

**POLICE ACCOUNTABILITY BOARD  
REGULAR MEETING**

**Wednesday, March 8, 2023  
5:30 P.M.**

**Board Members:**

JOHN MOORE III. (CHAIR)  
KITTY CALAVITA

REGINA HARRIS (VICE-CHAIR)  
JULIE LEFTWICH  
DEBORAH LEVINE

CHERYL OWENS  
ISMAIL RAMSEY

**MEETING LOCATION**

Judge Henry Ramsey Jr. South Senior Center  
2939 Ellis Street  
Berkeley, CA 94709

**PUBLIC NOTICE**

The PAB has resumed in-person meetings. Due to technical limitations, hybrid meetings are not being offered at this time. This meeting will be recorded and posted on the PAB website.

The Board encourages community members to attend meetings in person. If attending in person, please observe the health and safety protocols for in-person meetings of Berkeley boards and commissions as outlined by the City of Berkeley.

**LAND ACKNOWLEDGEMENT**

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this

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

1947 Center Street, 5<sup>th</sup> Floor, Berkeley, CA 94704 TEL: 510-981-4950 TDD: 510-981-6903 FAX: 510-981-4955  
Website: [www.cityofberkeley.info/dpa/](http://www.cityofberkeley.info/dpa/) Email: [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today.

**AGENDA**

1. **CALL TO ORDER & ROLL CALL** (2 minutes)
  
2. **APPROVAL OF AGENDA** (5 MINUTES)
  
3. **PUBLIC COMMENT** (TBD)  
*(Public comment at special meetings is limited to the items on the agenda. Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers.)*
  
4. **PRESENTATION OF THE POLICY REVIEW REPORT ON THE PROPOSED BPD POLICIES 351 AND 1304 RELATED TO THE USE OF FIX CAMERA SURVEILLANCE TECHNOLOGY** (15 min)
  
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 items on this agenda only.)*

**CLOSED SESSION**

*Pursuant to the Court's order in Berkeley Police Association v. City of Berkeley, et al., Alameda County Superior Court Case No. 2002 057569, the Board will recess into closed session to discuss and act on the following matter(s):*

6. **Presentation of Complaint Case No. 29** – (5 min)

**END OF CLOSED SESSION**

7. **ANNOUNCEMENT OF CLOSED SESSION ACTION** (1 minute)
  
8. **ADJOURNMENT** (1 minute)

#### Communications Disclaimer

Communications to the Police Accountability Board, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Board Secretary. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.



#### Communication Access Information (A.R. 1.12)

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

#### SB 343 Disclaimer

Any writings or documents provided to a majority of the Board regarding any item on this agenda will be made available for public inspection at the Office of the Director of Police Accountability, located at 1947 Center Street, 5th Floor, Berkeley, CA.

Contact the Director of Police Accountability (Board Secretary) at [dpa@cityofberkeley.info](mailto:dpa@cityofberkeley.info)

# 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

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## 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.

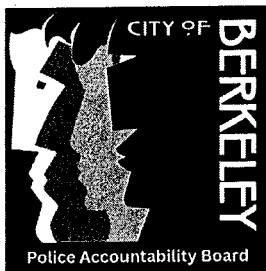
- A Commissioner at a remote location will follow the same health and safety protocols as in-person meetings.
- A Commissioner at a remote location may impose reasonable capacity limits at their location.

### **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.



Friday, March 03, 2023

***Via Electronic Transmittal***

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

**Re: Fixed Video Surveillance Cameras**

Interim Chief Jennifer Louis:

The Police Accountability Board (PAB) would like to provide its recommendations on the proposed policies<sup>1</sup> regarding fixed video surveillance cameras being considered by the Berkeley Police Department. As mandated by Berkeley Municipal Code Section 2.99 "Acquisition and Use of Surveillance Technology," specifically section 2.99.030.2, the PAB conducted a review of the proposed policies and voted to provide the attached report at their March 8th, 2023 special meeting.

The PAB would like to bring to your attention two points that we would like to be addressed. First, Policies 351 and 1304 appear to be duplicative. To avoid confusion, we recommend integrating the two and adopting one use policy for Fixed Surveillance Video Cameras. Secondly, these policies state that the surveillance cameras are to be used for "a variety of purposes", which appears to be inconsistent with the Council's intent to use the cameras "solely for the purpose of solving criminal investigations", as passed in their budget referral and adoption in 2021. Please see the attached report which outlines the reasoning behind those recommendations.

The PAB understands the importance of maintain public safety and does not wish to limit the effectiveness of the BPD in ensuring the safety of the community. We strive to balance

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<sup>1</sup> BPD Draft Policy 351 "External Fixed Video Surveillance Cameras" & Policy 1304 "Surveillance Use Policy – External Fixed Video Surveillance Cameras"

the needs of public safety with the protection of civil liberties and privacy. It is our hope that by addressing the aforementioned points, we can work together to maintain a safe and secure environment for all members of the Berkeley community while respecting their rights and privacy.

Sincerely,

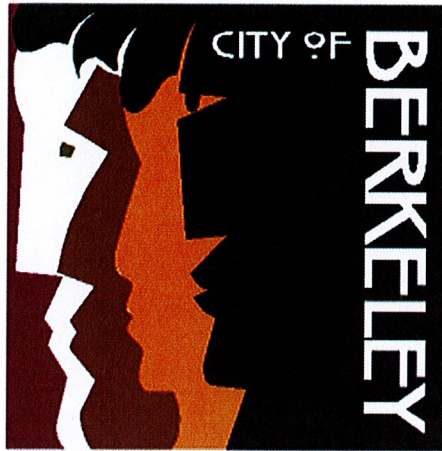
John "Chip" Moore

Chair, Police Accountability Board

Attachments:

cc: Honorable Mayor & Members of the Berkeley City Council  
City Manager

DRAFT



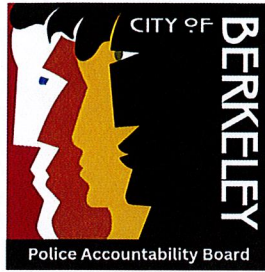
Police Accountability Board  
&  
Office of the Director of  
Police Accountability

# POLICY REVIEW REPORT

BPD Draft Policies 351 & 1304:

External Fixed Video Surveillance Cameras & Surveillance Use Policy -  
External Fixed Video Surveillance Cameras





**Mayor**

Jesse Arreguin

**City Council**

Rashi Kesarwani, District 1  
Terry Taplin, District 2  
Ben Bartlett District 3  
Kate Harrison, District 4

Sophie Hahn, District 5  
Susan Wengraf, District 6  
Rigel Robinson, District 7  
Mark Humber, District 8

**City Manager**

Dee Williams-Ridley

**Berkeley Police Department**

Interim Chief Jennifer Louis

**Police Accountability Board**

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Regina Harris, Vice-Chair  
Kitty Calavita  
Juliet Leftwich  
Deborah Levine  
Cheryl Owens  
Ismail Ramsey

**Office of the Director of Police Accountability**

Hansel Aguilar, Director of Police Accountability  
Jose Murillo, Policy Analyst

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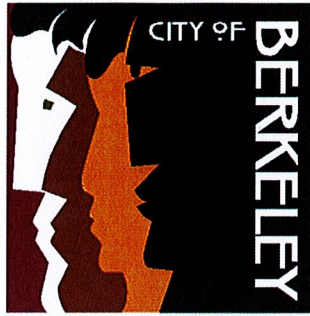
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Police Accountability Board  
&  
Office of the Director of  
Police Accountability

**POLICY REVIEW REPORT**

BPD Draft Policies 351 & Policy 1304:

“External Fixed Video Surveillance Cameras” & “Surveillance Use Policy – External Fixed Video Surveillance Cameras”

**Date of Report:** March 3, 2023

**Summary Review:**

The Police Accountability Board (PAB) has reviewed these policies and notes two primary points. First, Policies 351 and 1304 appear to be duplicative. To avoid confusion, the PAB recommends integrating the two and adopting one use policy for Fixed Surveillance Video Cameras. In addition, these policies state that the surveillance cameras are to be used for “a variety of purposes”, which appears to be inconsistent with the Council’s intent to use the cameras “solely for the purpose of solving criminal investigations”, as passed in their budget referral and adoption in 2021.

**Background:**

On February 8th, 2023, in compliance with the BMC Section 2.99.030.2, Interim Chief Louis presented to the Police Accountability Board (PAB) a triad of documents for their review. A Surveillance Technology Acquisition Report, which was crafted by the Public Works Department, was accompanied by two proposed policies, Policy 351 entitled

"External Fixed Video Surveillance Cameras," and Policy 1304 dubbed "Surveillance Use Policy - External Fixed Video Surveillance Cameras," both of which were drafted by the Berkeley Police Department (BPD). Please refer to Attachment 1, which includes a copy of the Surveillance Technology Acquisition Report, as well as the proposed policies.

The acquisition report and proposed policies state that the cameras will serve several business purposes that will include, but not be limited to: the prevention, deterrence, and identification of criminal activity; the addressing of areas of criminal activity; and the response to critical incidents. Additionally, the cameras will assist in identifying, apprehending, and prosecuting offenders, documenting officer and offender conduct during interactions to safeguard the rights of the public and officers, cost-effectively augmenting resources, monitoring pedestrian and vehicle traffic activity to aid traffic-related investigations, and documenting employee, employer, and/or customer conduct during interactions to protect them from any potential misconduct. See Attachment 1. However, these proposed uses of surveillance cameras may be inconsistent with the implied purpose seen throughout the procedural history of these policies.

On October 12, 2021, Councilmember Taplin and Councilmember Kesarwani presented a budget referral to the City Council for "Security Cameras in the Public Right of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment of High Crime Areas." The presented recommendation aimed to deter gun violence and obtain evidence to solve criminal investigations, with an understanding that the cameras would not be used for any type of surveillance purposes. The recommendation was approved with revisions that included referring to the City Manager to develop a use policy for the security cameras, based on active investigations only and including a data retention schedule. Staff was also required to provide the council with an off-agenda memo commemorating the use policy, and the locations of the cameras would be based on calls-for-service data, with a list of locations brought to the council and referred to the AA01 budget process. See attachment 2 for a copy of the consent item 20 with Council actions from the October 12, 2021, City Council regular meeting and the relevant supplemental material.

On December 14, 2021, the City Council voted to adopt the budget recommendations that included the proposal for security cameras in certain locations. However, funding for the cameras was made conditional on the development and implementation of a Use Policy before their deployment and siting in District 1, District 2, and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). The policy was set to be adopted administratively and presented to the City Council as an off-agenda memo. See attachment 3 for a copy of the action item with Council actions from the December 14, 2021, City Council regular meeting. City Manager Dee Williams-Ridley presented an off-agenda memorandum to Council on January 25, 2022, providing an early version of Policy 351. See attachment 4 for a copy of that memorandum.

The PAB has thoroughly examined all pertinent materials, and procedural history relating to the development of these policies and conducted independent research to present recommendations to the City Council and City Manager about the proposed policies of the Berkeley Police Department (BPD).

**Recommendation:**

The PAB recommends that the BPD revise the proposed policies to align with the initial scope of the budget referral, as well as the conditions placed by the City Council when the budget referral was approved. This will involve implementing changes such as clarifying language and limiting use to the intended purpose. In addition to these changes, the PAB also believes that the policies should be consolidated into a single document to eliminate any potential confusion.

**Reasoning:**

In developing its recommendation, the PAB considered the following:

*The misalignment between the proposed policies and the City Council's intended Direction*

Upon careful analysis of the proposed policies, the PAB determined that the language included within these policies is not reflective of the Council's original intent when approving the budget for these cameras. Policy 351 and Policy 1304 state that "recorded images may be used for a variety of purposes, including criminal or civil investigations."

Among the potential uses, the policies note that the video images may be used “to document officer and offender conduct during interactions to safeguard the rights of the public and officers,” “to augment resources in a cost-effective manner,” “to monitor pedestrian and vehicle traffic related to investigations,” and “to document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct.” See attachment 1, proposed policy 351 section 351.3.1, and proposed policy 1304 section 1304.2. The proposal made by Councilmembers Taplin and Kesarwani made it clear that these cameras would be “used solely to solve criminal investigations.” The proposed application of these cameras by the BPD is not in alignment with the Council's original objective of restricting their use as a crime deterrent and solely for solving ongoing criminal investigations. See attachment 2, the revised agenda material for supplemental packet 1 of the Council's October 12, 2021, regular meeting. Therefore, the authorized use section should be revised to reflect Council's intent. The PAB's suggested changes to Policy 351 are included hereto as Attachment 5.

*The adoption of two similar policies could cause implementation confusion.*

The BPD's Draft Policy 351, "External Fixed Video Surveillance Cameras," and Policy 1304, "Surveillance Use Policy - External Fixed Video Surveillance Cameras," are almost identical. While one policy is a "use" policy and the other is a "surveillance use" policy, a significant number of their sections are the same. The Police Accountability Board, therefore, suggests that both policies be combined into a single policy to prevent any confusion. Please see Attachment 5 for the PAB's proposed combined policy.

**Other Notes:**

*Doubts on the effectiveness of the proposed surveillance camera installation.*

In their Budget Referral memo to City Council on October 12, 2021, Council Members Taplin and Kesarwani cite a 2011 Urban Institute study entitled “Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention.” That study of three large cities—Baltimore, Chicago, and Washington DC—concluded that fixed surveillance cameras could reduce crime, but only “when actively monitored” in real-time, a condition that raises personnel and other costs substantially (La Vigne et al., Page xii). Proposed

policies 351 and 1304 appear to limit the cameras to the sole use of recording only video without sound and explicitly prohibit the integration of additional technologies.

The PAB's stance is not to advocate for the removal of restrictions on the integration of surveillance technology. Rather, the PAB suggests that all parties consider the possible advantages of implementing these cameras in comparison to the costs of maintenance, implementation, and training associated with the systems. According to the Urban Institute's study, "analysis results indicate that cameras, when actively monitored, have a cost-beneficial impact on crime with no statistically significant evidence of displacement to neighboring areas. However, in some contexts and locations, these crime reduction benefits are not realized" (La Vigne et al., Page xii). The study also specifies two reasons why certain locations do not observe a reduction in crime. As previously mentioned, the first explanation is that the cameras are not consistently monitored, and the second is those areas with fewer cameras and restricted coverage limit the potential for crime prevention (La Vigne et al., Page xii).

All stakeholders must evaluate the limitations identified in the Urban Institute's study and assess whether the infrastructure necessary to make these cameras effective is already established. As the PAB acknowledges, as do other interested parties, these cameras can serve as a vital tool for deterring crime. Nonetheless, to ensure that crime is not merely being displaced to other regions, we encourage additional research to be conducted. Such research should consider the long-term effects of surveillance technology in specific areas and assess whether crime has decreased, remained constant, or relocated to neighboring regions. By conducting additional research, we can better comprehend the impacts of surveillance technology and make informed decisions that prioritize public safety.

## Works Cited

La Vigne, Nancy G, et al. "Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention." *Www.urban.org*, Urban Institute, 19 Sept. 2011, <https://www.urban.org/research/publication/evaluating-use-public-surveillance-cameras-crime-control-and-prevention>.

## Additional Research on the topic

- Piza, E. L., Welsh, B. C., Farrington, D. P., & Thomas, A. L. (2019). CCTV surveillance for crime prevention: A 40-year systematic review with meta-analysis. *Criminology & public policy*, 18(1), 135-159.
- Piza, E. L. (2018). The crime prevention effect of CCTV in public places: A propensity score analysis. *Journal of Crime and Justice*, 41(1), 14-30.
- National Academies of Sciences, Engineering, and Medicine. (2018). *Proactive policing: Effects on crime and communities*. National Academies Press.
- Alexandrie, G. (2017). Surveillance cameras and crime: a review of randomized and natural experiments. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 18(2), 210-222.
- Lum, C., Koper, C. S., & Willis, J. (2017). Understanding the limits of technology's impact on police effectiveness. *Police Quarterly*, 20(2), 135-163.



## Attachment List

Attachment	Description
1	Surveillance Technology Acquisition Report and Proposed Policies 351 and 1304
2	Copy of Consent Item Number 20, City Council Actions from the October 12, 2021 Regular Meeting, and Related Supplementary Materials.
3	Copy of Action Item Number 44 with City Council Actions from the December 14, 2021 Regular Meeting.
4	Copy of City Manager Dee Williams-Ridley's Off-Agenda Memorandum to Council on January 25, 2022, Presenting an Early Version of Policy 351.
5	PAB's Proposed Revisions to Policy 351 and 1304 Which Consolidates Both Policies.

ATTACHMENT 1

**SURVEILLANCE CAMERAS**

**A. DESCRIPTION**

The Avigilon camera system consists of three main components: The camera, the server, and a remote information management system referred to as the Avigilon Control Center Client application (ACC).

The first component, the Avigilon camera, is a device that incorporates a video recording from an image. The cameras are affixed to City of Berkeley-owned infrastructure including utility poles on City streets and parks. The cameras provide protection to indoor and outdoor spaces with high-resolution images of up to 5 MP, a wide field of view, and efficient bandwidth management in a compact design without compromising building aesthetics. Although license plate and facial recognition hardware is available, neither was purchased or installed. Without the hardware, these features cannot be activated. Audio is a standard feature of the camera, but will remain deactivated by the authorized administrators of the system.



The second component of the system is the server. Once the Avigilon camera captures the imagery, a local device called a server, functions as a repository for the data. Servers are physically secured on City property and video recordings are protected within the City's network. Servers are designed to store recorded events in real time for secure retrieval and analysis. Recorded videos are transferred from the server's storage into an information management system, Avigilon Control Center (ACC) application. <sup>1</sup>.

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=200320040AB839](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=200320040AB839)



The third component is the Avigilon Control Center Client application (ACC) which streamlines data management and allows users to access videos on one secure platform. The ACC software provides various levels of analytics to sort stored videos faster and is a standard feature. These include pixel motion detection of vehicles and people. Vehicular characteristics are searchable by vehicle type and color. Personal characteristics are searchable by gender (gender is a binary search, female of male), hair color, age, and upper and lower body clothing color. Authorized users of the system can only access data stored on a server through the ACC application. The ACC application is located on the server and accessed solely through the City's secured intranet by protected login and password. The application does not allow the authorized administrator or system users to alter, manipulate, or edit any of the footage recorded by the server.

**B. PURPOSE**

Surveillance cameras will be utilized for the following business purposes:

- i. To prevent, deter and identify criminal activity.
- ii. To address identified areas of criminal activity.
- iii. To respond to critical incidents.
- iv. To assist in identifying, apprehending and prosecuting offenders.
- v. To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- vi. To augment resources in a cost-effective manner.
- vii. To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- viii. To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

**C. LOCATION**

Surveillance cameras encompassed by this report, are located at, or will be installed at, the following locations.

**Future Projects:**

- 6<sup>th</sup> Street at University Avenue

## PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT

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- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

### **Completed Projects:**

- San Pablo Park
- City of Berkeley Marina
- Transfer Station

### **D. IMPACT**

The primary intent of these cameras is to deter and address crime in the City of Berkeley. The Public Works Department will work to ensure that the video recordings are secured and only accessible to authorized personnel. The right to maintain someone's anonymity versus the need to collect information to maintain public safety is of paramount concern. The Department recognizes that all people have a right to privacy and is committed to protecting and safeguarding civil rights by adhering to the strictest requirements concerning the release of video recordings. There should not be any impact on anyone's civil liberties or civil rights. The camera system lacks the hardware to conduct license plate reader or facial recognition technology. Audio is a standard feature of the cameras, but will remain deactivated by the authorized administrators of the system. Staff is explicitly prohibited from using any facial recognition technology as outlined in BMC 2.99.

The Public Works Department will ensure responsible data management, transparency, and accountability including the posting of video surveillance notices.

**E. MITIGATION**

In order to minimize violations of privacy, data shall be maintained in a secure, non-public accessible location, such locations require specialized system access including a dedicated password and log in. Data will be obtained or released in accordance with the use policy. Data will not be used to unlawfully discriminate against people based on race, ethnicity, political opinions, religious or philosophical beliefs, trade union membership, gender identity, disability status, sexual orientation or activity, or genetic and/or biometric data. Additionally, the Department will not use the camera surveillance system to scan footage and identify individuals based on any of the categories listed in the preceding sentence.

Employees are prohibited from retaining, duplicating, or distributing video recordings except for departmental business purposes in accordance with the use policy.

**F. DATA TYPES AND SOURCES**

The surveillance camera system's use is limited to capturing non-audio, video recordings on affixed City buildings, including utility poles on streets and within park boundaries. The Camera Surveillance system collects video recordings in high-resolution imagery that is stored securely on a local server and accessible by authorized users on the ACC application. As video images are recorded, the ACC application automatically stamps the video with the current date/time and the camera's identity.

**G. DATA SECURITY**

External users will not have access to the ACC application. The authorized administrator and designated staff will have access to video recordings. To gain system access, staff must obtain approval from system management. Authorized users will access the ACC application via a single sign-on and password administered by Information Technology. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works authorized administrator. The application prohibits the authorized administrator and users from altering, manipulating, tampering, or editing video recordings.

The Public Works Director or his/her designee shall appoint a member of the department as the authorized administrator to coordinate the use and maintenance of the Surveillance Camera system and the storage of recordings, including:

1. Establishing a system for downloading, storing, and securing of recordings.
2. Designating persons responsible for downloading recorded data.
3. Establishing a maintenance system to ensure the working order of surveillance cameras.
4. Monitoring the system to prevent tampering, deleting, and copying recordings.

## **PUBLIC WORKS DEPARTMENT SURVEILLANCE ACQUISITION REPORT**

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5. Working in alignment with the State of California record retention policy, AB 839 to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
6. Maintaining an audit trail record for all access to video recording files, wherein access information for each file is logged using a secure log-in system. The ACC application associates an audit trail record with each user access information, thereby logging the date, time, user name, and activity occurring during each video recording file access.

### **H. FISCAL COST**

Costs for future projects listed in Section C of this report are unknown at this time. Future costs will depend on additional maintenance, equipment, and parts. Ongoing costs include associated staff time relative to the system administrator's role of administering and maintaining the surveillance camera program. All cameras are purchased and wholly owned and operated by City of Berkeley.

#### Initial Purchase Costs:

San Pablo Park: \$64,829.46 – 1 server and 21 camera views

Zero Waste Transfer Station – Weigh Station: \$15,962.35 – 1 server and 10 camera views

Marina: \$106,620.14 – 2 servers and 45 camera views

#### Ongoing Costs:

Personnel, maintenance, and other ongoing costs, including compliance and other reporting and oversight requirements - \$13,443.20 per year.

### **I. THIRD PARTY DEPENDENCE AND ACCESS**

All Camera Surveillance data is accessed by a secure network login and password and stored on servers maintained by the Department of Information Technology. There is no third-party dependence or external access to information other than the ACC is a proprietary technology which requires all the components to be Avigilon.

### **J. ALTERNATIVES**

The City can decide to rely on traditional policing techniques as a method for addressing crime such as deploying sworn officers to patrol City buildings and parks.

There is a broad consensus – among the community– that surveillance cameras can be an important tool for deterring criminal activities.

**K. EXPERIENCE OF OTHER ENTITIES**

Neighboring cities including San Francisco, Oakland, and San Jose have adopted the use of Surveillance Cameras as a tool for reducing crime on city streets and parks. Many cities have developed their own usage policies which may include standards for use, data retention standards, and system controls.



## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.

This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue

- 
- San Pablo Avenue at University Avenue
  - 7th Street at Dwight Way
  - San Pablo Avenue at Dwight Way
  - 7<sup>th</sup> Street at Ashby Avenue
  - San Pablo Avenue at Ashby Avenue
  - Sacramento Street at Ashby Avenue
  - College Avenue at Ashby Avenue
  - Claremont Avenue at Ashby Avenue
  - 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- (h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

#### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.

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#### **351.4 VIDEO SUPERVISION**

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 or 1304.9 below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

##### **351.4.1 VIDEO LOG**

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

##### **351.4.2 PROHIBITED ACTIVITY**

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

#### **351.5 STORAGE AND RETENTION OF MEDIA**

The cameras should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

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Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

#### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **351.6 RELEASE OF VIDEO IMAGES**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **351.7 VIDEO SURVEILLANCE AUDIT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

#### **351.8 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

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All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

**351.9 MAINTENANCE**

It shall be the responsibilities of the Public Works Department to facilitate and coordinate any updates and required maintenance.

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# Surveillance Use Policy-External Fixed Video Surveillance Cameras

## 1304.1 PURPOSE

This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department (BPD). This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

This Surveillance Use Policy is legally-enforceable pursuant to BMC 2.99.

## 1304.2 AUTHORIZED USE

Only BPD members who receive training on this policy, who are then granted access by an administrator may access the data from the video surveillance cameras. This data may only be accessed to further a legitimate law enforcement purpose. Members must follow the necessary logging mechanisms, such as case number and case type when querying the database.

Recorded images may be used for a variety of purposes, including criminal or civil investigations. The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.
- (h) To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct

The following are prohibited uses of the video surveillance system:

- (a) Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.
- (b) Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.
- (c) Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.
- (d) Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.
- (e) Video surveillance systems and recordings are subject to the Berkeley Police

### **1304.3 DATA COLLECTION**

The cameras will film and store video on City of Berkeley encrypted servers. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. The cameras and storage devices shall be wholly owned and operated/maintained by the City of Berkeley.

### **1304.4 DATA ACCESS**

Access to video surveillance cameras data shall be limited to Berkeley Police Department personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 1304.9 below. Members seeking access to the video surveillance system shall seek the approval from the Investigations Division Captain, or their designee.

### **1304.5 DATA PROTECTION**

All data transferred from the cameras and the servers shall be encrypted. Access to the data must be obtained through the Public Works Department. All system access including system log-in, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### **1304.6 CIVIL LIBERTIES AND RIGHTS PROTECTION**

The Berkeley Police Department is dedicated to the most efficient utilization of its resources and services in its public safety endeavors. The Berkeley Police Department recognizes the need to protect its ownership and control over shared information and to protect the privacy and civil liberties of the public, in accordance with federal and state law. Provisions of this policy, including 1304.4 Data Access, 1304.5 Data Protection, 1304.7 Data Retention, 1304.8 Public Access and 1304.9 Third Party Data Sharing serve to protect against any unauthorized use of video surveillance camera data. License plate and facial recognition data hardware is not installed on the cameras. Audio is a standard feature of the camera, but is deactivated by the system administrator. These procedures ensure the data is not used in a way that would violate or infringe upon anyone's civil rights and/or liberties, including but not limited to potentially disparate or adverse impacts on any communities or groups.

### **1304.7 DATA RETENTION**

The video surveillance camera system should record minimally for one year as guided by Government Code 34090. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court. All data will automatically delete after the aforementioned retention period by the System Administrator from Public Works.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

### *Surveillance Use Policy-External Fixed Video Surveillance Cameras*

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#### **1304.8 PUBLIC ACCESS**

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **1304.9 THIRD-PARTY DATA-SHARING**

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with specific and legitimate law enforcement purposes.

Data collected from the video surveillance system may be shared with the following:

- (a) The District Attorney's Office for use as evidence to aid in prosecution, in accordance with laws governing evidence;
- (b) Other law enforcement personnel as part of an active criminal investigation;
- (c) Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process

#### **1304.10 TRAINING**

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

#### **1304.11 AUDITING AND OVERSIGHT**

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. Video surveillance system audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of this policy pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

#### **1304.12 MAINTENANCE**

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It shall be the responsibilities of the Public Works Department to facilitate and coordinate any updates and required maintenance.

ATTACHMENT 2

## Council Consent Items

**20. Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas**

**From: Councilmember Taplin (Author), Councilmember Kesarwani (Author)**

**Recommendation:** In order to deter gun violence and obtain evidence to solve criminal investigations, adopt the following recommendations: 1. Authorize the City Manager to install security cameras, prominent signage, and increased lighting in the public right-of-way at intersections experiencing a rise in violent crime, including appropriate arterial streets serving as entry into and exit out of the City of Berkeley; 2. Refer to the City Manager an environmental safety assessment of the high crime areas specifically in South and West Berkeley; 3. Refer costs for security cameras and lighting to the Annual Appropriations Ordinance (AAO) #1 budget process.

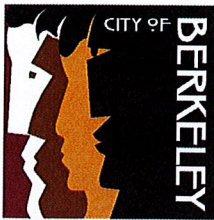
We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever. Key intersections entering and leaving Berkeley for security camera installation could include those listed below. Arterial intersections along University, Ashby and Alcatraz in close proximity to gun violence in South and West Berkeley should be prioritized: 6th/University, 7th/Ashby, San Pablo Ave./Ashby, Sacramento/Alcatraz, Alcatraz/Adeline, Ashby/Telegraph, Gilman/6th, College/Alcatraz, Ashby/Domingo, Ashby/Claremont. Other locations within Berkeley may include the following: University/San Pablo, University/Sacramento, Sacramento/Ashby, George Florence Park, 10th/Bancroft, 8th/Channing, 8th/Addison.

**Financial Implications:** See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

**Action:** Approved recommendation as revised in Supplemental Communications Packet #1 from Councilmember Taplin, and further revised to include the amendments below.

- Refer to the City Manager to develop a use policy for the security cameras that includes provisions that the data may be used for active investigations only and that the policy will include the data retention schedule. Staff to provide Council with an off-agenda memo commemorating the use policy.
- The locations of the cameras will be based on calls-for-service data; that staff will bring a list of locations to Council; and to refer the item to the AAO1 budget process.



Terry Taplin  
Councilmember District 2  
Rashi Kesarwani  
Councilmember District 1

## **REVISED AGENDA MATERIAL for Supplemental Packet 1**

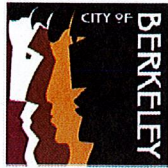
**Meeting Date:** October 12, 2021

**Item Number:** 20

**Item Description:** Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

**Submitted by:** Councilmember Taplin, Councilmember Kesarwani

- Removed several locations from recommended intersections for camera placement
- Specified compatibility with existing cameras
- Revised fiscal estimate
- Revised background section to include updated gunfire statistics
- Added statistics on private security cameras registered with BPD



CONSENT CALENDAR  
Oct. 12, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Kesarwani (Author)

Subject: Budget Referral: Security Cameras in the Public Right Of Way at Intersections Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas

RECOMMENDATION

In order to deter gun violence and obtain evidence to solve criminal investigations, adopt the following recommendations:

1. Authorize the City Manager to install security cameras, prominent signage, and increased lighting in the public right-of-way at intersections experiencing a rise in violent crime, including appropriate arterial streets serving as entry into and exit out of the City of Berkeley;
2. Refer to the City Manager an environmental safety assessment of the high crime areas specifically in South and West Berkeley;
3. Refer costs for security cameras and lighting to the Annual Appropriations Ordinance (AAO) #1 budget process.

We note that the security camera footage would be used solely for the purpose of solving criminal investigations. The cameras are not intended and would not be used for any kind of surveillance purposes whatsoever. Cameras should be compatible with those already in use at San Pablo Park under Contract Nos. 31900080 and 31900205.

Key intersections entering and leaving Berkeley for security camera installation as recommended by the Berkeley Police Department could include those listed below. Arterial intersections along University ~~and~~ Ashby ~~and Alcatraz~~ in close proximity to gun violence in South and West Berkeley should be prioritized.

- ~~Sixth~~6th/University
- ~~Seventh~~7th/Ashby
- San Pablo Ave/Ashby
- ~~Sacramento~~/Alcatraz
- ~~Alcatraz~~/Adeline
- University/San Pablo
- Sacramento/Ashby
- 
- ~~MLK~~/Ashby

- Dwight/7th
- San Pablo and Dwight
- ~~Gilman/6<sup>th</sup>~~
- ~~College/Alcatraz~~
- ~~Ashby/Domingo~~
- ~~Ashby/Claremont~~

Other locations within Berkeley as requested by residents may include the following:

- ~~University/Sacramento~~
- Sacramento/Oregon
- George Florence Park
- ~~10<sup>th</sup>/Bancroft~~
- ~~Eighth<sup>th</sup>/Channing~~
- ~~108<sup>th</sup>/Addison~~

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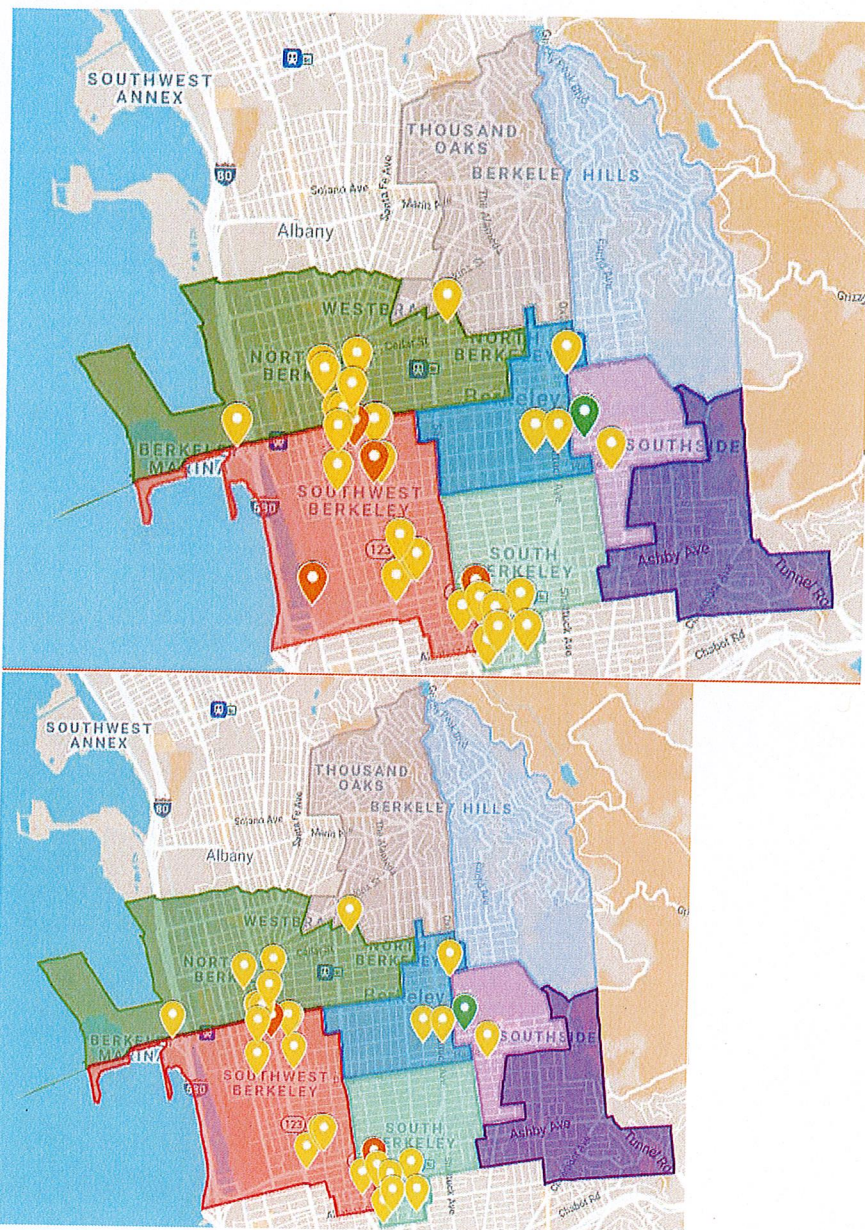
#### FINANCIAL IMPLICATIONS

Estimated one-time costs to install cameras, signage and lighting are likely to range from \$75,000 to \$150,000 per intersection, plus \$40,000 annually for data, software and maintenance. Total costs would vary based on the number of intersections selected. Specifically, total one-time costs for prioritizing seven intersections recommended by the Berkeley Police Department would be \$525,000 to \$1,050,000 plus ongoing data, software and maintenance costs of \$280,000.

Approximately \$975,000 to \$1,950,000 to \$100,000 to \$1 million for purchasing security cameras including camera storage and maintenance, as well as signage installation and increased lighting. Estimated one-time costs to install cameras, signage and lighting are likely to range from \$75,000 to \$150,000 per intersection, plus \$40,000 annually for data, software and maintenance.

#### CURRENT SITUATION AND ITS EFFECTS

According to the Berkeley Police Department, there were ~~29-35~~ shootings in 2021 as of September ~~6-24~~, compared to ~~22-24~~ shootings by the same date in 2020. Only 10 of the investigations on those shootings have been closed with an identified suspect, and the Department has recovered 70 firearms this year so far; 22 of those firearms, including 4 rifles, were recovered during detective follow-up investigations.



*2021 Berkeley Gunfire Map<sup>1</sup>*

[West Berkeley neighborhoods have experienced repeated terrorizing incidents of gunfire in recent weeks.](#) On the morning of Saturday, September 4, 2021, West Berkeley residents reported 8 to 10 gunshots from two cars driving on Tenth<sup>40</sup><sup>th</sup> St. past George Florence Park.<sup>2</sup> Panicked parents grabbed their children and ran for cover, but the park is fenced in on three sides, and is only open on the side of the street where the gunfire was identified. Police responded to the scene and found evidence of a second shooting just two blocks away at Ninth<sup>9</sup><sup>th</sup> and Allston. This follows recent shootings at Eighth<sup>8</sup><sup>th</sup> and Channing on August 20, and one that injured a man at San Pablo and Allston on August 14.<sup>3</sup> [On the evening of September 23, a shooting at the intersection of Channing Way and Byron Street sent a teenage girl to the hospital with injuries.](#)<sup>4</sup> Residents of this neighborhood are alarmed by the surge in gun violence and have urged the City to install security cameras in public spaces with a high incidence of violent crime, along with other evidence-based public safety policy responses, to ensure safer streets.

[High-quality images of suspect vehicles would provide valuable investigative leads to assist efforts to bring accountability for violent gun crimes.](#) Shootings often involve suspects who flee the area of the crime in their vehicles. Police investigating the crime often rely on private security cameras owned by residents and/or businesses in order to obtain video evidence. Installing high-quality cameras at major arterials would ensure access to videos and allow investigators to check the footage videos for suspects fleeing the crime area in their vehicle. ~~High-quality images of suspect vehicles would provide valuable investigative leads.~~

The City already urges private property owners with security cameras to register their cameras with the Berkeley Police Department (BPD) to assist in criminal investigations, and property owners readily avail themselves of this resource. [According to the Department, a total of 283 security cameras owned by private citizens and businesses are currently registered with BPD.](#) Valuable public safety resources should not be delegated entirely to the voluntary cooperation of private entities, particularly when violent gunfire has occurred in many public spaces including parks and major intersections.

<sup>1</sup> Raguso, E. (2021). The 2021 Berkeley Gunfire Map. *Berkeleyside*. Retrieved Sept. 4, 2021 from <https://www.berkeleyside.org/2021/05/22/2021-berkeley-gunfire-map>

<sup>2</sup> Raguso, E. (Sept. 4, 2021). Police investigate daytime shoot-out in Berkeley on Saturday. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/09/05/police-investigate-daytime-shoot-out-west-berkeley-saturday>

<sup>3</sup> Raguso, E. (Aug. 14, 2021). Update: Man shot in Berkeley is expected to survive; roadway is open. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/08/14/man-shot-berkeley-traffic-san-pablo-avenue>

<sup>4</sup> Raguso, E. (Sept. 23, 2021). Berkeley shooting sends teenage girl to hospital. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/09/23/southwest-berkeley-shooting-hospital-girl-16>



Strategically placed cameras should be of sufficient quality to capture high resolution video. Cameras would *not* be equipped with Automated License Plate Readers (ALPR), and would not be monitored. The recordings would be an investigative resource which officers could access while investigating specific crimes and could assist in a reduction of crime. This would be an additional element of our Police Department's crime prevention strategies.

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"Stationary security cameras affixed to City property or facilities" are not regulated under the Surveillance Technology Ordinance (~~e.f.~~ BMC Section 2.99.020.1.i). As a result, stationary camera installation at major thoroughfares would be exempt from the requirements of BMC Chapter 2.99.

Providing security cameras in the public right-of-way is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

#### BACKGROUND

A 2011 report<sup>5</sup> from The Urban Institute's Justice Policy Center noted that cameras can be an effective tool for preventing crimes and supporting investigations. These tools appear fiscally prudent both as tools for investigations, and with the installation and maintenance of security cameras being less costly than the costs associated with crimes that may take place without them. Moreover, an experiment conducted at the University of Twente in the Netherlands finds evidence that the presence of security cameras can encourage "prosocial" and "helping behavior" among bystanders.<sup>6</sup>

Berkeley's Police Department has been conducting Crime Prevention Through Environmental Design (CPTED) assessments for neighborhoods throughout the City over the past several years. These assessments include recommendations such as: increased lighting, maintenance of properties, landscaping and signage that can be used to deter criminal behavior.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

#### CONTACT PERSON

Councilmember Terry Taplin      Council District 2      510-981-7120  
Councilmember Rashi Kesarwani Council District 1      510-981-7110

<sup>5</sup> La Vigne, N. G., et al. (2011). Evaluating the use of public surveillance cameras for crime control and prevention. *Washington, DC: US Department of Justice, Office of Community Oriented Policing Services. Urban Institute, Justice Policy Center, 1-152.*

<sup>6</sup>Van Rompay, T. J., et al. (2009). The eye of the camera: Effects of security cameras on prosocial behavior. *Environment and Behavior*, 41(1), 60-74. Retrieved from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.844.4026&rep=rep1&type=pdf>

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ATTACHMENT 3

## Action Calendar – New Business

### 44. FY 2021 Year-End and FY 2022 First Quarter Budget Update

**From:** City Manager

**Recommendation:** Discuss and determine the funding allocations for FY 2022 based on the FY 2021 Excess Equity and Excess Property Transfer Tax for the following: 1) the General Fund Reserves 2) City Manager Budget Recommendations and 3) the Council Budget Referrals approved during FY 2022 to be considered in November 2021.

**Financial Implications:** See report

Contact: Rama Murty, Budget Office, (510) 981-7000

**Action:** M/S/C (Arreguin/Robinson) to accept supplemental material from the City Manager on Item 45.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:15 p.m. to complete Items 44 and 45; and to continue Items 46 and 47 to January 18, 2022.

**Vote:** All Ayes.

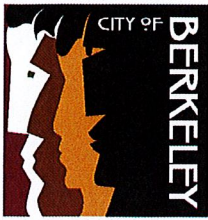
**Action:** 23 speakers. M/S/C (Arreguin/Kesarwani) to adopt the budget recommendations for excess equity as contained in the supplemental materials submitted at the meeting with the amendment that funding of the security cameras is conditioned on development and implementation of a Use Policy prior to deployment and Siting of Cameras in District 1, District 2 and District 8 locations as proposed by the Police Department and at 62nd & King (District 3). Policy will be adopted administratively and presented to the City Council as an off-agenda memo; repayment of the Workers Comp fund will be a top priority in the June budget process.

**Vote:** All Ayes.

FY 2021 Recommended Carryover and FY 2022 Recommended Adjustments (AAO#1)

Item #	Fund #	Fund Name	Department	Recommended Carryover	Recommended Adjustment	Project Number	Description/Project name	Mandated by Law	Authorized by Council	City Manager Request	Comments/Justification
34	011	General Fund	Information Technology	\$40,000			Cyber Leadership and Strategy Solutions			X	Carryover of fund for Cyber Leadership and Strategy Solutions Contracts. Approved by Council on 04/27/2021 per Resolution No. 69.813.
35	011	General Fund	Information Technology	\$263,679			1947 Rent			X	Carryover of fund for IT rent in 1947 Center
36	011	General Fund	Mayor & Council	\$68,751			FY21 Council Carryover		X		FY21 Council Carryover Amount. Approved by Council on 06/15/2021 through Resolution No. 65.540-N.S.
37	011	General Fund	Mayor & Council		\$709,695		Legislative Assistants Salary & Fringe Benefit Increase and One-Time Accretion Payment		X		Appropriate fund for the One-Time Accretion recognition payment for Legislative Assistants related to inclusion of the Legislative Assistant position to S 1021 - CSUJPTRLA Unit. Approved by Council on 06/15/2021 through Resolution 69.928-N.S.
38	011	General Fund	Mayor & Council		\$30,121		Mayor and Council Annual Salary per Measure JJ		X		Appropriate fund to augment Council Office Salary budget to fund for one Legislative Assistant position at the top step of the salary range with benefits. Approved by Council on 10/12/2021 through Resolution xx.xx N.S.
39	011	General Fund	Mayor & Council		\$1,330,000		Security Cameras in the Public Right of way		X		Appropriate FY 2022 funds for Measure JJ for the Mayor and Councilmember Salaries and Benefit increases approved by voters on November 3, 2020. Appropriate funding for a Council Budget Referral Council member Taplin and Kesarwani. Security Cameras in the Public Right of Way at Intersector Experiencing Increased Violent Crime, and Environmental Safety Assessment for High Crime Areas
40	011	General Fund	Mayor & Council		\$300,000		Resolution Recognizing Housing as Human Right		X		Appropriate funding for a Council Budget Referral Council member Taplin, Harrison, a Hahn. Resolution Recognizing Housing as Human Right, Referring to City Manager Several Measures Begin Developing Social Housing in the City of Berkeley
41	011	General Fund	Mayor & Council		\$100,000		Homeless Outreach Coordinator		X		Appropriate funding for a Council Budget Referral Council member Bartlett for a Homeless Outreach Coordinator for South Shattuck Avenue and Adeline Berkeley
42	011	General Fund	Mayor & Council		\$60,000		Durant Parklet and Telegraph Plaza Improvements		X		Appropriate funding for a Council Budget Referral Council member Robinson for Durant Parklet and Telegraph Plaza Improvement
43	011	General Fund	Mayor & Council		\$200,000		Berkeley Ceasefire		X		Appropriate funding for a Council Budget Referral Council member Wengraf, Bartlett and Taplin for the Berkeley Ceasefire program

ATTACHMENT 4



Office of the City Manager

January 25, 2022

To: Honorable Mayor and Members of the City Council

From: *DWR* Dee Williams-Ridley, City Manager

Subject: Public Safety Cameras Affixed to City Property

On December 14, 2021, City Council adopted an agenda item for Public Safety Cameras in the public right of way affixed to City property at various intersections throughout the City of Berkeley, similar to existing cameras currently in place at San Pablo Park. This agenda item was approved by Council, with direction to the City Manager to develop and implement a Use Policy for the Berkeley Police Department.

The attached policy addresses the use of the existing San Pablo Park cameras as well as additional fixed Public Safety Cameras located on City owned or managed properties or facilities. This policy was crafted to address the use, integrated technologies, storage and retention, access, and sharing of video/images.

The following locations were approved by City Council:

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue
- 7<sup>th</sup> Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>d</sup> Street at King Street

Attachment: Public Safety Fixed Video Surveillance Cameras Policy

cc: Paul Buddenhagen, Deputy City Manager  
LaTanya Bellow, Interim Deputy City Manager  
Jennifer Louis, Interim Chief of Police  
Jenny Wong, City Auditor  
Mark Numainville, City Clerk  
Matthai Chakko, Assistant to the City Manager

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# Public Safety Fixed Video Surveillance Cameras

## 351.1 PURPOSE AND SCOPE

This policy provides guidance for the placement and monitoring of City of Berkeley public safety video cameras, as well as the management, maintenance, storage and release of the captured images.

This policy only applies to fixed, overt, marked public safety video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image-capturing devices used by the Department.

## 351.2 POLICY

The Berkeley Police Department utilizes a public safety video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance public safety and security in public areas. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and man-made disasters and to assist City officials in providing services to the community.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

## 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

### 351.3.1 PLACEMENT AND MONITORING

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, but is not limited to: existing cameras such as those located at San Pablo Park, cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue
- San Pablo Avenue at University Avenue

- 
- 7th Street at Dwight Way
  - San Pablo Avenue at Dwight Way
  - 7<sup>th</sup> Street at Ashby Avenue
  - San Pablo Avenue at Ashby Avenue
  - Sacramento Street at Ashby Avenue
  - College Avenue at Ashby Avenue
  - Claremont Avenue at Ashby Avenue
  - 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may be used for a variety of purposes, including criminal investigations. The public video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) To respond to critical incidents.
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) To document officer and offender conduct during interactions to safeguard the rights of the public and officers.
- (f) To augment resources in a cost-effective manner.
- (g) To monitor pedestrian and vehicle traffic activity in order to assist with traffic related investigations.

Images from each camera should be recorded in a manner consistent with the underlying purpose of the particular camera.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

#### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by public safety surveillance equipment shall be marked in a conspicuous manner with appropriate signs to inform the public that the area is under police surveillance. Signs should be well lit, placed appropriately and without obstruction to ensure visibility.

#### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems.



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### **351.4 VIDEO SUPERVISION**

Supervisors should monitor video surveillance access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### **351.4.1 VIDEO LOG**

No one without authorization will be allowed to login and view the recordings. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy.

#### **351.4.2 PROHIBITED ACTIVITY**

Public safety video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Public safety video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Public safety video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

### **351.5 STORAGE AND RETENTION OF MEDIA**

The Department shall retain all recordings for a minimum of 60 days. Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Recordings created by equipment testing or accidental activation may be deleted after 60 days.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

#### **351.5.1 EVIDENTIARY INTEGRITY**

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity,

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authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### **351.6 RELEASE OF VIDEO IMAGES**

All recorded video images gathered by the public safety video surveillance equipment are for the official use of the Berkeley Police Department.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records.

Requests for recorded images from other law enforcement agencies shall be referred to the Watch Commander for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### **351.7 VIDEO SURVEILLANCE AUDIT**

The Audits and Inspections Sergeant or the authorized designee will conduct an annual review of the public safety video surveillance system. The review should include an analysis of the cost, benefit and effectiveness of the system, including any public safety issues that were effectively addressed or any significant prosecutions that resulted, and any systemic operational or administrative issues that were identified, including those related to training, discipline or policy.

The results of each review shall be appropriately documented and maintained by the Audits and Inspections Sergeant or the authorized designee and other applicable advisory bodies. Any recommendations for training or policy should be promptly addressed.

#### **351.8 TRAINING**

All department members authorized to operate or access public video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy.

ATTACHMENT 5

## External Fixed Video Surveillance Cameras

### 351.1 PURPOSE AND SCOPE

~~This policy provides guidance for the use of City of Berkeley external fixed video surveillance cameras by the Berkeley Police Department.~~

~~This policy only applies to fixed, overt, marked external video surveillance systems utilized by the Department. It does not apply to mobile audio/video systems, covert audio/video systems or any other image capturing devices used by the Department. This policy is intended to be the Use Policy, however all aspects of the Surveillance Use Policy, 1304 which corresponds with the External Fixed Video Surveillance Cameras is equally applicable.~~

**Commented [MJ1]:** The language used in policy section 1304.1 should be incorporated within this policy.

### 351.2 POLICY

The Berkeley Police Department utilizes a video surveillance system to enhance its anti-crime strategy, to effectively allocate and deploy personnel, and to enhance safety and security in public areas and City property. Cameras may be placed in strategic locations throughout the City to detect and deter crime, to help safeguard against potential threats to the public, to help manage emergency response situations during natural and human-made disasters, to assist City officials in providing services to the community, among other uses.

Video surveillance in public areas will be conducted in a legal and ethical manner while recognizing and protecting constitutional standards of privacy.

### 351.3 OPERATIONAL GUIDELINES

Only City Council-approved video surveillance equipment shall be utilized. Members authorized to review video surveillance should only monitor public areas and public activities where no reasonable expectation of privacy exists. The City Manager shall obtain Council approval for any proposed additional locations for the use of video surveillance technology.

#### 351.3.1 PLACEMENT ~~AND MONITORING~~

Camera placement will be guided by the underlying purpose or strategy associated with the overall video surveillance plan. As appropriate, the Chief of Police should confer with other affected City departments when evaluating camera placement. Environmental factors, including lighting, location of buildings, presence of vegetation or other obstructions, should also be evaluated when determining placement.

Camera placement includes, ~~but is not limited to:~~ existing cameras such as those located at San Pablo Park, the Berkeley Marina, and cameras placed in Council identified and approved intersections throughout the City, and potential future camera locations as approved by City Council.

Current City Council approved locations:

- 6<sup>th</sup> Street at University Avenue 1
- San Pablo Avenue at University Avenue
- 7th Street at Dwight Way
- San Pablo Avenue at Dwight Way
- 7<sup>th</sup> Street at Ashby Avenue
- San Pablo Avenue at Ashby Avenue
- Sacramento Street at Ashby Avenue
- College Avenue at Ashby Avenue
- Claremont Avenue at Ashby Avenue
- 62<sup>nd</sup> Street at King Street

The cameras shall only record video images and not sound. Recorded images may only be used for ~~criminal investigation purposes, a variety of purposes, including criminal or civil investigations.~~  
The video surveillance system may be useful for the following purposes:

- (a) To prevent, deter and identify criminal activity.
- (b) To address identified areas of criminal activity.
- (c) ~~To respond to critical incidents.~~
- (d) To assist in identifying, apprehending and prosecuting offenders.
- (e) ~~To document officer and offender conduct during interactions to safeguard the rights of the public and officers.~~
- (f) ~~To augment resources in a cost-effective manner.~~
- (g)(e). To monitor pedestrian and vehicle traffic activity in order to assist with traffic related criminal investigations.
- (h) ~~To document employee, employer, and/or customer conduct during interactions to safeguard the employee, employer, and customer from misconduct~~

**Commented [MJ2]:** This language should be included under 351.4.2 and combined with the language of 1304.2 "Authorized Use" and the suggestions for Section 351.3.1 of this policy.

Unauthorized recording, viewing, reproduction, dissemination or retention is prohibited.

### 351.3.2 FIXED CAMERA MARKINGS

All public areas monitored by video surveillance equipment shall be marked in a conspicuous manner with unobstructed signs to inform the public that the area is under police surveillance.

### 351.3.3 INTEGRATION WITH OTHER TECHNOLOGY

The Department is prohibited from ~~integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition and other video-based analytical systems. integrating or accessing system capabilities of the video surveillance system with other systems, such as gunshot detection, automated license plate recognition, facial recognition, and other surveillance technology systems as defined by BMC 2.99.020.1.~~

### 351.4 VIDEO SUPERVISION

Access to video surveillance cameras data shall be limited to Berkeley Police Department (BPD) personnel utilizing the camera database for uses described above, with technical assistance from Public Works personnel. Information may be shared in accordance with 351.6 ~~or 1304.9~~ below. Members seeking access to the camera system shall seek the approval from the Investigations Division Captain, or their designee.

Supervisors should monitor camera access and usage to ensure members are within department policy and applicable laws. Supervisors should ensure such use and access is appropriately documented.

#### 351.4.1 VIDEO LOG

No one without authorization will be allowed to login and view the recordings. Access to the data must be obtained through the Public Works Department. All system access including system login, access duration, and data access points is accessible and reportable by the Public Works Department's authorized administrator. Those who are authorized and login should automatically trigger the audit trail function to ensure compliance with the guidelines and policy. This is further outlined in 1304.4 of the Surveillance Use Policy.

Commented [MJ3]: Incorporate sections 1304.3, 1304.4, and 1304.5 into these sections.

#### 351.4.2 ~~PROHIBITED ACTIVITY~~ Authorized Use and Prohibited Activity

Video surveillance systems will not intentionally be used to invade the privacy of individuals or observe areas where a reasonable expectation of privacy exists.

Video surveillance systems shall not be used in an unequal or discriminatory manner and shall not target protected individual characteristics including, but not limited to race, ethnicity, national origin, religion, disability, gender or sexual orientation.

Video surveillance equipment shall not be used to harass, intimidate or discriminate against any individual or group.

Video surveillance systems and recordings are subject to the Berkeley Police Department's Immigration Law Policy, and hence may not be shared with federal immigration enforcement officials.

Commented [MJ4]: Incorporate proposed policy 1304.2 "Authorized Use" and

### 351.5 STORAGE AND RETENTION OF MEDIA

The cameras should record minimally for one year as guided by Government Code 34090.

Recordings of incidents involving use of force by a police officer, detentions, arrests, or recordings relevant to a formal or informal complaint shall be retained for a minimum of two years and one month. Recordings relating to court cases and personnel complaints that are being adjudicated will be manually deleted at the same time other evidence associated with the case is purged in line with the Department's evidence retention policy. Any recordings related to administrative or civil proceedings shall be maintained until such matter is fully adjudicated, at which time it shall be deleted in line with the Department's evidence retention policy, and any applicable orders from the court.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures.

Commented [MJ5]: Combine with Policy 1304.7

#### 351.5.1 EVIDENTIARY INTEGRITY

All downloaded and retained media shall be treated in the same manner as other evidence. Media shall be accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, digital masking of innocent or uninvolved individuals to preserve anonymity, authenticity certificates and date and time stamping, shall be used as available and appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.

#### 351.6 RELEASE OF VIDEO IMAGES

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law, also referenced in Policy 1304.8.

Requests for recorded video images from the public or the media shall be processed in the same manner as requests for department public records pursuant to Policy 804.

Requests for recorded images from other law enforcement agencies shall be referred to the Investigations Division Captain, or their designee for release in accordance with a specific and legitimate law enforcement purpose.

Recorded video images that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process.

#### 351.7 VIDEO SURVEILLANCE AUDIT

The video surveillance software generates a site log each time the system is accessed. The site log is broken down by server, device, user or general access. The site log is kept on the server for two years and is exportable for reporting. System audits will be conducted by the Professional Standards Bureau's Audit and Inspections Sergeant on a regular basis, at least biennial.

BPD will enforce against prohibited uses of the cameras pursuant to Policy 1010, Personnel Complaints or other applicable law or policy.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. The memorandum shall include any data errors found so that such errors can be corrected. After review by the Chief of Police, the memorandum and any associated documentation shall be

placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., published on the City of Berkeley website in an appropriate location, and retained within Professional Standards Bureau.

### 351.8 TRAINING

All department members authorized to operate or access video surveillance systems shall receive appropriate training. Training should include guidance on the use of cameras, associated software, and review of relevant policies and procedures, including this policy. Training should also address state and federal law related to the use of video surveillance equipment and privacy. All relevant recordings that are utilized will be collected pursuant to Policy 802, Property and Evidence, and retained pursuant to Policy 804 Records and Maintenance.

### 351.9 MAINTENANCE

It shall be the ~~responsibilities-responsibility~~ of the Public Works Department to facilitate and coordinate any updates and required maintenance.

Commented [MJ6]: Incorporate the language used in policy 1304.8 through 1304.12.