



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
Wednesday, March 27, 2024
6:30 P.M.

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

North Berkeley Senior Center
1901 Hearst Avenue
Berkeley, CA 94709

[\(Click here for Directions\)](#)

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**HEALTH AND SAFETY PROTOCOLS
FOR IN-PERSON MEETINGS OF
BERKELEY BOARDS AND
COMMISSIONS**

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

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

Issued By: City Manager's Office

Date: February 14, 2023

I. Vaccination Status

All attendees are encouraged to be fully up to date on their vaccinations, including any boosters for which they are eligible.

II. Health Status Precautions

For members of the public who are feeling sick, including but not limited to cough, shortness of breath or difficulty breathing, fever or chills, muscle or body aches, vomiting or diarrhea, or new loss of taste or smell, it is recommended that they do not attend the meeting in-person as a public health precaution. In these cases, the public may submit comments in writing in lieu of attending in-person.

If an in-person attendee has been in close contact, as defined below, with a person who has tested positive for COVID-19 in the past five days, they are advised to wear a well-fitting mask (N95s, KN95s, KF94s are best), test for COVID-19 3-5 days from last exposure, and consider submitting comments in writing in lieu of attending in-person.

Close contact is defined as someone sharing the same indoor airspace, e.g., home, clinic waiting room, airplane, etc., for a cumulative total of 15 minutes or more over a 24-hour period within 2 days before symptoms of the infected person appear (or before a positive test for asymptomatic individuals); or having contact with COVID-19 droplets (e.g., being coughed on while not wearing recommended personal protective equipment).

A voluntary sign-in sheet will be available at the meeting entry for in-person attendees. This will assist with contact tracing in case of COVID-19 contact resulting from the meeting.

Members of City Commissions are encouraged to take a rapid COVID-19 test on the day of the meeting.

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

III. Face Coverings/Mask

Face coverings or masks that cover both the nose and mouth are encouraged for all commissioners, staff, and attendees at an in-person City Commission meeting. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking.

IV. Physical Distancing

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting.

Audience seating capacity will be at regular allowable levels per the Fire Code. Capacity limits will be posted at the meeting location. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as “distanced seating” to accommodate persons that need to distance for personal health reasons.

Distancing will be implemented for the dais as space allows.

V. Protocols for Teleconference Participation by Commissioners

Upon the repeal of the state-declared emergency, all standard Brown Act requirements will be in effect for Commissioners participating remotely due to an approved ADA accommodation. For Commissioners participating remotely, the agenda must be posted at the remote location, the remote location must be accessible to the public, and the public must be able to participate and give public comment from the remote location.

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

VI. Hand Washing/Sanitizing

Hand sanitizing stations are available at the meeting locations. The bathrooms have soap and water for handwashing.

VII. Air Flow/Circulation/Sanitizing

Air filtration devices are used at all meeting locations. Window ventilation may be used if weather conditions allow.



ITEM 2
MARCH 27, 2024 REGULAR MEETING
AGENDA



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

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

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

PUBLIC NOTICE

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

LAND ACKNOWLEDGMENT

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

AGENDA

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

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

4. **CLOSED SESSION** (30 MINUTES)

CLOSED SESSION ITEMS

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

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

END OF CLOSED SESSION

5. APPROVAL OF MINUTES (5 MINUTES)

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

6. ODPA STAFF REPORT (10 MINUTES)

Announcements, updates, and other items.

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

Announcements, updates, and other items.

8. CHIEF OF POLICE'S REPORT (TBD)

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

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

Report of activities and meeting schedule for all subcommittees, possible appointment or reassignment of members to subcommittees, and additional discussion and action as warranted for the subcommittees listed on the PAB's Subcommittee List included in the agenda packet.

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

- a. Discussion and Action regarding the PAB-ODPA Triennial Report (20 Minutes)
- b. Discussion and Action on the BPD's 2023 Police Equipment and Community Safety Ordinance Annual Report (15 Minutes)
 - i. Approval or denial of 2023 Report
 - ii. ODPA's Recommendation for a systematic review of Berkeley Police Department's Police Equipment and Community Safety Ordinance Annual Report
- c. Updates and discussion on next steps regarding the PAB's issuance of subpoenas for records pertinent to the completion of the "Policies and Practices relating to the Downtown Task Force and Bike Unit Allegations" subcommittee's work (15 Minutes)

11. PUBLIC COMMENT (TBD)

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

12. CLOSED SESSION (30 MINUTES)

CLOSED SESSION ITEMS

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

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

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

END OF CLOSED SESSION

13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS (1 MINUTE)

14. ADJOURNMENT (1 MINUTE)

Communications Disclaimer

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

in the public record, do not include that information in your communication. Please contact the Board Secretary for further information.

 Communication Access Information (A.R. 1.12)

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

SB 343 Disclaimer

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

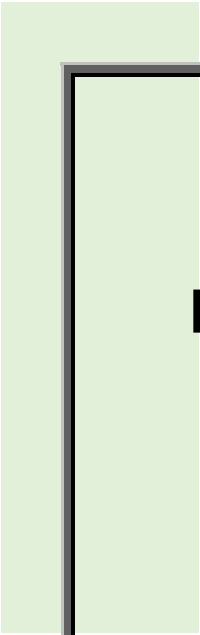
Contact the Director of Police Accountability (Board Secretary) at:

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

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

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

Email: dpa@berkeleyca.gov



ITEM 5
MEETING MINUTES FOR THE REGULAR
MEETING OF MARCH 13, 2024



POLICE ACCOUNTABILITY BOARD
REGULAR MEETING AGENDA
WEDNESDAY, MARCH 13, 2024
6:30 P.M.

Board Members

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

Leah Wilson (Vice-Chair)
Julie Leftwich
Joshua Cayetano

MEETING LOCATION

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

Video Recording: <https://youtu.be/8cK3bFI2IXQ>

MINUTES

1. CALL TO ORDER AND ROLL CALL AT 6:33 PM

Present: Board Member John Moore (Chair).
Board Member Leah Wilson (Vice-Chair)
Board Member Kitty Calavita
Board Member Juliet Leftwich
Board Member Brent Blackaby
Board Member Joshua Cayetano¹
Board Member Alexander Mozes²

Absent: Board Member Leah Wilson (Vice-Chair)

¹ Board Member Cayetano joined the meeting shortly after roll call.

² Board Member Mozes joined the meeting shortly after roll call. He participated remotely on the just cause provision.

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

BPD Staff: Sgt. Edwards

CAO Staff: James Chang, Deputy City Attorney

CMO Staff: Dr. Carianna Arredondo, Assistant to the City Manager
Rex Brown, DEI Officer

2. APPROVAL OF AGENDA

Motion to approve the agenda.

Moved/Second (Leftwich/Calavita)

Ayes: Blackaby, Calavita, Leftwich, and Moore.

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

3. PUBLIC COMMENT

0 Physically Present Speaker.

0 Virtually Present Speakers.

4. APPROVAL OF MINUTES

- a. Minutes for the Regular Meeting of February 28, 2024

Motion to approve the agenda.

Moved/Second (Calavita/Blackaby)

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

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

- b. Minutes for the Special Meeting of March 2, 2024

Motion to approve the agenda.

Moved/Second (Blackaby/Leftwich)

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

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

5. TRAINING: ASSESSING AND MONITORING THE PERFORMANCE AND COMPLIANCE OF POLICE DEPARTMENTS.

- a. Presentation on the Commission on Accreditation for Law Enforcement Agencies' (CALEA) accreditation for Police Departments.

Mark Mosier, the Regional Program Manager at CALEA, delivers a presentation on the essence of CALEA accreditation. Board Members inquire about the presented information by posing questions.

- b. Presentation on the NYU School of Law's Policing Project's Sound, Accountable, Just, and Effective (SAJE) Policing Assessment for Police Departments.

Dr. Aili Malm, Senior Research Fellow at SAJE, delivers a presentation on the essence of the SAJE policing assessment. Board Members inquire about the presented information by posing questions.

6. ODPa STAFF REPORT

Director Aguilar delivers updates regarding the annual report and outlines the expected timelines for its completion at the upcoming meeting. He notifies the Board that the BPD unveiled their annual report during the Council regular meeting on March 12th, 2024.

Dr. Arredondo informs the Board about the imminent release of the request for proposals for the Gun Violence Intervention program.

DEI Officer Brown presents updates on community outreach efforts and staffing within their division.

7. CHAIR AND BOARD MEMBERS' REPORTS

Announcements, updates, and other items.

Chair Moore provides an update on the negotiations around the Board's permanent regulations. He informs the Board that there is a new negotiator representing the City.

Board Member Cayetano offers an update on the Early Intervention System (EIS) process and its timeline, particularly focusing on the recently released request for proposals.

8. CHIEF OF POLICE'S REPORT

Sgt. Edwards informs the Board that BPD leadership is currently participating in a team building retreat to help incorporate the new deputy chief position. He also provides three cases of interest.

9. SUBCOMMITTEE REPORTS

Subcommittee report on their activities and members were appointed to the following subcommittees (See minutes 1:45:00 to 2:07:30 of the meeting recording):

Board Member Leftwich was appointed to the Off-Duty Conduct Subcommittee.

Board Member Mozes and Vice-Chair Wilson were confirmed to be the members of the Operations & Processes Subcommittee per the discussion at the March 2nd PAB Retreat.

Motion to dissolve the 2024 PAB Strategic Planning Retreat Subcommittee

Moved/Second (Blackaby/Calavita) Motion carries.

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

Noes: None. Abstain: None. Absent: Wilson.

10. NEW BUSINESS

- a. 2024 PAB Strategic Planning Session Recap and next steps.

The Board discussed the 2024 PAB Strategic Planning Session and key takeaways.

- b. Follow-up discussion and next steps regarding the Berkeley Police Department's Memorandum of Understanding (MOUs) with other agencies.

The Board discusses their ask for the BPD's MOUs with other agencies. They are waiting for the BPD to provide them to the Board at their next meeting.

11. PUBLIC COMMENT

1 Physically Present Speaker.

0 Virtually Present Speakers.

12. CLOSED SESSION

CLOSED SESSION ITEMS

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

- a. Case Updates Regarding Complaints Received by the ODP.

Director Aguilar provides case updates on open personnel cases to the Board and presents the findings and recommendations for 2023-CI-0018.

Motion to accept the ODP's Findings and Recommendations for 2023-CI-0018.

Moved/Second (BB/JC)

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

Noes: None. Abstain: None. Absent: Wilson.

END OF CLOSED SESSION

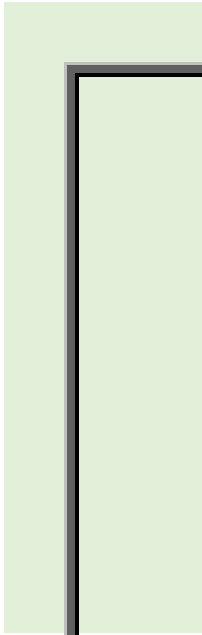
13. ANNOUNCEMENT OF CLOSED SESSION ACTIONS

Director Aguilar provides case updates on open personnel cases to the Board and presents the findings and recommendations for 2023-CI-0018.

14. ADJOURNMENT

Motion to adjourn. Moved/Second (Leftwich/Cayetano) The meeting was adjourned at 9:30 PM by unanimous consent.

DRAFT



ITEM 9
LIST OF CURRENT PAB
SUBCOMMITTEES



CITY OF BERKELEY
POLICE ACCOUNTABILITY BOARD
SUBCOMMITTEES LIST
As of 03/22/2024

Subcommittee		Board Members	Chair	BPD Reps	Subcommittee Reports
Regulations Formed 7-7-21 Renewed 6-7-2023		Calavita Leftwich <u>Public members:</u> Kitt Saginor	N/A	Lt. Dan Montgomery	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Fair & Impartial Policing Implementation Formed 8-4-21 Renewed 6-7-2023		Calavita Wilson <u>Public members:</u> George Lippman	Calavita	Sgt. Peter Lee	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Surveillance Technology Policy Formed 6-7-2023		Calavita Moore	N/A	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees

				still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Policy and Practices relating to the Downtown Task Force and Bike Unit Allegations Formed 11-15-22	Calavita Moore	Calavita	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Body-Worn Camera Policy Formed 03-15-23	Leftwich [Additional Members Required]	Leftwich	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Conflict of Interest Formed 03-29-23	Leftwich Wilson	Leftwich	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Policy Reviews Formed 11-08-2023 Scope Expanded 03-02-2024 Formally "Lexipol Review"	Leftwich Cayetano Mozes <u>Public members:</u> Kitt Saginor	Leftwich	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.

				segment of the agenda for subcommittee reports.
Budget & Metrics Formed 11-08-2023 Scope Expanded 03-02-2024	Wilson Blackaby	N/A	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Outreach & Engagement Formed 11-08-2023 Scope Expanded 03-02-2024 Formely "Commendations"	Moore Blackaby	N/A	N/A	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Off-Duty Conduct	Cayetano Leftwich	N/A	Lt. Rittenhouse	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.
Operations & Processes Formed 03-02-2024	Wilson Mozes	TBD	TBD	As of March 22, 2024, no subcommittee report has been submitted. However, subcommittees still have the opportunity to present their reports during the allocated segment of the agenda for subcommittee reports.

ITEM 10.b.



**ODPA MEMO TITLED
“RECOMMENDATION FOR A
SYSTEMATIC REVIEW OF BERKELEY
POLICE DEPARTMENT’S POLICE
EQUIPMENT AND COMMUNITY SAFETY
ORDINANCE ANNUAL REPORT.**



MEMORANDUM

Date: Friday, March 22, 2024

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

From: Hansel Aguilar, Director of Police Accountability (DPA) 
Jose Murillo, Program Analyst 

Subject: Recommendation for a systematic review of Berkeley Police Department's Police Equipment and Community Safety Ordinance Annual Report

Background:

On February 28th, 2024, during the PAB's regular meeting, the PAB was provided the Berkeley Police Department's (BPD) 2023 Police Equipment and Community Safety Ordinance Annual Report as required by BMC 2.100¹. Along with the report, the Office of the Director of Police Accountability (ODPA) issued a memo with its initial impressions² from its review of the report and suggested potential approaches for a systematic review for compliance.

In the 2023 presentation of the 2022 Annual Report to Council³, and the February memo, the DPA noted that while superficially, the uses and deployments appear to be in compliance, it is difficult to assess full compliance⁴ of each use as contemplated under

¹ BMC 2.100.050: <https://berkeley.municipal.codes/BMC/2.100.050>

² In the February 28th memo, the ODPA concluded that the minimum reporting requirements as articulated in BMC Section 2.100.050(A)(1)(a) – 2.100.050(A)(1)(e) appeared to be complied with in the BPD's annual report.

³ June 6, 2023 Berkeley City Council Meeting: <https://berkeley.granicus.com/player/clip/5062> [relevant comments at 1:16:30-1:18:00]

⁴ Section 2.100.050 (1) indicates "The Police Accountability Board shall determine, based on the report, whether each piece of Controlled Equipment reported on has complied with the standards for approval set forth in Section 2.100.040."

Section 2.100.040 (C) Criteria for Police Accountability Board Recommendations, which indicates that “The Police Accountability Board shall recommend approval of a request to fund, acquire, or use Controlled Equipment pursuant to this chapter only if it determines all of the following:

(a)The Controlled Equipment is needed and there is no practicably available alternative equipment which is not Controlled Equipment that is sufficient for the purposes.

(b)The proposed Controlled Equipment Use Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.

(c)The Controlled Equipment will not be used based on race, national origin, religion, sexual orientation, gender, gender identity, political viewpoint, or disability, or disproportionately impact any community or group.”

Per the PAB’s subsequent conversations at the 2024 Strategic Planning Session⁵ and the March 13th, 2024 PAB regular meeting⁶, a PAB request was made to the ODPa to suggest a methodological approach for a full compliance review for future years. To that end, the ODPa presents the following proposal for the PAB’s consideration.

PROPOSED METHODOLOGY:

Mixed Methods Approach:

By adopting a mixed-methods approach, the PAB can leverage diverse data sources and perspectives to ensure a balanced and thorough review of the Controlled Equipment uses and deployments as noted in the Annual Report. This methodology not only fulfills the PAB’s mandate under the City’s ordinance but also enhances the commitment to

⁵ March 2nd, 2024 PAB Strategic Planning Session: <https://youtu.be/nzYAD69rpoY>

⁶ March 13, 2024 PAB Regular Meeting: https://youtu.be/8cK3bFI2IXQ?si=0plGL6nMDwlojK_w

promoting transparency, accountability, and community trust in law enforcement practices.

Quantitative Analysis

The quantitative exploration of the below variables will help in assessing whether the equipment is used disproportionately in certain communities or if there is a reliance on specific types of equipment that could indicate a deviation from approved uses.

Analyze data on:	
<ul style="list-style-type: none">▪ The frequency of uses/deployments,▪ Type of deployment,▪ Time of day.▪ Officers involved▪ Locations:<ul style="list-style-type: none">○ Beyond police beats (i.e. specific street locations)○ Public vs. private○ Indoors vs. outdoors▪ Available alternatives▪ Underlying public safety issues that warranted use/deployment (beyond CFS; search warrants; arrest warrants)	<ul style="list-style-type: none">▪ Age of:<ul style="list-style-type: none">○ Person subject to use/deployment○ Officer (or years on force)▪ Demographics (race national origin, religion, sexual orientation, gender, gender identity, political viewpoint, or disability of:<ul style="list-style-type: none">○ The person subjected to use/deployment○ Officer (where appropriate)

Qualitative Analysis

In addition to the quantitative review, the PAB should consider various methods for a qualitative review. Specifically, the review can include:

- Content analysis⁷ of

⁷ There are many approaches to this research tool, but in general a content analysis is a method for examining words, themes, or concepts in qualitative data (like text) to identify patterns and meanings. For more on this approach, consider: <https://www.publichealth.columbia.edu/research/population-health-methods/content-analysis>

- the BPD Incident Reports associated with each use/deployment.
- BWC footage
- Relevant BPD policies, City ordinances and state law associated with each use
- (When/where appropriate): Conducting interviews and focus groups with community members, advocacy groups, and BPD personnel to gather feedback on the impact of Controlled Equipment usage. This will provide insights into the community's perception of safety, welfare, and any potential civil rights or liberties infringements.

Segmented Review Approach

In compliance with the Berkeley Municipal Code Section 2.100.050⁸, the Police Accountability Board (PAB) is required to review the annual Controlled Equipment report submitted by the Berkeley Police Department (BPD) within 60 days and ascertain its adherence to the standards set forth in Section 2.100.040. However, given the detailed nature of this review, which encompasses assessing each piece of Controlled Equipment against specific criteria, completing this process within the stipulated 60-day timeframe poses significant challenges.

Historically, the BPD has presented the annual report to the council after the 60-day period, suggesting that the timeframe for a thorough review might be inherently restrictive. To address this concern and ensure a comprehensive evaluation, it is proposed that the PAB adopt a segmented or tiered approach to the review process.

Segmented Review Approach:

Pre-Report Collaboration: Engage with the BPD to receive advanced notifications or lists of Controlled Equipment deployments prior to the official report submission. This proactive measure will enable the PAB to initiate a preliminary

⁸ BMC 2.100.050: <https://berkeley.municipal.codes/BMC/2.100.050>

review, categorizing equipment based on type, usage frequency, and the impact noted in past assessments or community feedback.

Tiered Analysis: Divide the Controlled Equipment into tiers or segments based on factors such as the potential for civil rights implications, frequency of use, community concern, and the complexity of the use policy. This tiered system will allow the PAB to prioritize the review of equipment that may have a more significant impact on public welfare and civil rights.

Extended Review Timeline: Considering the ordinance allows for an alternate review date if preferred by the PAB, propose extending the review period beyond the 60-day window. This extension will facilitate a more thorough analysis of each equipment segment, ensuring that the PAB's determinations are based on comprehensive and thoughtful consideration of all relevant factors.

Staggered Reporting: Implement a staggered reporting mechanism where the BPD presents segments of the Controlled Equipment report at intervals, allowing the PAB to conduct ongoing reviews throughout the year rather than a condensed review within a short timeframe.

By adopting this segmented review approach, the PAB can ensure a detailed and focused analysis of each piece of Controlled Equipment, thereby enhancing the quality and depth of the review process. This method acknowledges the complexity of evaluating Controlled Equipment and aligns with the ordinance's provision for flexibility in the review timeline.

Attachments:

Visualization of: PROPOSED METHODOLOGY FOR BPD CONTROLLED EQUIPMENT ANNUAL REPORT COMPLIANCE REVIEW



PROPOSED METHODOLOGY FOR BPD CONTROLLED EQUIPMENT ANNUAL REPORT COMPLIANCE REVIEW



- INVENTORY REVIEW
- INCIDENT REVIEW
- POLICY REVIEW

2.100.040 (C)(1)(a):
NEED



- SYSTEMATIC BWC REVIEW
- REPORT REVIEW
- INVENTORY REVIEW

2.100.040 (C)(1)(b):
SAFEGUARD



- POLICY REVIEW
- COMMUNITY PERCEPTIONS
- LEGAL CONSIDERATIONS

2.100.040 (C)(1)(c):
DISCRIMINATORY USES



- QUANTITATIVE ANALYSIS
- QUALITATIVE ANALYSIS
- POLICY REVIEW

APPROVE

DENY

ITEM 10.c.

**DOCUMENTS RELATED TO THE PAB'S
ISSUANCE OF SUBPOENAS FOR RECORDS
PERTINENT TO THE COMPLETION OF THE
"POLICIES AND PRACTICES RELATING TO THE
DOWNTOWN TASK FORCE AND BIKE UNIT
ALLEGATIONS" SUBCOMMITTEE'S WORK.**

ADMINISTRATIVE SUBPOENA

(Berkeley City Charter Article XVIII, Section 125, Subdivisions (3)(a)(5) and (20)(c))

**IN THE MATTER OF THE REVIEW OF THE POLICIES AND PRACTICES
RELATING TO THE DOWNTOWN TASK FORCE AND BIKE UNIT ALLEGATIONS
BY THE POLICE ACCOUNTABILITY BOARD**

Via: Personal Service

To: BEDWENDOLYN DESHAWN WILLIAMS, CITY MANAGER
CITY OF BERKELEY CITY MANAGER'S OFFICE
2180 Milvia St.
Berkeley, CA 94704
Phone 510-981-7000
Fax 510-981-7099

JENNIFER LOUIS, CHIEF OF POLICE
BERKELEY POLICE DEPARTMENT
2100 Martin Luther King, Jr. Way
Berkeley, CA 94704
Phone 510-981-5700
Fax 510-981-5744

1. You are ordered to produce true and correct copies of:
 - A. All records in possession of BPD's Internal Affairs Bureau regarding any disciplinary matters for former officer Shedoudy, Sergeant Kacalek, and any other member of the BPD Downtown Task Force and Bike Unit. Relevant records include but are not limited to any complaints by members of the public filed with BPD and their respective dispositions.
 - B. Text messages (beyond those publicly available) and or certification/affidavit from officers that no additional records exist: PRA Request # 22-1033 "... all records including text messages and chats from June 1, 2020, to present between members of the Berkeley Police Downtown Task Force/Bike Unit as well as records between members of the task force and City Manager Dee Williams-Ridley. "
2. You are required to deliver the aforementioned records by 5:00 p.m. on March 26, 2024 to:

Via email: haguilar@berkeleyca.gov

Or

Via fax: (510) 981-4955
Or

Via US Mail: Attn: Hansel Alejandro Aguilar, Director of Police Accountability
Office of the Director of Police Accountability
1947 Center Street, 5th Floor
Berkeley, CA 94704

3. The City of Berkeley will pay all reasonable, documented costs associated with the reproduction of the requested records. If the costs exceed \$100.00 (One Hundred Dollars), please contact Hansel Aguilar at (510) 981-4960 before producing responsive documents.
4. The Director of Police Accountability and Police Accountability Board of the City of Berkeley requires these records to assist in determining the merits of a complaint filed against a member of the Berkeley Police Department and/or departmental policies, practices and procedures. Under the Berkeley City Charter, the Director of Police Accountability and Police Accountability Board are empowered and charged with conducting independent, impartial investigations of allegations of police officer misconduct and/or departmental policies, practices and procedures and are empowered to issue subpoenas. This subpoena is issued under the authority granted in Berkeley City Charter, Article XVIII, Section 125, Subdivisions (3)(a)(5) and (20)(c).

Disobedience of this subpoena will be referred to the Superior Court for enforcement and is punishable as contempt of court. Should you have any questions regarding this subpoena, please contact:

Hansel Alejandro Aguilar
Office of the Director of Police Accountability (Berkeley, CA)
1947 Center Street, 5th Floor
Berkeley, CA 94704
(510) 981-4960

Issued by:

MARCH 12, 2024

Dated



Hansel Alejandro Aguilar
Director of Police Accountability
City of Berkeley, California

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address)</i> HANSEL AGUILAR OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY 1947 Center St Fl 5TH Berkeley, CA 947041213 TELEPHONE NO.: (510) 981-4950 FAX NO. E-MAIL ADDRESS <i>(Optional)</i> : ATTORNEY FOR <i>(Name)</i> : ;		FOR COURT USE ONLY
None STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: , CA BRANCH NAME:		
PLAINTIFF: IN THE MATTER OF THE REVIEW OF THE POLICIES AND PRACTICES DEFENDANT:		CASE NUMBER:
PROOF OF SERVICE	Hearing Date: Time:	Ref. No. or File No.:

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION
I SERVED COPIES OF THE FOLLOWING DOCUMENTS:

ADMINISTRATIVE SUBPOENA

PARTY SERVED: **BEDWENDOLYN DESHAWN WILLIAMS, CITY MANAGER CITY OF BERKELEY CITY MANAGER'S OFFICE**

PERSON SERVED: **TONY BENADO - OFFICE SPECIALIST 3 - AUTHORIZED TO ACCEPT**

DATE & TIME OF DELIVERY: **3/12/2024
3:28 PM**

ADDRESS, CITY, AND STATE: **2180 Milvia St Fl 1
Berkeley, CA 947041122**

MANNER OF SERVICE:

Personal Service - By personally delivering copies.



Fee for Service: \$.00
 County: CONTRA COSTA
 Registration No.: 901
ONE HOUR PROCESS SERVICE
 2920 CAMINO DIABLO
 WALNUT CREEK, CA 94597
 (925) 947-3470



I declare under penalty of perjury under the laws of the The State of California that the foregoing information contained in the return of service and statement of service fees is true and correct and that this declaration was executed on March 12, 2024.

Signature: 
 EDWIN BLAMA

PROOF OF SERVICE

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) HANSEL AGUILAR OFFICE OF THE DIRECTOR OF POLICE ACCOUNTABILITY 1947 Center St Fl 5TH Berkeley, CA 947041213 TELEPHONE NO.: (510) 981-4950 FAX NO. E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): ;		FOR COURT USE ONLY
None STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: , CA BRANCH NAME:		
PLAINTIFF: IN THE MATTER OF THE REVIEW OF THE POLICIES AND PRACTICES DEFENDANT:		CASE NUMBER:
PROOF OF SERVICE	Hearing Date: Time:	Ref. No. or File No.:

AT THE TIME OF SERVICE I WAS AT LEAST 18 YEARS OF AGE AND NOT A PARTY TO THIS ACTION
I SERVED COPIES OF THE FOLLOWING DOCUMENTS:

ADMINISTRATIVE SUBPOENA

PARTY SERVED: **JENNIFER LOUIS, CHIEF OF POLICE BERKELEY POLICE DEPARTMENT**

PERSON SERVED: **TONY BENADO - OFFICE SPECIALIST 3 - AUTHORIZED TO ACCEPT**

DATE & TIME OF DELIVERY: **3/12/2024**
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Signature: 
EDWIN BLAMA

PROOF OF SERVICE



**NON-AGENDA ITEMS
LEGISLATIVE UPDATES RELAVANT TO
THE PAB'S WORK**



MEMORANDUM

To: Honorable Members of the Police Accountability Board
From: Hansel A. Aguilar, Director of Police Accountability *(Ha)*
Keegan Horton, ODPa Investigator *KH*
Date: March 27, 2024
Subject: Legislative Updates for PAB Regular Meeting March 27, 2024

State Policy Update¹

No update since the previous report.

Lexipol Policy Update

- 900 Temporary Custody of Adults: Complete reorganization and replacement of gendered and outdated language,
- 306 Firearms:
 - moving optional duty pistols to their own section;
 - loosening restrictions to magazines and additions that do not impact the firearm cycle of operation or require specialized knowledge to install;
 - reorganizing micro red dot equipped handguns section; and
 - adding a reasonableness standard to the destruction of animals section.
- 701 Personal Communication Devices: Banning the use of social networks on personal devices while on duty and not on break. Making clear personal devices used for business-related work are not subject to privacy expectations.

City of Berkeley Policy Update(s)

March 19, 2024 Consent Calendar Item 2. Contract No. 32200150 Amendment: Range Maintenance Services LLC for Indoor Range Cleaning²

- **Recommendation:** Adopt a Resolution authorizing the City Manager to amend Contract No. 32200150 with Range Maintenance Services LLC to perform indoor

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

² <https://berkeleyca.gov/sites/default/files/city-council-meetings/2024-03-19%20Revised%20Agenda%20Packet%20-%20Council%20-%20WEB.pdf> (See page 27).

Public

range cleaning services from \$45,000 to an amount not to exceed \$150,000 extending from January 8, 2024, to December 1, 2028.

- **Rationale:** Maintaining a clean range is essential for the safety and well-being of range users and instructors. By continuing the contract with Range Maintenance Services LLC, the City will ensure that the indoor range remains clean, functional, and safe for firearms training and qualifications. This will contribute to the overall safety and experience of the range users while maintaining the City and police department's commitment to public health and safety.