

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: March 10, 2026

Item Number: 17

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

Submitted by: Mayor Adena Ishii (Author), Councilmembers Brent Blackaby (Co-sponsor), Igor Tregub (Co-sponsor) and Shoshana O'Keefe (Co-Sponsor)

The attached revised Item 17 *17. Amendments to Resolution Rescinding Berkeley Police Department's Pepper Spray Reporting Requirement* amends ordinance to add clarifying changes to include the use of the Transparency Hub as part of the reporting requirements, as well as directing the Berkeley Police Department to present an amendment to BMC Chapter 2.100 to the City Council to subject pepper spray to the approval and reporting requirements of the Controlled Equipment Ordinance.



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To: Honorable Members of the Berkeley City Council

From: Mayor Adena Ishii (Author), Councilmembers Brent Blackaby (Co-sponsor), Igor Tregub (Co-sponsor) and Shoshana O’Keefe (Co-Sponsor)

Subject: Amendments to Resolution Rescinding Berkeley Police Department’s Pepper Spray Reporting Requirement

RECOMMENDATION: Direct the Berkeley Police Department (BPD) to present an amendment to BMC Chapter 2.100 to the City Council to subject pepper spray to the approval and reporting requirements of the Controlled Equipment Ordinance and require specific information surrounding a pepper spray incident to be documented on the Transparency Hub.

Prior to the February 10, 2026 City Council meeting, the Berkeley Municipal Code 2.100 required the Berkeley Police Department to include the use of pepper spray within its annual Controlled Equipment Report. On February 10th, the Berkeley City Council revised the local Police Equipment and Community Safety Ordinance to comport more closely with state law AB481. In this revision, pepper spray was excluded from the reporting requirement, as it is not required under AB481.

In the March 10, 2026 City Council meeting, Councilmember Kesarwani brought forward Item 17 *Resolution Rescinding Berkeley Police Department’s Pepper Spray Reporting Requirement*. This item rescinds the requirement that BPD send the Use of Pepper Spray Report to the Mayor and Councilmembers within 7 days of the use incident. Part of Item 17 requires that BPD utilize the Transparency Hub to display the information that would be lost without the publication of the Use of Pepper Spray Report.

This proposed amendment to Item 17 elaborates on what should appear on the Transparency Hub after an officer utilizes pepper spray in the course of the job. Councilmember Kesarwani’s item identifies information about: 1) the incident itself: time, date, location where the incident occurred and level of use of force; 2) the suspect themselves: age, race, sex, subject altered state, and use of force reason; and 3) the Officer involved, including the officer role. In addition to the elements enumerated in Councilmember Kesarwani’s item, this amendment adds a fourth element: whether first aid was administered.

This amendment also directs BPD to incorporate the Police Accountability Board’s recommendation to subject pepper spray to the approval and reporting requirements of the Controlled Equipment Ordinance in order to promote and preserve increased transparency surrounding the use of chemical agents.

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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 in the **Transparency Hub and the annual Use of Force report**; and

WHEREAS, until February 10, 2026, the Berkeley Police Department historically included pepper spray in the annual Controlled Equipment report; and

WHEREAS, the Police Accountability Board submitted a recommendation to the City Council on February 23, 2026 that recommended reincorporating reporting on the use of pepper spray into the annual Controlled Equipment report to preserve key narrative details not otherwise available through BPD's other reporting channels; and

WHEREAS, the administration of first aid was included in the original pepper spray use report that was transmitted to the Mayor and Council within 7 days; and

WHEREAS, the continued requirement for separate notification **directly to the Mayor and City Council** 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.

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. Subsequent to the pepper spray report being signed off on by the Police Department chain of command, no later than one week after the use of the chemical agent, all pepper spray incidents shall be recorded on



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the Transparency Hub, including information about:

- a. The incident itself, including time, date, location where the incident occurred and level of use of force; and
 - b. The suspect themselves, including age, race, sex, subject altered state, and use of force reason; and
 - c. The Officer involved, including the officer role; and
 - d. The administration of first aid.
4. The Berkeley Police Department is directed to present an amendment to BMC Chapter 2.100 to the City Council to subject pepper spray to the approval and reporting requirements of the Controlled Equipment Ordinance.