

POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
 Wednesday, April 17, 2024
 6:30 P.M.

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

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

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

Health and Safety Protocols for In-Person Meetings of Berkeley Boards and Commissions February 2023

The policy below applies to in-person meetings of Berkeley Boards and Commissioners held in accordance with the Government Code (Brown Act) after the end of the State-declared emergency on February 28, 2023.

Issued By: City Manager's Office

Date: February 14, 2023

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

April 17, 2024 Regular Meeting Agenda



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, April 17, 2024
6:30 P.M.

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

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

PUBLIC NOTICE

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/82653396072>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on “rename” to rename yourself to be anonymous. To request to speak, use the “raise hand” icon on the screen. To join by phone: Dial **1 669 900 6833** and enter Meeting ID **826 5339 6072**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized.

LAND ACKNOWLEDGMENT

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

AGENDA

1. **CALL TO ORDER AND ROLL CALL** (2 MINUTES)
2. **APPROVAL OF AGENDA** (2 MINUTES)
3. **PUBLIC COMMENT** (TBD)

Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on any matter within the Board's jurisdiction at this time.

4. **APPROVAL OF MINUTES** (5 MINUTES)
 - a. Minutes for the Regular Meeting of March 27, 2024

5. **ODPA STAFF REPORT** (10 MINUTES)

Announcements, updates, and other items.

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

Announcements, updates, and other items.

7. **CHIEF OF POLICE'S REPORT** (TBD)

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

8. **SUBCOMMITTEE REPORTS** (TBD)

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as

warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

9. NEW BUSINESS (40 MINUTES)

- a. Discussion and Action regarding the PAB-ODPA Triennial Report (10 MINUTES)
- b. Discussion and Action on the BPD's 2023 Police Equipment and Community Safety Ordinance Annual Report (15 MINUTES)
 - i. Approval or denial of the 2023 Report.
 - ii. Discussion of AB 481 Community Meeting Requirement for Military Equipment Reporting.
- c. Discussion and Action on the ODPAs Budget Request Recommendations for FY 25-26 (15 MINUTES)

10. PUBLIC COMMENT

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.

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 ODPAs:

- | | | | |
|----|--------------|-----|--------------|
| 1. | 2023-CI-0009 | 7. | 2023-CI-0019 |
| 2. | 2023-CI-0010 | 8. | 2024-CI-0001 |
| 3. | 2023-CI-0012 | 9. | 2024-CI-0003 |
| 4. | 2023-CI-0014 | 10. | 2024-CI-0004 |
| 5. | 2023-CI-0016 | 11. | 2024-CI-0005 |
| 6. | 2023-CI-0017 | 12. | 2024-CI-0006 |

END OF CLOSED SESSION

12. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

13. 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

Item 4

Minutes for the Regular Meeting of March 27, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING MINUTES
WEDNESDAY, MARCH 27, 2024
6:30 P.M.

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

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

Video Recoding: <https://youtu.be/NsgvJ-fETb4?si=rP6HRIny4KS75ell>

MINUTES

1. CALL TO ORDER AND ROLL CALL

Present: Board Member John Moore (Chair).
Board Member Leah Wilson (Vice-Chair)¹
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Brent Blackaby
Board Member Alexander Mozes

Absent: Board Member Joshua Cayetano

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

¹ Vice-Chair Wilson joined the meeting at approximately 6:41 PM.

BPD Staff: Keegan Horton, Investigator
Deputy Chief Tate
Sgt. Edwards
CAO Staff: James Chang, Deputy City Attorney
CMO Staff: Dr. Carianna Arredondo, Assistant to the City Manager
Rex Brown, DEI Officer

2. APPROVAL OF AGENDA (2 MINUTES)

Motion to approve the agenda.

Moved/Second (Blackaby/Mozes)

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

Noes: None. Abstain: None. Absent: Cayetano and Wilson.

3. PUBLIC COMMENT (TBD)

0 Physically Present Speaker.

2 Virtually Present Speakers.

4. CLOSED SESSION (30 MINUTES)

CLOSED SESSION ITEMS

The Police Accountability Board will convene in closed session to meet concerning the following:

- a. Conference with Labor Negotiators; Government Code Section 54957.6
Negotiator: Laura Izon and Sarah Martoccia
Employee Organization: Berkeley Police Association

The PAB met with Labor Negotiators Laura Izon and Sarah Martoccia for status updates on their permanent regulations.

END OF CLOSED SESSION

5. APPROVAL OF MINUTES (5 MINUTES)

- a. Minutes for the Regular Meeting of March 13, 2024

Motion to approve the Minutes for the Regular Meeting of March 13, 2024 with edits.

Moved/Second (Calavita/Leftwich)

Ayes: Blackaby, Calavita, Leftwich, Moore, Mozes, and Wilson.
Noes: None. Abstain: None. Absent: Cayetano.

Edits to the minutes included noting that Board Member Cayetano was appointed to the Body-Worn Camera Subcommittee.

6. ODPa STAFF REPORT (10 MINUTES)

Director Aguilar provides an update that the ODPa begun the first stage of their two-part office move. The ODPa is now located at 2020 Milvia Street, Suite 250, Berkeley, CA 94704. Program Analyst Murillo provides an update on the implementation of the Civil Case Management Platform.

DEI Officer Brown informs the PAB that their office is also in the process of a move. On behalf Dr. Arredondo, DEI Officer Brown informs the PAB that the request for proposals for the gun violence prevention program has been posted.²

7. CHAIR AND BOARD MEMBERS' REPORTS (10 MINUTES)

Chair Moore reports that he met with the Chief Louis, Deputy Chief Tate, BPA President Officer Valle, and Director Aguilar to further establish a working relationship. Chair Moore stated that it was a very productive meeting.

8. CHIEF OF POLICE'S REPORT (TBD)

Deputy Chief Tate provides updates on staffing, training, and cases of interest.

9. SUBCOMMITTEE REPORTS (Discussion and Action) (TBD)

Subcommittees report on their activities.

10. NEW BUSINESS (Discussion and Action) (50 MINUTES)

- a. Discussion and Action regarding the PAB-ODPA Triennial Report.

The PAB discusses changes they would like to see on the report and provide feedback to staff.

² [REQUEST FOR PROPOSALS \(RFP\) Specification No. #24-11659-C for Gun Violence Intervention and Prevention Program](#)

Motion to continue the discussion at the Regular Meeting of April 17th, 2024.

Moved/Second (Calavita/Blackaby)

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

Noes: None. Abstain: None. Absent: Cayetano.

- b. Discussion and Action on the BPD's 2023 Police Equipment and Community Safety Ordinance Annual Report (15 Minutes)
 - i. Approval or denial of 2023 Report.
 - ii. ODPAs Recommendation for a systematic review of Berkeley Police Department's Police Equipment and Community Safety Ordinance Annual Report.

The PAB discussed the ODPAs recommendations for a systematic review of the BPD's Police Equipment and Community Safety Ordinance Annual Report. No action is taken as it relates to the approval or denial of the 2023 BPD Police Equipment and Community Safety Ordinance Annual Report.

- c. Updates and discussion on next steps regarding the PAB's issuance of subpoenas for records pertinent to the completion of the "Policies and Practices relating to the Downtown Task Force and Bike Unit Allegations" subcommittee's work.

The PAB discusses potential next steps. No actions were taken on the matter.

11. PUBLIC COMMENT (TBD)

1 Physically Present Speaker.

1 Virtually Present Speakers.

12. CLOSED SESSION (30 MINUTES)

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:

- | | | | |
|----|--------------|-----|--------------|
| 1. | 2023-CI-0009 | 8. | 2023-CI-0019 |
| 2. | 2023-CI-0010 | 9. | 2024-CI-0001 |
| 3. | 2023-CI-0012 | 10. | 2024-CI-0003 |
| 4. | 2023-CI-0013 | 11. | 2024-CI-0004 |
| 5. | 2023-CI-0014 | 12. | 2024-CI-0005 |
| 6. | 2023-CI-0016 | 13. | 2024-CI-0006 |
| 7. | 2023-CI-0017 | | |

Motion to postpone the review of ODPa Case No. 2023-CI-0017 to the next regular meeting.

Moved/Second (Calavita/Moore)

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

Noes: None. Abstain: None. Absent: Cayetano.

Motion to accept the ODPa's findings and recommendations for ODPa Case No. 2023-CI-0013.

Moved/Second (Wilson/Mozes)

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

Noes: None. Abstain: None. Absent: Cayetano.

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Chair Moore announces that the PAB received case updates and reviewed the findings and recommendations for ODPa Case No. 2023-CI-0013.

14. ADJOURNMENT

Motion to adjourn. Moved/Second (Leftwich/Blackaby) The meeting was adjourned at 9:22 PM by unanimous consent.

Minutes Approved on: _____

Hansel Aguilar, Commission Secretary: _____

Item 8

List of Current PAB Subcommittees



SUBCOMMITTEES LIST
As of 04/12/2024

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
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

Item 9.b.

ODPA Memo Titled “Berkeley Police Department’s Police
Equipment and Community Safety Ordinance 2023
Annual Report”



RECOMMENDATION

Date: Saturday, April 13, 2024

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

From: Hansel Aguilar, Director of Police Accountability (DPA) *H-A*
Jose Murillo, Program Analyst *JM*

Subject: Berkeley Police Department's Police Equipment and Community Safety Ordinance 2023 Annual Report

Background:

In May 2021, the Berkeley City Council approved the Police Equipment and Community Safety Ordinance (Ordinance No. 7,760-N.S.), which requires the Berkeley Police Department to provide an annual report on the deployment of specific equipment. The report is to be reviewed by the Police Accountability Board (PAB), which will assess compliance with the relevant approval standards set forth by BMC Section 2.100.040. If any equipment is found to be non-compliant with the standards set forth by BMC 2.100.040, the PAB “shall recommend revocation of the authorization for that piece of Controlled Equipment or modify the Controlled Equipment Use Policy in a manner that will resolve the lack of compliance. Recommendations for revocations shall be forwarded to City Council in accordance with the approval process in Section 2.100.040.” The PAB shall make these determinations based on the content of the report.

BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) provides minimum reporting requirements for the use of Controlled Equipment. Those reporting requirements are the following:

1. Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.
2. A summary of how Controlled Equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is Deployed, not to transfers of location or placement of equipment inside Department vehicles.
3. If applicable, a breakdown of where Controlled Equipment was used geographically by individual police area. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.
4. A summary of any complaints or concerns received concerning Controlled Equipment.
5. The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

The PAB shall make recommendations based on compliance with the standards outlined in this ordinance.

The Office of the Director of Police Accountability (ODPA) received the Police Equipment and Community Safety Ordinance 2023 Annual Report from Interim Chief Jennifer Louis on February 23, 2024. ODPA staff conducted an initial review of the report to ensure compliance with the relevant sections of the Berkeley Municipal Code and provided it to the PAB on February 26, 2024 (See Attachment 1). This memorandum provides recommendations to assist the PAB in determining, based on the report, whether each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040.

Recommendation:

The PAB should consider accepting the ODPA's recommendation to accept the BPD's report.

Analysis:

As previously stated, BMC 2.100.050(A)(1) requires meeting five specific requirements for the report. This memorandum presents a recommendation that was developed by examining the available information and assessing each section's

compliance with the criteria. Where appropriate, suggestions were made to improve the information's transparency or clarity. Please refer to Table 1 titled "Compliance Status Overview: Requirements of BMC 2.100.050" for a summary of the compliance status.

Table 1. Compliance Status Overview: Requirements of BMC 2.100.050		
Ordinance No.	Description	In compliance with the ordinance?
2.100.050(A)(1)(a)	Production descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.	Yes.
2.100.050(A)(1)(b)	A summary of how Controlled Equipment was used. For the purposes of annual reports, "use" of equipment shall refer to equipment that is Deployed, not to transfers of location or placement of equipment inside Department vehicles.	Yes.
2.100.050(A)(1)(c)	If applicable, a breakdown of where Controlled Equipment was used geographically by individual police area. For each police area, the Police Department shall report the number of days or instances in which Controlled Equipment was used and what percentage of those daily reported uses were authorized by warrant and by non-warrant forms of court authorization.	Yes.
2.100.050(A)(1)(d)	A summary of any complaints or concerns received concerning Controlled Equipment.	Yes.
2.100.050(A)(1)(e)	The results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.	Yes.

Requirement 1 – Product descriptions for Controlled Equipment and inventory numbers of each product in the Police Department's possession.

To comply with BMC 2.100.050(A)(1)(a), the BPD must furnish product descriptions and inventory levels for every piece of controlled equipment in its possession. In accordance with this requirement, the BPD has listed eleven (11) different pieces of equipment and six (6) types of ammunition and/or projectiles, along with their respective inventory levels. The information is provided on Page 2 of their report.

Requirement 2 – A summary of how Controlled Equipment was used.

To comply with BMC 2.100.050(A)(1)(b), the BPD must provide a summary of how Controlled Equipment was used. For this reporting requirement, "use" of equipment refers to deployment and not transfers between locations or placement inside department

vehicles. On Page 5 of the report, the BPD provides a summary of various incidents in which one or more pieces of controlled equipment were used. The presented chart includes the name of the equipment, a summary of the event, and the beat where it was used. Based on the provided criteria, the PAB believes that this requirement has been sufficiently met.

Requirement 3 – Geographical breakdown of Controlled Equipment Usage by Police Area; Reporting days/instances of use; Authorized Usage Percentage

To comply with BMC 2.100.050(A)(1)(c), three criteria must be met. The first requirement is a geographical breakdown of where Controlled Equipment was used by individual police area. The second requires that for each police area, the BPD must report the number of days or instances in which Controlled Equipment was used. Lastly, the BPD must record the percentage of the reported uses which were authorized by warrant and by non-warrant forms of court authorization. Based on the provided criteria, the PAB believes that this requirement has been met.

Requirement 4 – Summary of any complaints or concerns received concerning Controlled Equipment

BMC 2.100.050(A)(1)(d) requires that a summary of any complaints or concerns received concerning Controlled Equipment be provided. The BPD reports on Page 3 that it did not receive any complaints concerning the use of the controlled equipment in its possession. Based on the information provided in this report and the requirements of the BMC, the PAB believes this requirement has been sufficiently met.

Requirement 5 – Results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response.

BMC 2.100.050(A)(1)(e) requires that the BPD disclose the results of any internal audits, any information about violations of Controlled Equipment Use Policies, and any actions taken in response. In Page 3 of their report, the BPD states that “there have been no additional internal audits beyond those conducted to gather and confirm data for this

report.” Based on the information provided in this report and the requirements of the BMC, the PAB believes this requirement has been sufficiently met¹.

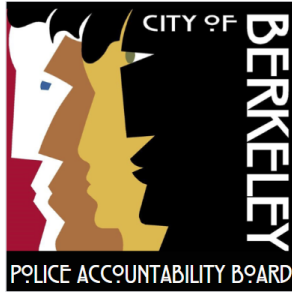
Additional Comments and Suggestions:

It's worth highlighting how the BPD integrated feedback from the PAB into this year's report, underscoring their dedication to enhancing transparency and accountability. As part of their ongoing commitment to improvement, a suggestion for the BPD is to enhance their transparency efforts by incorporating an interactive ArcGIS StoryMap focused on Controlled Equipment usage, akin to the approach used for documenting instances of Use of Force, allowing for greater community engagement and understanding.

¹ In their analysis of the 2022 Controlled Equipment Report, the PAB and ODPa pointed out that there was no indication whether the BPD was obligated to carry out audits. They emphasized that it was ambiguous whether the council intended for the BPD to perform yearly audits. During the June 6, 2023 Council Regular meeting, Councilmember Kate Harrison clarified that Council did not intent to have audits of the use “but rather B.P.D. [would] report the results of audits they initiate.” Source: Berkeley City Council Meeting Recording, [Time Stamp: 1:13:50 – 1:15:15](#).

Item 9.b

Draft Letter to the BPD Titled “Berkeley Police
Department’s Police Equipment and Community Safety
Ordinance 2023 Annual Report”



John “Chip” Moore
Chair of the Police Accountability Board
JoMoore@berkeleyca.gov

April 13, 2024

Via Electronic Delivery

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

Re: Berkeley Police Department’s Police Equipment and Community Safety Ordinance 2023 Annual Report

Dear Chief Louis,

The Police Accountability Board (PAB) held its regular meeting on April 17th, 2024, during which they concluded their review of the Berkeley Police Department’s Police Equipment and Community Safety Ordinance 2023 Annual Report. The PAB voted [insert vote count]¹ to approve the report as it met the minimum reporting requirements.

However, the PAB would like to note that no additional exhibits were considered in their review of the various incidents summarized within the report that would allow for a more qualitative review (i.e. BPD Incident reports, Body-Worn Camera Footage, etc.). It appears by the language of the ordinance, that the legislative intent also contemplated a more qualitative review² of the incidents where the equipment was deployed and or used³ to appropriately evaluate any adverse effects on the public’s welfare, safety, civil rights, or civil liberties. To that end, the PAB

¹ [Insert Record of Ayes, Noes, and Abstains]

² Section 2.100.040 (C)(2) states: “ If the submitted Controlled Equipment Impact Report identifies a risk of potential adverse effects on the public’s welfare, safety, civil rights, or civil liberties, the Police Accountability Board’s recommendation for approval for the funding, acquisition, or use of the Controlled Equipment shall not be deemed an acquiescence to those effects, but instead an acknowledgment of the risk of those effects and the need for the Police Department to take proactive steps to minimize those effects.”

³ For a distinction of this terminology see pg. 3 of the report: “Section 2.100.020 (D) defines deployment as “to utilize or employ Controlled Equipment for a deliberate purpose in the presence of members of the public during management or control of crowds, during any Special Response Team deployment or to affect some response from members of the public during any other operation or critical response. “Deployed” shall not mean an officer merely wearing a piece of Controlled Equipment on their belt or elsewhere on their person.” Deployment means the display of the equipment to affect some response from members of the public. The equipment does not have to be used (I.E. less lethal projectile actually launched and struck a suspect); simply having it and in view of a person to specifically affect a response would be considered a deployment. Deployments are to be reported per the ordinance and the table on page 5 of this report reflects both deployments and utilization of equipment.”

is actively working on implementing a systematic review process to facilitate such assessments and further promote transparency. The Office of the Director of Police Accountability has presented us with a proposed methodology⁴ for compliance review.

As part of the ongoing commitment to improvement, an additional suggestion for the BPD is to enhance their transparency efforts by exploring the incorporation of an interactive ArcGIS StoryMap focused on Controlled Equipment usage, akin to the approach used for documenting instances of Use of Force, allowing for greater community engagement and understanding. The PAB is more than willing to support the BPD in its efforts and is open to further discussion on this recommendation. The PAB thanks the BPD for considering this recommendation and for their efforts in incorporating the feedback provided by the PAB in last year's report into the current report.

Best regards,

John "Chip" Moore
Chair of the Police Accountability Board

Cc: Honorable Mayor and Members of the City Council
Bedwendolyn Deshawn Williams-Ridley, City Manager
Farimah Brown, City Attorney


⁴ Please see Page 20 of the PAB's March 27th, 2024 Regular Meeting Packet:
https://berkeleyca.gov/sites/default/files/legislative-body-meeting-attachments/2024-03-27_PAB_Regular_Meeting_Packet.pdf

Item 9.c.

ODPA Memo Titled “Budget Requests for ODPA-PAB
Operations for FY 2025-2026”



Memorandum

Date: April 13, 2024
To: Honorable Members of the Police Accountability Board (PAB)
From: Hansel Aguilar, Director of Police Accountability (DPA) 
Subject: Budget Requests for ODP-A-PAB Operations for FY 2025-2026

This memorandum outlines the additional budget requests for FY 2025-2026 that the Office of the Director of Police Accountability (ODPA) is submitting to the City Council.

In alignment with our Charter-mandated duties as outlined in the Berkeley Charter Section 125, and to ensure we remain on par with comparable oversight bodies both regionally and nationally, I am submitting a proposal for additional funding across three key expenditure categories: **personnel**, **operational**, and **capital expenditures**. This request is designed to bolster our capabilities to foster public trust through impartial, effective, and comprehensive oversight of the Berkeley Police Department (BPD).

1. Personnel Expenditures

To enhance our operational efficiency and public engagement, the following positions are proposed:

Public Affairs and Relations Specialist: Enhancing Communication and Community Engagement

The Public Affairs and Relations Specialist will be instrumental in managing our communications, ensuring effective engagement with the community, and aligning our messaging with the strategic directions of both the City of Berkeley and the oversight agency. This position supports the Berkeley City Council's Strategic Plan which emphasizes social and racial equity, environmental justice, and transparent governance.

Key Responsibilities:

- **Strategic Communications:** This role involves crafting and executing a communications strategy that encompasses media relations, community engagement, and digital presence, adhering to the frameworks provided by oversight agencies in our field¹. The communications strategy will reflect the city's goals of championing social and racial equity, enhancing public services, and ensuring environmental sustainability.
- **Community Engagement:** The specialist will lead initiatives to increase public awareness and involvement in police oversight, directly supporting the city's goal to be a customer-focused organization that provides excellent and easily accessible services. Activities will include public forums, workshops, and community events to gather input and maintain a responsive dialogue with the community.
- **Media Relations:** Acting as the primary liaison for media interactions, the specialist will ensure accurate and fair representation of our activities. This includes managing press releases and conferences, which will support the city's goal of providing transparent and timely information to the community.
- **Crisis Communications:** Handling communications in crisis situations to maintain public confidence and address misinformation, aligning with the city's objective to create a resilient, safe, connected, and prepared community.
- **Feedback Loop:** Establishing robust feedback mechanisms to integrate community insights into our oversight practices, reinforcing the city's commitment to social and racial equity by ensuring all community voices are heard and valued.

Strategic Importance:

The addition of a Public Affairs and Relations Specialist is crucial for aligning the ODPa with the City of Berkeley's broader objectives as outlined in the Berkeley Charter Section 125 and the city's Strategic Plan. This role will enhance our ability to communicate effectively, engage with diverse community groups, and ensure transparency and accountability in all interactions. By strengthening our communication and community relations, we support the city's goals of being a leader in social and racial equity and providing exemplary public services.

¹ For more on community engagement in our field, consider NACOLE's Report on the State of the Field and Effective Practices: <https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-w0951-pub.pdf>
For an example of comprehensive communications plan from a neighboring peer agency, consider the Oakland Office of the Inspector General's (OIG's) 2024-2026 Strategic Communications Plan <https://cao-94612.s3.us-west-2.amazonaws.com/documents/OIG-Strategic-Communications-Plan-2024-2026-FINAL.pdf>

The Public Affairs and Relations Specialist will not only manage our external communications but also help us to align our operations with the city's long-term goals and immediate priorities, ensuring that our efforts in police oversight also contribute to the broader objectives of the City of Berkeley.

Assistant Clerk: Enhancing Administrative Capacity and Accountability

The Assistant Clerk position is essential for managing the increased administrative workload that comes with effective oversight. This role is critical in maintaining thorough and timely documentation, ensuring that all activities and public interactions are accurately recorded and accessible, supporting the transparency and accountability goals outlined in the Berkeley Charter Section 125, the City's Strategic Plan, and aligning with NACOLE's pillars for effective oversight.

Key Responsibilities:

- **Documentation and Record-Keeping:** The Assistant Clerk will manage comprehensive documentation of all oversight activities, including public meetings, complaints, investigations, and policy recommendations. This supports the NACOLE pillar of transparency and helps fulfill the City's goal of providing state-of-the-art, well-maintained public records.
- **Meeting and Reporting Support:** This role involves preparing materials for PAB meetings, ensuring that all documentation is prepared in advance and adheres to the City's guidelines for public meetings. This activity supports the City's objective to be a customer-focused organization by improving the quality and accessibility of information provided to the public.

The Assistant Clerk will play a crucial role in enhancing the capabilities of not only the full PAB but also its numerous ad hoc and standing subcommittees that operate throughout the year. By providing dedicated administrative support, this position ensures that these committees function efficiently and effectively. The Assistant Clerk will manage the scheduling, documentation, and dissemination of information for these subcommittees, facilitating better communication and coordination. This support allows the subcommittees to focus on their specific tasks without the added burden of administrative logistics, leading to more productive meetings and more timely outcomes in line with the Board's objectives and the City's strategic goals.

- **Public Interaction Logs:** The Assistant Clerk will maintain logs of all public interactions, ensuring that community feedback and concerns are systematically recorded and addressed. This aligns with the City's goals of fostering a dynamic and locally-based economy and championing social and racial equity by ensuring community voices are integral to the oversight process.

- **Compliance and Accountability:** Ensuring that all administrative practices comply with the Berkeley Charter, state laws, and federal regulations. This includes managing the accessibility of records and information, which supports the NACOLE pillar of accountability and the City's goal to provide an efficient and financially-healthy government.

Strategic Importance:

Incorporating this role significantly enhances the operational capacity of the ODPA and the PAB. By ensuring robust and efficient administrative support, the Assistant Clerk helps uphold the integrity of the oversight process, enhances public trust, and ensures that oversight activities are aligned with both the strategic goals of the City of Berkeley and the best practices in civilian oversight.

This position not only supports the day-to-day administrative needs of the office but also strengthens our commitment to transparency, accountability, and community engagement, key components of effective oversight as advocated by NACOLE and embedded in the City's strategic objectives.

Office Specialist

Under the direct supervision of the administrative analyst, this team member will manage day-to-day office operations, aiding in the efficient handling of complaints and facilitating the smooth operation of the office.

2. Operating Expenditures

The following programs are essential for the development and continuous improvement of our board members and staff:

Internship Program: Cultivating Future Talent and Diversity in Oversight

The Internship Program is designed to cultivate future talent and infuse our team with fresh perspectives crucial for innovative and effective police oversight. By providing interns with hands-on experience in police accountability practices, we not only contribute to their professional development but also benefit from their diverse viewpoints and contemporary academic knowledge. This program supports the City of Berkeley's Strategic Plan goal to attract and retain a talented and diverse city government workforce. It also aligns with NACOLE's pillars by fostering a pipeline of informed individuals who can contribute to ongoing efforts in

police oversight, ensuring a sustained commitment to reform and community engagement.

Strategic Importance:

Skill Development: Interns will engage in meaningful projects that enhance their skills while contributing to our mission, helping bridge the gap between academic theory and practical application.

Innovation and Inclusion: Fresh perspectives from diverse academic backgrounds can introduce new ideas and approaches to problem-solving, driving innovation in our practices.

Community Connection: Interns often have strong ties to local communities, which can help enhance trust and improve our outreach efforts.

Board Member Training: Enhancing Governance through Informed Leadership

The Board Member Training program is essential to ensure that all members are equipped with up-to-date knowledge of policies, legal standards, and oversight techniques. This training is critical for effective decision-making and for maintaining the integrity and credibility of the PAB. Consistent with the Berkeley Charter Section 125, which mandates comprehensive training for board members, this program ensures that our board operates under the highest standards of governance and is well-prepared to address complex issues in police oversight.

Strategic Importance:

Charter Compliance: Training will cover important legal and ethical standards to ensure all board decisions comply with current laws and best practices.

Effective Oversight: Well-trained board members are more effective in their roles, contributing to more thorough reviews, informed deliberations, and stronger oversight outcomes.

Public Confidence: A knowledgeable board strengthens public trust in the oversight process, demonstrating a commitment to accountability and justice.

3. Staff Training: Maintaining Excellence and Adaptability in Oversight

Staff Training is crucial to keep our team updated on the latest best practices and emerging trends in police accountability and oversight. Continuous professional development ensures that our staff can adapt to changes in the legal and social landscape of police oversight, thereby enhancing our overall effectiveness and responsiveness. This aligns with the City's goal of providing efficient and financially healthy government operations and NACOLE's guidelines for maintaining a skilled and adaptable oversight workforce.

Strategic Importance:

Skill Enhancement: Regular training updates the skills of our staff, ensuring they remain on the cutting edge of police oversight techniques and technologies.

Adaptability: As new challenges emerge in police accountability, ongoing training ensures our team can adapt and respond effectively, safeguarding our role as a model oversight body.

Professional Growth: Investing in staff development increases job satisfaction, retention, and overall morale, crucial for a motivated and effective team.

3. Capital Expenditures

- **Office Location - Enhancing Accessibility and Visibility**

A strategic relocation of the Office of the Director of Police Accountability is essential to accommodate our expanding team and to significantly improve accessibility for the public. This move is aimed at enhancing the visibility of the office and making our services more accessible to community members, which is crucial for fostering greater public engagement and trust.

Strategic Importance:

- **Increased Accessibility:** A more centrally located office space in a community-centric area will make it easier for residents to visit and engage with our office. This aligns with the City of Berkeley's Strategic Plan to be a customer-focused organization that provides excellent, timely, and easily accessible service to the community. Enhancing physical accessibility supports our mandate under the

Berkeley Charter Section 125, which emphasizes community participation in overseeing police practices.

- **Enhanced Visibility:** By moving to a location that can accommodate higher foot traffic and visibility, we can increase public awareness of the PAB's role and functions. This supports the City's goal of fostering a dynamic, sustainable, and locally-based economy by integrating our services more deeply with community activities and local businesses.
- **Operational Efficiency:** Accommodating an expanding team in a space that is designed to support modern oversight practices ensures operational efficiency. A well-designed office space can improve workflow, enhance communication, and provide the necessary infrastructure for the effective performance of oversight activities. This contributes to the City's objective of providing an efficient and financially healthy government.

- **Enhanced Privacy and Confidentiality**

The new office location will be designed to provide more private and secure areas specifically tailored for sensitive discussions and confidential meetings. This is critical both for community members who wish to discuss their concerns in confidence and for officers under investigation, ensuring that all parties are afforded the privacy and respect they deserve during oversight processes. Enhanced privacy facilities support our commitment to maintaining the integrity of the investigative process and upholding the principles of fairness and confidentiality mandated by the Berkeley Charter Section 125. This move directly aligns with our goals of building trust and ensuring all participants in the oversight process feel safe and respected in their interactions with our office.

- **Community Trust and Engagement:** A strategic and visible office location reinforces our commitment to transparency and community engagement. By being more accessible, we invite community input and participation, which is essential for credible and effective oversight. This move also demonstrates our commitment to being an integral part of the community we serve, inviting public scrutiny and participation in our processes.
- **Meeting Space for Public and Subcommittees:** The new office will also provide adequate space for public meetings and subcommittee activities, which are essential for the thorough and transparent conduct of our duties. This supports the City's strategic goal to create a resilient, safe, connected, and prepared city by ensuring that community members have a designated space to engage with oversight processes.



City of Berkeley
General Fund Resources Funding Request
 (For Department use during the biennial and mid-biennial budget development process)

Requesting Department:	ODPA	Date Requested:	3/12/24
Request Submitted by:	Hansel Aguilar	Type of Request:	New and On-going
Requesting Appropriation for Fiscal Year:	FY 2025-2026		

Expenditure Type	Requesting Amount	FY 2025	FY 2026	Type of Request	Reason for Request	CMO Comments
I. PERSONNEL (List by Classification)						
Communications Specialist-9011 (working title)	\$151,498.72	\$ 210,690.76	\$ 210,690.76	Revision	Requested during AA01- referred to this cycle. To fulfill outreach duties in charter	
Assistant City Clerk- 1014 (working title)	\$ 166,870.03	\$ 237,346.32	\$ 237,346.32	New & Ongoing	To assist with the support of the Board meetings and activities	
Office Specialist II- 4047	\$ 257,823.93	\$ 128,911.97	\$ 128,911.97	New & Ongoing	To ensure an equitable distribution of labor tasks in a way that ensures operational s	
<i>For benefits, use FB rate document. For wages, use step C</i>						
Subtotal - Personnel	\$ 576,192.68	\$ 576,949.05	\$ 576,949.05			

II. OPERATING NON-PERSONNEL						
Contract (Vendor)						
Internship Program	\$ 60,000.00	\$ 30,000.00	\$ 30,000.00			
Board Member Training	\$ 70,000.00	\$ 35,000.00	\$ 35,000.00			
Staff Training	\$ 72,000.00	\$ 36,000.00	\$ 36,000.00			
Subtotal - Operating Non-Personnel	\$ 202,000.00	\$ 101,000.00	\$ 101,000.00			

III. CAPITAL EXPENDITURES						
Office location	\$ 327,540.00	\$ 163,770.00	\$ 167,045.40			
	\$ -					
	\$ -					
Subtotal - Capital Expenditures	\$ 330,815.40	\$ 163,770.00	\$ 167,045.40			

IV. TOTAL DEPARTMENT FUNDING REQUEST	\$ 1,109,008.08	\$ 841,719.05	\$ 844,994.45			
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For City Manager Office Use Only: General Fund Resources Funding Request Approval

<input type="checkbox"/> Approved			
<input type="checkbox"/> Partially Approved			
<input type="checkbox"/> Not Approved			
<input type="checkbox"/> Approved			
<input type="checkbox"/> Partially Approved			
<input type="checkbox"/> Not Approved			

Legislative Updates Relevant to the PAB's Work

MEMORANDUM

To: Police Accountability Board
From: Keegan Horton, ODPa Investigator
Date: April 17, 2024
Subject: Legislative Updates for PAB Regular Meeting March 27, 2024

State Policy Update¹

- AB 2541 Peace Officer Training on Wandering (related to Alzheimer's/Dementia): Voted to move to Consent Calendar
- SB 1122 Peace Officer Educational Requirements (college degree requirement timeliness): Moved to Assembly.

Lexipol Policy Update

- 606 Warrant Service & Detail: Reorganization
- 600 Investigation & Prosecution: Reorganization
- 345 Native American Graves: Addition of unassociated funerary objects definition.
- 1005 Reporting of Arrests, Convictions, and Court Orders: Substantive changes in purpose, domestic violence and court orders, reporting, notification requirements, procedure for relief, and policy subsections.

City of Berkeley Policy Update²

No new items.

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

² <https://berkeleyca.gov/your-government/city-council/city-council-agendas>