

Rashi Kesarwani
Councilmember District 1

REVISED AGENDA MATERIAL for Supplemental Packet 2

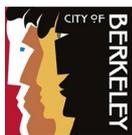
Meeting Date: March 10, 2026

Item Number: 17

Item Description: Resolution Rescinding Berkeley Police Department's Pepper Spray Reporting Requirement

Submitted by: Councilmember Rashi Kesarwani

This item has been revised to include the recommendation of the Police Accountability Board to reincorporate reporting pepper spray use in Berkeley Police Department's annual Military Equipment Report.



Rashi Kesarwani
Councilmember, District 1

CONSENT CALENDAR

March 10, 2026

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author)

SUBJECT: Resolution Rescinding Berkeley Police Department's Pepper Spray Reporting Requirement

RECOMMENDATION

Adopt a resolution rescinding Berkeley Police Department's current required notification process for reporting pepper spray via the Berkeley Police Department Use of Pepper Spray Report after each incident. Further, maintain the recording of pepper spray use within the existing use of force reporting system to minimize the administrative burden on staff. The department's current transparency measures already provide the public with detailed data on all use of force incidents. Additionally, reincorporate reporting use of pepper spray within the annual Military Equipment Report to maintain narrative reports of pepper spray utilization.

POLICY COMMITTEE RECOMMENDATION

On Thursday, January 29, 2025, the Public Safety Policy Committee adopted the following action: M/S/C (Blackaby/O'Keefe) to send the item with a qualified positive recommendation to Council that includes

- 1) Inviting Police Accountability Board review,
- 2) Reaffirming the existing reporting requirements that remain in effect, and
- 3) Direction to the Berkeley Police Department to work to maximize the availability of the reports through the Transparency Hub¹ and the Annual Report.

Per the recommendation of the Public Safety Policy Committee this item seeks to reaffirm the goal of enhancing transparency within our police department and welcomes

¹ Berkeley Police Transparency Hub: <https://bpd-transparency-initiative-berkeleypd.hub.arcgis.com/>

the Police Accountability Board's input in reviewing this item and information shared about officers' use of force.

This item also recommends a referral to the City Manager requesting the Berkeley Police Department edit the Transparency Hub Use of Force webpage to:

- Enhance the definitions for the various Use of Force levels and clearly identify pepper spray use as Level 3;
- Include clear navigational guidelines so users can more easily access the open data portal and seek information on chemical agent use.

CURRENT SITUATION AND ITS EFFECTS

Currently, the Berkeley Police Department (BPD) must notify the City Council and the Police Accountability Board within seven days every time pepper spray is used by the Police Department. The required BPD Use of Pepper Spray Report is comparable to the Use of Force Report, which is also required to be filed for these types of incidents. This duplicates both staff's efforts and the information captured and creates an unnecessary administrative burden.

Under current policy, every deployment of pepper spray goes through the full review structure required by Policy 300 which includes documentation and supervisory evaluation. Under the current policy, officers must additionally prepare a second report for Council and the Police Accountability Board that contains nearly the same facts already captured in the use-of-force review. The two processes run side by side and track nearly identical information, which creates extra work without adding anything meaningful to the record.

The documentation and supervisory evaluation for reporting an incident that gets uploaded to the Open Data Portal on the Transparency Hub and also gets reported using the BPD Use of Pepper Spray Report (see attachment 2) is largely identical and outlined below.

Scenario 1 is the anatomy of a pepper spray use incident that gets uploaded onto the Transparency Hub:

When there is any use of force incident involving a BPD officer, including use of force incidents involving pepper spray:

- Officers will fill out a report that includes information about:
 - The incident itself, including time, date, location where the incident occurred and level of use of force. This includes use of force incidents involving chemical agents (including pepper spray), listed as level 3, and whether the incident resulted in an arrest;

- The suspect themselves, including age, race, sex, subject altered state, and use of force reason;
 - The Officer involved, including the officer role (for example, trainee, Primary Officer, Cover Officer, etc.)
- Once the report has been completed, the Supervising Officer/Sergeant of the team will fill out a report for the use of force incident. This involves looking for completion and compliance in reporting. This process includes:
 - Reviewing the case report, and
 - Reviewing the Body Worn Camera videos
 - Once the Supervising Officer report has been completed, it is then reviewed by:
 - The Lieutenant of the unit, then handed off to
 - A police captain who approves the report

Once finalized, the information is added to the database and the Transparency Hub.

Scenario 2 is the anatomy of a pepper spray use incident that gets filled out and reported using the BPD Use of Pepper Spray Report:

When there is any use of force incident involving pepper spray:

- The officer involved will complete the *entire* process explained in scenario 1 above. *In addition*,
- The officer involved will separately fill out the BPD Use of Pepper Spray Report form (attachment 2)
- Officers will fill out a report that includes information about:
 - The incident itself, including time, date, location where the incident occurred. This includes use whether first aid was administered for the subject.
 - The suspect themselves, including age, race, sex, and use of force reason;
 - The Officer involved, including the officer role (for example, trainee, Primary Officer, Cover Officer, etc.)
- The report is reviewed by:
 - The Supervising Officer/Sergeant of the unit, then handed off and reviewed by
 - The Lieutenant of the unit, then handed off and reviewed by
 - A Captain in the department, then handed off and reviewed by
 - The Police Chief, who then shares the information with
 - The City Manager, who then sends an email sharing the report to

- The City Council including the Mayor, for their situational awareness.

The notable areas where the two systems of reporting are not exactly the same are:

- 1) Personally identifiable information is NOT included on the open data portal on the Transparency Hub to maintain privacy of individuals; this type of information could be included in the BPD Use of Pepper Spray Report; and
- 2) The information reported on the BPD Use of Pepper Spray Report is NOT shared with the public.

The Department already publishes detailed information on all use of force incidents through its Transparency Hub which is continuously updated and always available to the public at all times. That system shows when pepper spray is used and places it within the broader context of overall use of force reporting. Because the public already receives this comprehensive, routine data an additional stand-alone pepper spray report no longer serves a unique purpose. That report is neither available to the public nor does it further the department's transparency goals. The proposed change is an efficiency measure that would simply eliminate the additional and duplicative reporting mechanism; it would maintain the reporting of pepper spray use as it currently exists within the Transparency Hub.

BACKGROUND

In 1997, the Berkeley City Council instituted a separate notification process for reporting pepper spray use.² That requirement helped build accountability and oversight during an era of evolving police practices and before reporting mechanisms were significantly improved. That time pre-dated the Department's Transparency Hub and came before BPD implemented a comprehensive use of force reporting mechanism that contains vast quantities of data and documents all related incidents, including all those involving pepper spray. Currently this website is updated daily. This overhaul of reporting procedures has made the separate pepper spray notification via the BPD Use of Pepper Spray Report obsolete.

On February 10, 2026 the Berkeley City Council approved adoption of Ordinance No. 8,001-N.S, rescinding and replacing Ordinance No. 7,760-N.S., Police Equipment and Community Safety Ordinance. This aligned BPD's military equipment reporting requirements with state law which does not include reporting requirements for pepper spray use.³ On February 23, 2026, City Council received a communication from the Police Accountability Board (attached) requesting reincorporating use of pepper spray

² See Attachment 3

³ Berkeley City Council February 10, 2026 regular meeting, item #5: Recission and Replacement of the Police Equipment and Community Safety Ordinance:
<https://berkeleyca.gov/sites/default/files/2026-01/2026-02-10%20Item%2005%20Ordinance%208001.pdf>

reporting into BPD's annual Military Equipment Report in order to maintain narrative details of individual pepper spray use incidents that are not available on the Transparency Hub.

PROPOSED CHANGES AND RATIONALE FOR RECOMMENDATION

The proposed resolution would eliminate the mandate requiring Council notification for every use of pepper spray via the BPD Use of Pepper Spray Report. All incidents will continue to be documented through the existing use of force reporting system and be readily available to the public on the Transparency Hub. This adjustment simplifies administrative procedures and avoids duplicative reporting while preserving transparency and accountability. The current reporting framework captures all instances of pepper spray use alongside other use of force incidents. Maintaining a separate notification requirement burdens staff with redundant documentation and is not readily available to the public. The change will streamline operations and allow personnel to devote more attention to critical matters without sacrificing public oversight.

FISCAL IMPACTS

No significant additional expenditures are anticipated. The proposed change is expected to yield administrative efficiencies that may result in minor cost savings.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

ATTACHMENTS

- 1) Resolution
- 2) Berkeley Police Department Use of Pepper Spray Report
- 3) Minutes for the Regular City Council Meeting, September 16, 1997
- 4) Police Accountability Board's February 23, 2026 Communication regarding Pepper Spray Use Reporting Requirement

Resolution NO. ##,###-N.S.

Resolution Rescinding the Pepper Spray Incident Notification Requirement

WHEREAS, in 1997 the City Council established a requirement for the Berkeley Police Department to notify Council each time pepper spray is used as a measure to bolster accountability; and

WHEREAS, the separate notification process was introduced at a time when reporting mechanisms were limited and provided necessary oversight; and

WHEREAS, the Berkeley Police Department has since implemented a comprehensive use-of-force reporting system that documents all related incidents, including those involving pepper spray; and

WHEREAS, the continued requirement for separate notification creates redundant administrative tasks that strain City resources; and

WHEREAS, rescinding the notification requirement will simplify reporting procedures and allow staff to concentrate on more critical operational matters while preserving public transparency; and

WHEREAS, reincorporating pepper spray use into the annual Military Equipment Report maintains narrative descriptions of pepper spray use while eliminating the duplicative efforts of the dual reporting systems for each pepper spray incident.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that:

1. The requirement for the Berkeley Police Department to notify the City Council every time pepper spray is used is hereby rescinded.
2. All pepper spray incidents shall be recorded as part of the established use-of-force reporting system in accordance with current departmental protocols.
3. Pepper spray use will additionally be reported and reincorporated into the annual Military Equipment Report.

Please print and route through Chain of Command to the Office of the Chief.

_____ **Duty Supervisor**
_____ **Watch Commander**
_____ **Operations Captain**
_____ **Chief of Police**

MINUTES
BERKELEY CITY COUNCIL
REGULAR MEETING

Tuesday, September 16, 1997

Section A. Preliminary Matters

1. **Roll Call:** 8:00 p.m.

Present: Councilmembers Armstrong, Breland, Maio, Olds, Shirek, Spring, Woolley, Worthington, Mayor Dean and Deputy City Manager Rucker.

Absent: None.

2. **Ceremonial Matters:**

- a. Proclaimed September 20 as Berkeley Coastal Clean-up Day
- b. Proclaimed the 25th Anniversary for Telegraph Avenue Arts and Crafts Vendors
- c. Proclaimed September 14 - September 20 as Constitution Week

3. **Comments From The Public:** Lenore Anderson; Nancy Delaney; Ashley Krey; Sally Hindman; Howard Jeter; Ed Joseph; Charles Robinson; David Todtfeld; Margaret Bartelt; Russell Bates; Tom McAninley.

Section B. Action On Minutes

Meetings of May 13 (regular), June 3 (regular), June 10 (regular), June 17 (regular, special), June 24 (regular, special), July 8 (regular), July 15 (regular), July 22 (regular, special), July 25 (special), and July 31 (special), 1997.

Action: Minutes held over at the request of Mayor Dean.

Section D. Consent Calendar

The Consent Calendar was moved by Councilmember Breland, seconded by Councilmember Spring, and adopted by unanimous vote of the Council, unless otherwise stated:

(a) From City Manager:

1. **Loan Agreements with the Redevelopment Agency**

Recommendation: Adopt a Resolution authorizing the City Manager to prepare loan agreements with the Redevelopment Agency for the purpose of financing Agency administration, overhead and capital projects in the West Berkeley Redevelopment Project Area and presenting for final approval on October 28, 1997. The debt obligations to conform substantially to the following: 1) a multi-year loan agreement for an aggregate amount to pay for administrative and overhead expenses through the year 2012 and 2) a loan from the City to fund Capital Projects. Expense: Not to exceed \$3.31 million.

Action: Adopted Resolution No. 59,150-N.S. (Abstain: Olds, Dean)

2. **Contract: Totland Park Renovations**

Recommendation: Adopt a Resolution approving plans and specifications for Totland Park renovations; accepting the bid of CLD Construction; authorizing the City Manager to execute a contract and any amendments for a period of 120 days. Expense: \$49,950

Action: Adopted Resolution No. 59,151-N.S.

3. **Donation for San Pablo Park Play Equipment Project**

Recommendation: Adopt a Resolution accepting a donation from Eminent Software Inc. through Berkeley Partners for Parks for planned improvements within the tot area at San Pablo Park. Donation: \$3,000

Action: Adopted Resolution No. 59,152-N.S.

4. **Contract: University Avenue Interconnect Replacement Project**

Recommendation: Adopt a Resolution approving plans and specifications for the University Avenue Interconnect Replacement Project; accepting the bid of St. Francis Electric, Inc.; and authorizing the City Manager to execute a contract and any amendments to install traffic signal interconnect cable along University Avenue between Milvia and Sixth Street for the period September 15, 1997 to June 30, 1998. Expense: \$340,000

Action: Adopted Resolution No. 59,153-N.S.

5. **Contract: Municipal Parking Lot at Dwight Way and Eighth Street**

Recommendation: Adopt a Resolution appropriating funds from the Off-Street Parking Fund; and authorizing the City Manager to execute a contract and any amendments with the Berkeley Chamber of Commerce to manage and operate the new City Parking Facility at Dwight Way and Eighth Street for a time period of two years. Expense: \$23,170

Action: Adopted Resolution No. 59,154-N.S.

6. **Contract: West Campus Swim Center Pool Renovation Project**
 Recommendation: Adopt a Resolution approving plans and specifications for the West Campus Swim Center Pool Renovation Project; accepting the bid of Western Water Features, Inc.; and authorizing the City Manager to execute a contract and any amendments to upgrade the swimming pool at the West Campus Swim Center for the period September 15, 1997 to June 30, 1998. Expense: \$223,700
Action: Adopted Resolution No. 59,155-N.S.
7. **Contract: West Berkeley Senior Center Roof Replacement**
 Recommendation: Adopt a Resolution approving plans and specifications for the West Berkeley Senior Center roof replacement; accepting the bid of Pioneer Roofing Organization; authorizing the City Manager to execute a contract and any amendments for a period of 35 calendar days. Expense: \$44,952
Action: Withdrawn by the City Manager.
8. **Contract: North Berkeley Senior Center Upper Exterior Siding Repair**
 Recommendation: Adopt a Resolution approving the plans and specifications for North Berkeley Senior Center upper exterior siding repair; accepting the bid of the lowest responsible bidder; authorizing the City Manager to execute a contract and any amendments for the period September 26, 1997 to January 1, 1998. Expense: \$115,000
Action: Adopted Resolution No. 59,156-N.S.
- (b) From Mayor and Council:
1. **Gray Panthers Proclamation**
 From: Councilmember Maio
 Recommendation: That Council approve the reading of a proclamation at the September 23rd Council meeting declaring Friday, September 26, 1997 as Gray Panthers Day and allowing representatives from the Gray Panthers to comment.
Action: Approved recommendation to add proclamations to September 23rd meeting.
2. **Support Survival of the Traditional Hopi/Dineh (Navajo) Peoples**
 From: Councilmember Worthington
 Recommendation: That Council: 1) Adopt a Resolution which outlines the severity of the situation at Big Mountain regarding survival of the cultural existence of the Traditional Hopi/Dineh (Navajo) Peoples, 2) Send letters to President Clinton, Congressman Dellums and Senators Feinstein and Boxer urging them to establish new emergency hearings to investigate the issues occurring in northeast Arizona and a request for creation of a National Historic Cultural and Environmental Preserve and the return of those relocatees to the Joint Use Area and nearby lands, 3) Formally request the elders of both the Hopi and Dineh tribes be sought out and included in these hearings, 4) Call upon other U.S. cities to join us in lobbying Congress and the President to put an end to the injustices being performed with our government's approval, 5) Send a letter to Executives of Peabody Coal and the parent company, Hanson, Inc. asking them to put an end to the ecosystem destruction and devastation of cultural existence of the native peoples, 6) Send a letter to the Bureau of

Indian Affairs in Arizona and to Ada Deer, Assistant Secretary for Indian Affairs, calling upon them to act upon their responsibilities to protect and preserve the traditional cultures, and 7) Send letters to the Hopi Tribal Council and Tribal Police Chief, and Senator McCain voicing the City of Berkeley's disapproval of their actions and encouraging interest of the traditional peoples, culture and sustainment of the ecosystem ahead of corporate interests, such as those of Peabody Coal, or others.

Action: Adopted Resolution No. 59,157-N.S.

3. **Enforcement of Permit Parking Zone**

From: Councilmember Spring

Recommendation: That Council 1) request the City Manager inform all City staff and the Berkeley Unified School District of the rules regarding the preferential permit parking zones in the Civic Center area, 2) continue the project started by MAGNA representatives of daily identification of individual license plate numbers and car owners that park for more than two hours in Zone C and 3) report back to Council in seven months.

Action: Approved recommendation.

4. **Establish an Additional Zoning Adjustments Board**

From: Mayor Dean

Recommendation: That Council refer to the Zoning Adjustments Board (ZAB) and the City Manager the question of establishing an additional Zoning Adjustments Board and request a report back with recommendations by the end of November 1997.

Action: Removed from Consent Calendar by Councilmember Maio. Moved, seconded, carried (Shirek/Maio; Noes - Woolley, Dean) to table the item.

5. **Prevention of Storm Damage from Expected Early and Heavy Winter Rains**

From: Councilmembers Armstrong, Olds, Woolley and Mayor Dean

Recommendation: That Council direct the City Manager to take immediate steps to prevent storm damage expected to occur as a result of early and heavy rains due to El Nino. Steps should include but not be limited to the following: 1) Clean out all storm drains throughout the City, paying special attention to areas where past problems have occurred, 2) Plan ahead to prevent damage from occurring in landslide areas and 3) Take action to ensure that creeks are inspected prior to the onset of winter storms. In addition, request the City Manager prepare an oral report including a City-wide schedule of cleaning storm drains no later than the October 7th Council meeting.

Action: Removed from Consent Calendar by Councilmember Maio. Moved, seconded, carried (Spring/Maio; Abstain - Armstrong, Olds, Woolley, Dean) to ask the City Manager to schedule a Council discussion with a report back in October on Public Works' work plan and priorities and schedule for storm drain cleanouts. The report should also include information on what is being done by the County and by other cities to prepare for El Nino. Mayor Dean and Councilmembers Armstrong, Olds and Woolley asked that the record reflect that they abstained because they feel that the storm related issues are not being addressed.

6. **Investigation of California Gas Prices**
From: Mayor Dean
Recommendation: That Council support Senator Boxer in her investigation of the rise in California gas prices by sending letters of support to Senator Boxer, Attorney General Reno and Secretary of Energy Pena and endorse a letter writing campaign allowing Berkeley residents to express their support for the investigation.
Action: Approved recommendation.
7. **Dragonfly Preschool**
From: Councilmember Breland
Recommendation: That Council direct the City Manager to investigate the financial status and any assistance needed to keep the Dragonfly Preschool Program in the community and to include low-income residents, and report back by October 7th Council Meeting.

Action: Removed from Consent Calendar by Councilmember Olds. Moved, seconded, carried (Breland/Olds) to adopt the recommendation as amended to also request the City Manager to report back on October 7th or as soon as possible thereafter as to why the Preschool did not receive funding from the Housing Advisory Commission; how community welfare reform monies might be utilized; and a list of other preschools that might be eligible for welfare reform monies.
8. **Waiver of Fees for Youth Forum for West Berkeley Youth**
From: Councilmember Breland
Recommendation: Adopt a Resolution waiving fees for the rental of the James Kenny Recreation Center, providing for the taping of a film by BTV Channel 25, providing for staff support, and for all necessary permits; and directing the City Manager to find financial support for the West Berkeley Youth Forum sponsored by the West Berkeley Council Subcommittee.
Action: Adopted Resolution No. 59,158-N.S.
9. **25th Anniversary of Arts and Crafts Vendors on Telegraph**
From: Councilmember Worthington
Recommendation: That Council issue a proclamation at the September 16th City Council meeting in honor of the 25th Anniversary of the Arts and Crafts on Telegraph Avenue to be held on September 21, 1997.

Action: Removed from Consent Calendar by Councilmember Worthington. Moved, seconded, carried (Worthington/Spring) to approve recommendation. Proclamation presented by Councilmember Worthington.

Section G. Reports For Action

(a) From City Manager:

1. Memorandum of Understanding for Fire Protection

Recommendation: Adopt a Resolution authorizing the City Manager to negotiate and execute a Memorandum of Understanding (MOU) with the cities of El Cerrito, Richmond, Kensington Fire Protection District, Contra Costa County Fire Protection District and the East Bay Regional Park Fire Department for the exchange of fire protection. Expense: None

Action: Moved to Consent Calendar by Councilmember Armstrong. Adopted **Resolution No. 59,159-N.S.**

2. Air/Surface Easement at 1904 Sixth Street

Recommendation: Adopt first reading of an Ordinance authorizing the City Manager to execute an Easement Grant Deed with Rue-ell Enterprises for a ten-foot wide by 152-foot deep air/surface easement over the southerly portion of City-owned lot at 1904 Sixth Street. Revenue: \$16,000

Action: Withdrawn by the Deputy City Manager.

(b) From Mayor and Council:

1. Interim Measures on the Use of Pepper Spray

From: Councilmember Spring

Recommendation: That Council: 1) approve an interim policy that every time pepper spray is used by the Police Department, that the Officer involved will fill out a Use of Pepper Spray Report similar to the Use of Force Report presently in effect, and send to the Council and Police Review Commission within 7 days, 2) put seals on the triggers of the canisters, 3) no pepper spray will be used as crowd control by the Berkeley Police Department, 4) the City of Berkeley will investigate legal and other actions to be taken against UC Berkeley Police over abuse of pepper spray and other weapons, and 5) Council will view up to ten minutes of the video of UC Berkeley Police use of pepper spray on demonstrations for affirmative action at the September 16, 1997 Council meeting.

Actions: The video was shown.

Moved, seconded, carried (Maio/Spring) to approve an interim policy for City of Berkeley Police Department use of pepper spray to include: 1) Every time pepper spray is used by the Police Department a Use of Pepper Spray Report similar to the Use of Force Report presently in effect will be completed and sent through regular Police Department channels and to the Council and Police Review Commission; 2) the Report will be sent to the Council as an off-agenda report within seven days, 3) Seals will be put on the triggers of the canisters, 4) No pepper spray will be used as crowd control, and 5) The Police Chief will return to the Council with a report on all past and present uses of Pepper Spray.

Moved, seconded, carried (Maio/Spring) to 1) Ask the City Attorney to advise the Council on any legal actions Council might pursue as it relates to the University and University Police Department's actions to protect the students and their civil rights and any other effective actions the Council might take, and 2) The City continue working with the University of California at Berkeley to promote improved oversight and training to better equip the University Police to handle sensitive and volatile situations.

Moved, seconded, carried (Armstrong/Olds) to endorse the ASUC Bill in support of reforming the UC Police Review Board as presented by ASUC Senators at this meeting, and send a letter to the University officials informing them of Council's endorsement.

Section H. Reports For Information

(a) From City Manager:

1. **South Side Pedestrian Lighting Study (CR 97-53)**
Action: Received and filed.
2. **Unsafe Bedroom Window Security Bars (CR 97-64)**
Action: Received and filed.
3. **Survey Regarding Economic Impact of Smoking Ordinance (to be delivered)**
Action: Withdrawn by the City Manager.

(c) From Others:

1. **Notices of Decision for 2683 Le Conte Avenue and City Right-of-Way and Eastern Portion of Daley's Scenic Park District**
From: Landmarks Preservation Commission
Action: Councilmember Maio moved to Action. Received and filed.

Section I. Priority Items

1. **PRESENTATION ON ELECTRIC POWER SUPPLY OPTIONS**
 - a. City Manager Information Report

Action: Presentation made. Moved, seconded, carried (Maio/Worthington; Absent - Woolley) to adopt the following staff recommendations: 1) The City should not join the ABAG electric power purchase pool this year. This pool applies to electricity serving municipal facilities only. The team believes that greater savings may be available through other vehicles and that the relatively modest projected savings are offset by price uncertainty, administrative cost, metering costs, and advance payments. If Council decides

otherwise, it must act by September 16 or wait for another year; 2) The City should explore other options for electric power supply for municipal facilities. Those options should include participating in the State of California's power pool, pooling with another public agency(ies) or pooling with loads in the Berkeley community. The City should explore opportunities to include electricity generated from renewable resources into its supply contract(s). Staff will explore these options; 3) The City will need to change its procedures to collect revenues related to electricity sales pursuant to the utility users tax, franchise ordinance and business license tax. Staff are working on the new procedures; 4)The City should explore opportunities to increase competition for electric services within the community (not just for municipal facilities). Options range from encouraging private companies to market in Berkeley, to encouraging non-governmental buyers' groups to aggregating municipal and community loads for bulk power purchase. Staff intends to initiate a preliminary study of these options in 1998 after there is some experience with this new market.

2. **LIBRARY PROJECT UPDATE BY BOARD OF LIBRARY TRUSTEES**

Action: Presentation postponed at the request of the Library Board.

Section J. Communications

The following communications were read, noted and filed unless referred to the City Manager as noted:

1. Joan M. Torykian, P.O. Box 9267, regarding parking places at 2555 Virginia Street. **Referred by Breland.**
2. Patrick R. Craig, P.O. Box 545, regarding Parking Citation Center. **Referred by Breland, Maio, Spring, Woolley and Mayor Dean.**
3. Charles L. Smith, 61 San Mateo Road, regarding tall trees as a hazard in the City. **Referred by Shirek.**
4. Russell G. Clemens PhD EE, Caja 93 San Blas, Nayarit, Mexico, regarding the discontinuance of oil.
5. Damien Curry, 1815 Curtis Street, regarding commuters using Curtis, Delaware and Hearst Streets. **Referred by Maio.**
6. Emilie Keas, 2141 Virginia Street, regarding building units at under-market prices.
7. Bernard J. Finkle, 21 Kingston Road, regarding affordable homes to be built at 1320 and renovate at 1314 Haskell Street. **Referred by Breland.**
8. Charles V. Shank, Director, Lawrence Berkeley National Laboratory, regarding soil containing tritium. **Referred by Olds.**

9. Richard C. Atkinson, President, University of California, 300 Lakeside Drive, Oakland, regarding on-site burial of tritium waste at Lawrence Berkeley National Laboratory.
10. Deborah Walton, Richard Graham, Carol Jenkins and Ronaldo Beber, 2319, California Street, regarding Kragen Use Permit. **Referred by Breland and Mayor Dean.**
11. Anne Ireland, 10944 San Pablo Avenue, regarding Roisin McAliskey's release. **Referred by Breland.**
12. Communications regarding off-leash dog use from Doug Manson, 5228 Felicia Avenue, Livermore and Josie Lemon, 6429 Regent Street, Oakland. **Referred by Breland and Woolley.**
13. John Woodbury, Director and Matt Williams, Director, Alameda-Contra Costa Transit, 1600 Franklin, Oakland, regarding BART strike.
14. Ellen Marionthal, The Cutting Room, 2079 University Avenue, regarding Parole Office located on University Avenue. **Referred by Olds, Spring, Woolley and Mayor Dean.**
15. Sydney Twinshek, 1805 Bonita Avenue, regarding homeless people occupying Ohlone Park. **Referred by Breland, Maio and Spring.**
16. Jeff Issenberg, Program Coordinator, Friday Night Live, 39355 California Street, Fremont, regarding supporting Berkeley's Youth Commission's Youth Day Celebration.
17. Jeff Hobson, 2315A Russell Street, regarding 1320 Haskell Street. **Referred by Breland.**

Section K. Adjournment

Meeting adjourned at 10:50 p.m. in memory of Albert Perez, Jason Jenkins and Connie Barton.

This is to certify that the foregoing is a true and correct copy of the minutes of September 16, 1997, as approved by the Berkeley City Council.

Attest:


City Clerk



Leah Wilson | Vice-Chair
Police Accountability Board
LWilson@berkeleyca.gov

February 23, 2026

VIA ELECTRONIC MAIL [Email]

Honorable Mayor Ishii and Members of the City Council
Council@berkeleyca.gov
2180 Milvia Street
Berkeley, California 94704

Re: Resolution Rescinding Berkeley Police Department's Pepper Spray Reporting Requirement

Honorable Mayor Ishii and Members of the City Council:

On behalf of the Police Accountability Board (PAB), I write to convey the Board's recommendation that the City Council (council) reincorporate reporting on the use of pepper spray into the Berkeley Police Department's (BPD) annual military equipment report before eliminating the standalone pepper spray reporting requirement. This recommendation is intended to preserve key narrative details not otherwise available through BPD's other reporting channels, such as the Transparency Hub or use-of-force reports.

The PAB reviewed the proposal to rescind the reporting requirement at its February 11, 2026. While the PAB supports the streamlining goals motivating the proposal, circumstances have changed since the initial introduction of the proposed reporting change, as described in item three on the following page.

The proposal to eliminate the standalone pepper spray reporting requirement is predicated on the existence of other similar (and therefore redundant) reporting mandates or data-access options, specifically as noted in the item introducing the elimination of this requirement: the use-of-force reporting requirements under BPD Policy 300.6, BPD's Transparency Hub and Open Data Portal, and the former Police Equipment and Community Safety Ordinance (BMC § 2.100). There are limitations associated with each of these reporting mechanisms as currently structured:

1. **Use-of-force reports:** Use-of-force reports are generally treated as part of an officer's personnel file and are not publicly accessible except in cases involving death or serious bodily injury, as provided under California Penal Code § 832.7.

2. **Transparency Hub:** As shown in Attachment 1, reporting through the Transparency Hub remains limited. Uses of OC spray are reported through the use-of-force portal and classified as Level 3 uses of force. Currently, the Transparency Hub provides the public with statistical data but does not contain any narrative explanation of the basis for or context of chemical agent use. Access to Transparency Hub information is further constrained by usability barriers, as meaningful review often requires familiarity with Microsoft Excel to open and analyze .csv files, as well as general proficiency in navigating the Transparency Hub, which limits broader public accessibility.
3. **Military equipment report:** At the time the rescission proposal was advanced, controlled equipment reporting under BMC 2.100.020(A)(11) required reporting on pepper spray use. However, following the City Council's February 10, 2026, adoption of Ordinance No. 8,001-N.S., which rescinded and replaced Ordinance No. 7,760-N.S., the BPD's military equipment reporting requirements were aligned with state law. Under California Government Code § 7070(c)(12), service-issued handheld pepper spray is excluded from reporting requirements. Eliminating the standalone pepper spray report without an alternative reporting mechanism would therefore result in the complete elimination of any public narrative reporting on pepper spray utilization.

With this context in mind, the PAB recommends modifying the military equipment reporting framework to reintroduce pepper spray use reporting, allowing for greater efficiency without a loss of transparency. Examples of prior narrative disclosures under the Controlled Equipment ordinance are included as Attachment 2.

We appreciate the PSPC for inviting the PAB's input on this matter and thank the City Council for considering the Board's recommendation.

Respectfully submitted,

/s/ Leah Wilson

Leah Wilson, Vice-Chair
Police Accountability Board

Cc: Paul Buddenhagen, City Manager
David White, Deputy City Manager
Jennifer Louis, Chief of Police
Jen Tate, Deputy Chief of Police
Jose Murillo, Acting Director of Police Accountability
Farimah Brow, City Attorney
Mark Numainville, City Clerk

Attachment(s):

1. Examples of Current Pepper Spray Use Reporting Through the Transparency Hub
2. Examples of Pepper Spray Use Reporting Pursuant to Berkeley's Controlled Equipment Ordinance (Berkeley Municipal Code § 2.100)

Attachment 1. Examples of Current Pepper Spray Use Reporting Through the Transparency Hub

Figure 1. Screenshot of a Level 3 Chemical Agent Use-of-Force Report from the Transparency Hub, dated October 9, 2025.

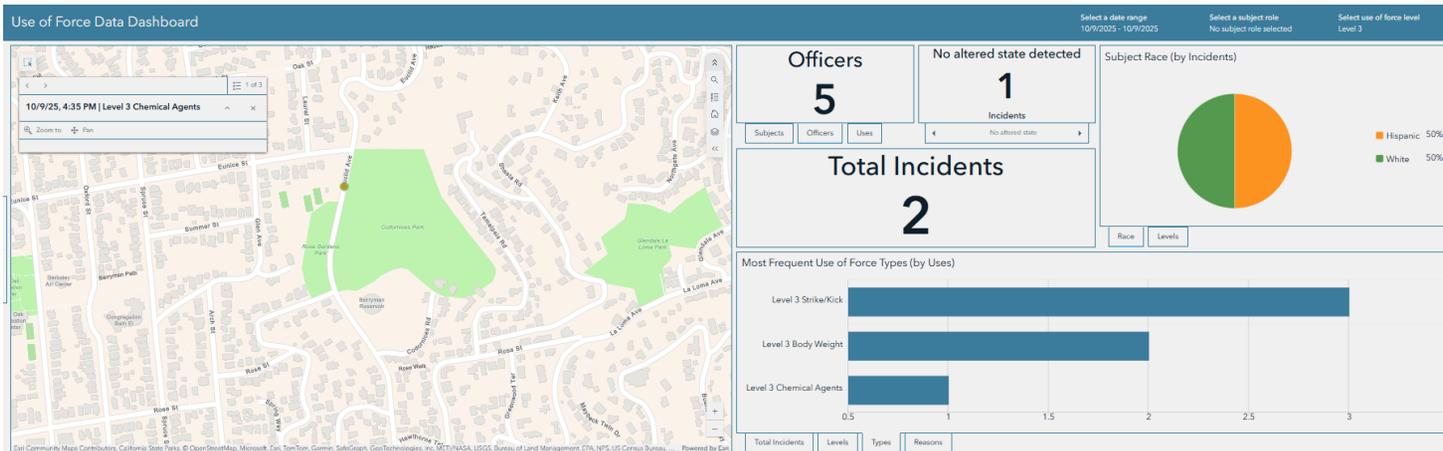


Figure 2. Excerpt of a data entry reflecting pepper spray use in the Open Data Portal, dated October 9, 2025.

Subject_Incident	Sex	Race	Subject Role	Subject Age	Block Address	City	Use of Force Number	Officer_Icident	Officer Role	Use of Force	Use of Force Type	OccurredDate	Subject Arrested	Use of Force Reason	Subject Altered State	NonBerkeley Address
2628	Male	White	Arrested	29	1200 Avenue	Berkeley	6759	8832	Trainee	Level 3	Level 3 Chemical Agents	2025-10-09 07:00:00+00:	Yes	Combative	Unknown Drugs	

Attachment 2. Examples of Pepper Spray Use Reporting Pursuant to Berkeley’s Controlled Equipment Ordinance (Berkeley Municipal Code § 2.100)

Figure 3. Example of Controlled Equipment Reporting of OC Spray from the 2023 Controlled Equipment Report

#	<u>Equipment Deployed</u>	<u>Summary of Deployment</u>	<u>Beat</u>
29	OC spray	A victim called the police and reported a man kicking down her fence. An officer arrived on scene and contacted the subject who refused to speak to the officer. The officer followed the suspect on foot as he gave commands for him to stop. The suspect yelled and cursed at the officer and refused to stop. A second officer arrived and immediately recognized the suspect from prior police contacts as someone violent with the police. This officer ordered the suspect to stop but was ignored. He attempted to grab the suspect's arms, but the suspect pulled his arms away and ran. The suspect physically resisted the officer as he continued his attempts to detain him. This officer sprayed the suspect with OC spray as the suspect continued to resist. When the second officer arrived, they were able to detain him. Medical aid was provided and he was placed on a psychiatric evaluation hold. The suspect is on probation for robbery. The criminal case was forwarded to the District Attorney’s Office for review.	8

Figure 4. Example of Controlled Equipment Reporting of OC Spray from the 2024 Controlled Equipment Report

#	<u>Equipment Deployed</u>	<u>Summary of Deployment</u>	<u>Beat</u>
47.	OC Spray	After responding to a report of an individual causing a disturbance with excessive noise and door knocking—and who became physically aggressive—OC spray was used, and the subject complied and was detained without further incident.	5