Councilmember Taplin
- Item 6 - Grant Application: Bureau of Justice Assistance Body-Worn Camera Policy and Implementation Program to Support Law Enforcement Agencies
 - From: City Manager
 - Recommendation: Adopt a Resolution authorizing the City Manager to submit a grant application to the federal Bureau of Justice Assistance (BJA) in an amount not to exceed \$300,000 for the Body-Worn Camera Policy and Implementation Program.
- Item 15 - Amend Item to Remove the Dwight Way/Telegraph Avenue Intersection from the List of Intersections Being Considered for Additional Surveillance Technology
 - From: Councilmember Lunaparra (Author)
 - Recommendation: Amend Council action that was passed at the January 30, 2024 Council meeting to remove the Dwight Way/Telegraph Avenue intersection from the list of intersections being considered for additional surveillance technology.

Action Calendar:

- Item 16 - Referral Response: Gap Analysis of Berkeley's Homelessness System of Care

² July 9, 2024 City Council Regular Meeting Agenda: <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-07-09%20Agenda%20Packet%20-%20Council%20%28WEB%29.pdf>

- From: City Manager
- Recommendation: Receive and file a report and presentation from staff, responding to the City Council's July 13, 2021 referral to the City Manager to analyze current homelessness expenditures and programs and to explore recalibrating and prioritizing investments to align with the 1-2-4 All Home Regional Action Plan framework.