



REVISED AGENDA MATERIAL for Supplemental #1

Meeting Date: March 10, 2026

Item Number: 17

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

Submitted by: Councilmember Lunaparra

This supplemental material aims to fulfill the original item's goal of streamlining accountability processes while critically maintaining public transparency. The item submitted by Councilmember Kesarwani aptly emphasizes the need for transparency and independent oversight to build a constructive, effective model of policing. This supplemental material intends to balance minimizing duplicative work and commitment to oversight and transparency.

The original item explains that, because the Police Department already posts use of force and chemical weapons to the Transparency Hub, other reporting criteria would render the process duplicative. However, our office is concerned about the loss of critical public information. For many residents, the data on use of force is inaccessible without the essential context of officer narratives. The narratives are not currently included on the Transparency Hub and would be lost if the original item is approved without amendment.

Additionally, the Public Safety Committee's recommendation makes it clear that significant improvements are needed in what is reported on use of force in the Transparency Hub to make it an accessible and effective transparency measure.

This supplemental attempts to harmonize the goals of the original item with the intent of the Transparency Hub and commitment to effective oversight. Our office proposes the following revisions:

- 1. Include the narrative data portion of the pepper spray report in the Transparency Hub***

The officer narrative mandated in the pepper spray report offers invaluable information to the public and the Council about the circumstances of the deployment.

2. Amend the referral that was recommended as part of the Public Safety Committee action to add the following provisions:

a. Produce a cost-savings report approximating the amount of time and taxpayer dollars that would be saved by rescinding the notification process

This revision aims to provide an estimation of cost savings associated with streamlining the reporting process, so Council and the public can better understand the administrative burden and make an informed decision to balance efficiency and oversight.

b. Maintain consistency in labeling the use-of-force type

Currently, there are two different names for pepper spray (OC and chemical agents) in the Transparency Hub, depending on the year the incident occurred. It would be advantageous to maintain a consistent label across the portal to improve ease of use, transparency, and clarity.

c. Automate opt-in notifications for the Transparency Hub

A notable element that will be lost if the original item passes will be the near-real-time notifications to PAB, the ODP, and the Council. Not only do these notifications provide substantive qualitative accounts of the incident, but they also allow public oversight bodies to stay up-to-date without regularly checking every incident on the Transparency Hub, which can be very burdensome, especially for an all-volunteer body like the PAB.

d. Reintroduce pepper spray reporting into the Military Equipment Report

In February 2026, the Berkeley City Council revised the Military Equipment Reporting process, resulting in the removal of pepper spray from the annual report. Pepper spray should be reintroduced into the report to ensure there is a clear process for cross-referencing and oversight.

3. The recommendation shall only become effective upon the date of completion of the referral to the City Manager

The Transparency Hub, in its current iteration, does not provide sufficient data, nor is it accessible enough to serve as the only mechanism of transparency. We found multiple discrepancies between the notification reports and what is posted to the Transparency Hub. This provision is intended to ensure that the Transparency Hub implements the necessary improvements—as the Public Safety Committee illustrates—before the City rescinds other reporting processes.

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 1997 directive can be improved to reduce administrative burden on the Police Department continued requirement for separate notification creates redundant administrative tasks that strain City resources; and~~

~~WHEREAS, the Berkeley City Council remains committed to maintaining civilian oversight measures by integrating necessary information into a more streamlined process; and~~

WHEREAS, amending rescinding the notification requirement by automating the notification process, clarifying the vocabulary, and including clear navigational guidelines on the Transparency Hub to improve ease of use will simplify reporting procedures and allow staff to concentrate on more critical operational matters while preserving public transparency.

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.
~~4.~~
2. All pepper spray incidents shall be recorded as part of the established use-of-force reporting system in accordance with current departmental protocols, with the addition of the following provision:-
 - a. A narrative account, similar to the one documented in the pepper spray report form, shall be uploaded to the Transparency Hub—excluding confidential information—when the aggregated information from the use-of-force report is published.
3. Clause 1 shall only become effective upon the date of completion of the referral to the City Manager:
 - a. Enhance the definitions for the various Use of Force levels and clearly identify pepper spray use as Level 3.

- b. Produce a cost-savings report that approximates the amount of police time and associated funds that would be saved by rescinding the notification requirement.
- c. Code an automated opt-in notification system for the Transparency Hub for use-of-force incidents.
- d. Reintroduce pepper spray reporting into the military equipment report.
- e. Create consistency across labeling use of force type.
- 2.f. Include clear navigational guidelines so users can more easily access the open data portal and seek information on chemical agent use.

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WHEREAS, the 1997 directive can be improved to reduce administrative burden on the Police Department; and

WHEREAS, the Berkeley City Council remains committed to maintaining civilian oversight measures by integrating necessary information into a more streamlined process; and

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 - a. Enhance the definitions for the various Use of Force levels and clearly identify pepper spray use as Level 3.
 - b. Produce a cost-savings report that approximates the amount of police time and associated funds that would be saved by rescinding the notification requirement.
 - c. Code an automated opt-in notification system for the Transparency Hub for use-of-force incidents.
 - d. Reintroduce pepper spray reporting into the military equipment report.
 - e. Create consistency across labeling use of force type.

- f. Include clear navigational guidelines so users can more easily access the open data portal and seek information on chemical agent use.