



ACTION CALENDAR
September 29, 2026

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Jennifer Louis, Chief of Police
Subject: Surveillance Technology Ordinance Submission for Mutual Aid Air Support, Pursuant to Council Action of July 14, 2026

RECOMMENDATION

Adopt a Resolution to accept the Surveillance Acquisition Report and approve the Surveillance Use Policy (BPD Policy 1308) for Mutual Aid Air Support, pursuant to Berkeley Municipal Code (B.M.C.) Chapter 2.99.

CURRENT SITUATION AND ITS EFFECTS

On July 14, 2026, the City Council adopted a resolution rescinding Resolution No. 51,408-N.S. (1982) and establishing a modernized framework under which the Berkeley Police Department (BPD) may request and deploy helicopter assistance from external law enforcement agencies with whom mutual aid agreements exist. The framework limits requests to seven enumerated purposes; requires pre-deployment approval by the on-duty Watch Commander; requires written notification to the City Manager within 72 hours of any deployment; requires documentation of every deployment in the originating incident report; and requires an annual public report to the City Council and the Police Accountability Board.

The aircraft operated by the Department's regional air support partners are equipped with camera systems, typically gyro-stabilized electro-optical/infrared ("EO/IR") sensors capable of magnified daylight video and thermal imaging and, in some cases, encrypted video downlink to ground personnel. These systems are surveillance technology within the meaning of the Surveillance Technology Ordinance (STO). Under the STO, no surveillance technology subject to B.M.C. Chapter 2.99 may be acquired, used, or made the subject of an agreement to share or otherwise use such technology or the information it provides until the City Council has accepted a Surveillance Acquisition Report and approved a Surveillance Use Policy for that technology. This item completes that step for Mutual Aid Air Support so that the framework adopted on July 14, 2026 can be implemented.

The attached documents govern the conduct of BPD: the purposes for which air support may be requested, and the Department's receipt, viewing, retention, and sharing of air support data. The aircraft and sensors remain owned, operated, and maintained by the assisting agencies, whose own policies and oversight bodies continue to govern their equipment.

BACKGROUND

The STO requires the City Manager to submit a Surveillance Acquisition Report and obtain Council approval of a Surveillance Use Policy prior to acquiring, using, or entering into agreements involving surveillance technology. Each Surveillance Use Policy must address the twelve elements set forth in B.M.C. 2.99.020(4): purpose; authorized use; data collection; data access; data protection; civil liberties and rights protection; data retention; public access; third-party data-sharing; training; auditing and oversight; and maintenance.

Mutual Aid Air Support

BPD does not own or operate aircraft. Air support is obtained exclusively through mutual aid from regional partners operating air support units- including the Oakland Police Department's Air Support Unit ("Argus"), the East Bay Regional Park District Police Department, and the California Highway Patrol- and, where necessary, through the statewide law enforcement mutual aid system. Partner aircraft typically carry gyro-stabilized EO/IR camera systems providing daylight and thermal video, searchlights, and public-address capability; some offer encrypted video downlink to ground personnel.

The Surveillance Use Policy addresses each of the twelve elements required by B.M.C. 2.99.020(4). It limits requests to the seven purposes enumerated in the July 14, 2026 resolution and prohibits the use or sharing of air support data in support of federal civil immigration enforcement or of out-of-state laws restricting reproductive rights or the provision or receipt of gender-affirming care.

Policy History and Committee Review

Resolution No. 51,408-N.S. (July 15, 1982) permitted helicopter mutual aid only for disaster response, rescue efforts (excluding hostage rescue), and locating missing persons, and required pre-deployment approval by the City Manager. The Public Safety Policy Committee reviewed the proposed modernization on March 23, 2026 and sent it to Council with a qualified positive recommendation. The Police Accountability Board (PAB), by letter dated March 17, 2026, opposed replacing City Manager pre-approval with post-deployment notification and opposed expanding the list of permissible helicopter uses, citing the absence of demonstrated need, reduced oversight, and overlap with the Department's proposed Unmanned Aerial Systems (UAS) program. The Council adopted the modernized framework on July 14, 2026.

The attached documents are drafted with the PAB concerns in view. The Surveillance Use Policy confines requests to the seven Council-enumerated purposes; preserves sworn supervisory pre-approval, City Manager notification, and annual public reporting to both the Council and the PAB; adds an Office of Strategic Planning and Accountability (OSPA) audit of every deployment; and distinguishes the air support role from that proposed for UAS, which remains subject to its own separate STO process.

RATIONALE FOR RECOMMENDATION

Adoption of the recommended Resolution completes the STO process for Mutual Aid Air Support and permits implementation of the framework the Council adopted on July 14, 2026. The technology has been described, and its use constrained, in the attached documents to meet the civil liberties and rights protections required by B.M.C. Chapter 2.99, including the prohibition on Face Recognition Technology, restrictions on use in support of federal civil immigration enforcement consistent with the California Values Act and BPD Policy 423, and restrictions on use in support of out-of-state laws restricting reproductive rights or the provision or receipt of gender-affirming care. Approval does not expand air support use beyond the purposes the Council has enumerated and does not limit Council's ability to make edits to the use policy or acquisition report.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or climate impacts associated with the act of adopting this resolution. Aircraft operations occur under the authority and control of the assisting agencies; at approximately four to five deployments per year, no material change in aircraft activity is anticipated.

FISCAL IMPACTS OF RECOMMENDATION

None as a direct result of this action. Mutual aid air support is generally provided on a reciprocal basis without charge; where costs are incurred, they are managed through established reimbursement agreements.

CONTACT PERSON

Jennifer Louis, Chief of Police, (510) 981-5700

ATTACHMENTS

- Resolution
- Surveillance Acquisition Report- Mutual Aid Air Support
- BPD Policy 1308: Surveillance Use Policy- Mutual Aid Air Support

RESOLUTION NO. ##,###-N.S.

**RESOLUTION ACCEPTING THE SURVEILLANCE ACQUISITION REPORT AND
APPROVING THE SURVEILLANCE USE POLICY FOR MUTUAL AID AIR SUPPORT**

WHEREAS, the City of Berkeley is committed to leveraging technology to enhance public safety while ensuring transparency, oversight, and the protection of civil liberties and civil rights, as codified in the Surveillance Technology Ordinance, Berkeley Municipal Code (B.M.C.) Chapter 2.99; and

WHEREAS, the Surveillance Technology Ordinance requires the City Council to accept a Surveillance Acquisition Report and approve a Surveillance Use Policy prior to the acquisition or use of any surveillance technology subject to the ordinance, or to entering into an agreement to acquire, share, or otherwise use such technology or the information it provides; and

WHEREAS, on July 14, 2026, the City Council adopted a resolution rescinding Resolution No. 51,408-N.S. and authorizing the Berkeley Police Department to request and deploy helicopter assistance from external law enforcement agencies for enumerated purposes and subject to pre-deployment Watch Commander approval, post-deployment written notification to the City Manager within 72 hours, incident documentation, and annual public reporting to the City Council and the Police Accountability Board; and

WHEREAS, the aircraft operated by the Department's mutual aid air support partners are equipped with camera systems, including thermal imaging systems, that constitute surveillance technology within the meaning of B.M.C. Chapter 2.99, and the Department's receipt and use of information from those systems is subject to the ordinance; and

WHEREAS, the Berkeley Police Department has prepared and submitted a Surveillance Acquisition Report and Surveillance Use Policy for Mutual Aid Air Support addressing each of the twelve elements required by B.M.C. 2.99.020(4); and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Surveillance Acquisition Report for Mutual Aid Air Support is hereby accepted, and the Surveillance Use Policy for Mutual Aid Air Support (BPD Policy 1308) is hereby approved, pursuant to B.M.C. Chapter 2.99.

Berkeley Police Department BMC 2.99 Acquisition Report- Mutual Aid Air Support

Background

The Berkeley Police Department (BPD) seeks to implement the mutual aid air support framework adopted by the City Council on July 14, 2026, which rescinded Resolution No. 51,408-N.S. and authorized the Department to request and deploy helicopter assistance from external law enforcement agencies for enumerated purposes, subject to pre-deployment Watch Commander approval, post-deployment written notification to the City Manager, incident documentation, and annual public reporting to the City Council and the Police Accountability Board.

BPD does not own or operate aircraft. Air support is obtained through mutual aid from regional partners operating air support units- including the Oakland Police Department's Air Support Unit ("Argus"), the East Bay Regional Park District Police Department, and the California Highway Patrol- and, where necessary, through the statewide law enforcement mutual aid system. Partner aircraft are typically equipped with camera systems, including thermal-infrared sensors, that constitute surveillance technology under BMC Chapter 2.99. This report accordingly addresses the Department's request for, and receipt and use of, air support and associated data.

Nothing in this report or in the accompanying Surveillance Use Policy modifies the policies of any assisting agency, whose aircraft, sensors, and recordings remain governed by that agency's own policies and oversight bodies. This report and the accompanying Surveillance Use Policy govern the conduct of BPD personnel and do not authorize any collection, retention, sharing, or use of data beyond that described herein.

To the extent that it might be required, this document satisfies the requirements of BMC 2.99 for "publicly-released written report produced prior to acquisition... that includes..." sections covering description, purpose, location, impact, mitigation, data types and sources, data security, fiscal cost, third party dependence and access, alternatives, and experience of other entities.

1. Description

Information describing the Surveillance Technology and how it works, including product descriptions from manufacturers

Description:

Mutual Aid Air Support consists of helicopters and, where applicable, fixed-wing aircraft operated by external law enforcement agencies and deployed to Berkeley at BPD's request under mutual aid agreements. The surveillance technology at issue is the sensor equipment carried by those aircraft: gyro-stabilized electro-optical/infrared ("EO/IR") camera systems that provide magnified daylight video and thermal (heat-signature) imaging; searchlights; moving-map systems that associate imagery with location; and, on some aircraft, encrypted video

downlink that permits ground personnel to view the camera feed in real time. The aircraft and sensors are owned, operated, and controlled by the assisting agency; BPD neither operates the equipment nor controls what it records.

How it Works:

When an incident falls within one of the purposes enumerated by the City Council and the on-duty Watch Commander or designee approves, BPD requests air support from a partner agency through established dispatch channels. The assisting agency's flight crew operates the aircraft and its sensors, relays observations to BPD ground units by radio, and- where downlink is available- may transmit live video to authorized BPD personnel for the duration of the incident. If recorded imagery is relevant to a BPD case, the Department obtains it from the assisting agency through a documented evidence request, and it is stored in the Department's digital evidence management system.

Manufacturers' Descriptions:

The following describes representative sensor systems in use on regional air support aircraft. Capabilities vary by agency and aircraft; the identification of representative systems is descriptive only and does not express a preference for, or a decision to use, any particular equipment or assisting agency.

- Teledyne FLIR markets its Star SAFIRE 380 series to airborne law enforcement units, stating that the multi-spectral cameras "provide clear and detailed imagery of thermal activity on the ground." The manufacturer states that the systems can be configured with a range of color and infrared sensors for patrol, search-and-rescue, and surveillance missions, and that their long-range performance allows crews to remain at a distance while still imaging accurately.
- L3Harris describes its WESCAM MX-10 airborne electro-optical/infrared system as "ideal for low-altitude tactical surveillance and reconnaissance missions from manned and unmanned airborne platforms." The manufacturer states that four-axis stabilization and multi-spectral sensors give the MX-Series imaging across multiple wavebands, supporting both day and night operation in varied weather.

2. Purpose

Information on the proposed purpose(s) for the Surveillance Technology

The purposes for which air support may be requested are limited to the seven purposes enumerated by the City Council on July 14, 2026:

- To assist in disaster response;
- To assist in rescue efforts;
- To locate missing persons;
- When the safety of law enforcement personnel is in jeopardy and aerial presence may reduce that hazard;

- To aid in the apprehension of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
- To locate a person who is missing and whose continued absence constitutes a serious health or safety hazard; and
- To provide aerial coordination during a vehicle pursuit, where such coordination can reduce collision risk to bystanders and improve incident resolution.

Each request must, in addition, receive pre-deployment approval from the on-duty Watch Commander or designee.

3. Location

The general location(s) it may be deployed and reasons for deployment

Deployments are incident-driven and may occur anywhere within the City of Berkeley- and, in pursuit or search contexts, contiguous areas- for the purposes stated above. No hardware is installed in Berkeley: aircraft are based at, and operate from, assisting agencies' facilities. Where live downlink is used, it is viewed by authorized BPD personnel at the incident or in the Communications Center. Based on historical request volumes, the Department anticipates approximately four to five deployments per year.

4. Impact

An assessment identifying potential impacts on civil liberties and civil rights including but not limited to potential disparate or adverse impacts on any communities or groups

Although BPD neither owns nor operates the aircraft or sensors, aerial observation over an urban area raises civil-rights and civil-liberties considerations that warrant transparent acknowledgment and specific safeguards. The Department identifies the following potential impacts and addresses each through the mitigations described in Section 5 and through the accompanying Surveillance Use Policy.

- High-definition aerial video could, in principle, be processed with Face Recognition Technology. BMC 2.99.030(5) prohibits the City from obtaining, retaining, requesting, accessing, or using Face Recognition Technology.
- Deployment patterns could concentrate in particular neighborhoods and fall unevenly across communities. Mitigations include the enumerated-purpose limitation, Watch Commander pre-approval, per-deployment documentation, OSPA audit of all deployments, and annual public reporting of aggregate counts by category to the City Council and the Police Accountability Board.
- Helicopter noise and low-altitude overflight impose real community burdens- a concern that contributed to the original 1982 restrictions. The low anticipated frequency of approximately four to five deployments per year, the life-safety-driven purposes, and annual public reporting are the principal mitigations.

- Air support data could, if unrestricted, be sought for federal civil immigration enforcement or for out-of-state prosecutions targeting reproductive or gender-affirming care. The accompanying Surveillance Use Policy prohibits such use and sharing, consistent with the California Values Act.
- The assisting agency retains its own recordings under its own policies, which the City does not control. The accompanying Surveillance Use Policy addresses the Department's side of this relationship- what BPD may request, receive, retain, and share- and requires that a copy of the policy be provided to each air support partner.

5. Mitigations

Information regarding technical and procedural measures that can be implemented to appropriately safeguard the public from any impacts identified in subsection (d)

The Department will implement the following technical and procedural mitigations, each of which is also embodied in the accompanying Surveillance Use Policy:

- Air support may be requested only for the purposes enumerated by the City Council, and only with documented pre-deployment approval of the on-duty Watch Commander or designee.
- The Department shall receive and retain only imagery relevant to the incident or a specific case, obtained through a documented evidence request and stored in the Department's CJIS-compliant digital evidence management system.
- Every deployment shall be documented in the originating incident report and reported in writing to the City Manager within 72 hours.
- The Office of Strategic Planning and Accountability (OSPA) shall audit all deployments at least twice per year, and an annual public report of aggregate deployment data shall be transmitted to the City Council and the Police Accountability Board.

6. Data Types and Sources

A list of the sources of data proposed to be collected, analyzed, or processed by the Surveillance Technology, including "open source" data

The data types associated with Mutual Aid Air Support that BPD may receive are:

- Live video downlink (visual and/or thermal), where offered by the assisting agency, viewed during the active incident.
- Recorded video, thermal imagery, and still images obtained from the assisting agency in connection with a specific BPD case.
- Flight-crew observations relayed by radio and documented in CAD and incident reports.
- Associated metadata (date, time, location) accompanying imagery received.

7. Data Security

Information about the steps that can be taken to ensure adequate security measures to safeguard the data collected or generated from unauthorized access or disclosure

Air support data obtained by the Department shall be protected through a multi-layered security architecture:

- Data is transferred agency-to-agency through secure evidence-transfer methods.
- Recorded imagery is stored in the Department's digital evidence management system, which complies with CJIS standards and requires secure login credentials with Multi-Factor Authentication (MFA).
- Access is restricted to authorized personnel and audited for compliance.
- Evidentiary data is retained according to state law.

8. Fiscal Cost

The fiscal costs for the Surveillance Technology, including initial purchase, personnel and other ongoing costs, including to the extent practicable costs associated with compliance with this and other reporting and oversight requirements, as well as any current or potential sources of funding.

The costs below represent estimates.

Initial Purchase:

- None. The Department acquires no equipment. Air support is provided by assisting agencies.

Personnel and Other Ongoing Costs:

- Mutual aid air support is generally provided on a reciprocal basis without charge. Personnel time associated with requesting and coordinating air support is absorbed within existing salaries, as is training on the Surveillance Use Policy, which is delivered within regular in-service training hours. No maintenance, storage, transportation, or upgrade costs accrue to the City; aircraft and sensor systems are maintained by the assisting agencies, and imagery received is stored within the Department's existing digital evidence management system.

Costs Associated with Compliance and Oversight:

- Compliance obligations consist of the 72-hour written notification to the City Manager following each deployment, documentation in the originating incident report, the semiannual audit conducted by the Office of Strategic Planning and Accountability, and the annual report to the City Council and Police Accountability Board. At the anticipated deployment volume, these are estimated to require on the order of 20 to 40 staff hours annually across Department and OSPA personnel, absorbed within existing salaries. No new position or appropriation is required.

Current or Potential Sources of Funding:

- Any reimbursable costs and all compliance and oversight costs are funded through the Berkeley Police Department's existing operating budget within the General Fund. No dedicated funding source, grant, or outside contribution is associated with this technology, and none is currently anticipated.

9. Third Party Dependence and Access

Whether use or maintenance of the technology will require data gathered by the technology to be handled or stored by a third-party vendor on an ongoing basis, and whether a third party may have access to such data or may have the right to sell or otherwise share the data in aggregated, disaggregated, raw or any other formats

Mutual Aid Air Support is inherently dependent on third parties: the assisting agencies own and operate the aircraft and sensors, and retain their own recordings under their own policies and oversight structures. For example, Oakland Police Department helicopter camera systems are governed by an Oakland City Council-adopted use policy, with annual reporting to Oakland's Privacy Advisory Commission.

Air support data held by the Department is not handled or stored by a commercial third-party vendor beyond the Department's existing digital evidence management system, and no third party has any right to sell or otherwise share Department-held air support data. The Department's receipt of air support data creates no independent sharing authority; sharing is governed by the accompanying Surveillance Use Policy, including the prohibitions on sharing in support of federal civil immigration enforcement and of out-of-state reproductive-rights or gender-affirming-care enforcement, the 10-day reporting requirement for federal immigration access requests, and the 72-hour federal-disclosure reporting consistent with Policy 351.6.

10. Alternatives

A summary and general assessment of potentially viable alternative methods (whether involving the use of a new technology or not), if any, considered before deciding to propose acquiring the Surveillance Technology

Declining air support entirely involves the least aerial observation, but leaves searches, pursuits, and officer-safety incidents to ground resources alone, which the Council found inadequate in the incidents for which air support is actually requested.

Acquiring and operating a Department helicopter would cost several million dollars to acquire and on the order of a million dollars or more annually to operate- grossly disproportionate to approximately four to five deployments per year- and would present the same surveillance considerations without the benefit of shared regional infrastructure.

A Department UAS program is the subject of a separate STO process. UAS may over time absorb some air support functions, but small UAS have limited flight endurance, range, and weather tolerance and cannot perform rescue support or sustained wide-area pursuit

coordination. The Police Accountability Board's March 17, 2026 letter noted the overlap between the two capabilities; the accompanying documents confine air support to the Council-enumerated purposes so that the two capabilities remain separately governed.

The Department could request air support while declining all imagery. This would preserve some operational benefit but forfeit evidentiary value, and would not change what the assisting agency's systems record under that agency's own policies.

11. Experience of Other Entities

To the extent such information is available, a summary of the experience of comparable government entities with the proposed technology, including any unanticipated financial or community costs and benefits, experienced by such other entities

Receiving air support through mutual aid is the norm for cities of Berkeley's size: most East Bay cities own no aircraft and rely on regional partners. The Oakland Police Department has operated camera-equipped patrol helicopters for over a decade. Oakland adopted a City Council-approved use policy for its helicopter thermal-imaging cameras in 2015- a process that preceded and helped shape Oakland's Surveillance Technology Ordinance and files annual reports on the technology with its Privacy Advisory Commission. Oakland's recent reporting reflects both active regional support, with its air unit documented assisting neighboring agencies' investigations, and years of limited use, with its 2024 annual report stating that the reported camera system was used only for training that year and that no data was retained.

Publicly available reporting has also documented community costs where aerial surveillance exceeded incident-based use: a fixed-wing wide-area persistent surveillance program in Baltimore was held unlawful by the federal Fourth Circuit Court of Appeals in 2021, and aerial monitoring of demonstrations in other jurisdictions has drawn sustained criticism. The mitigations in this report and the accompanying Surveillance Use Policy- incident-based deployment for enumerated purposes only, the prohibition on wide-area persistent surveillance and public reporting- are designed specifically to address these documented concerns.

Berkeley Police Department

Law Enforcement Services Manual

Policy 1308

Surveillance Use Policy- Mutual Aid Air Support

1308.1 PURPOSE

This policy provides guidance for the request, receipt, and use of Mutual Aid Air Support by the Berkeley Police Department (BPD). The Department does not own or operate aircraft. Air support- helicopters and, where applicable, fixed-wing aircraft- is obtained through mutual aid from external law enforcement agencies pursuant to the framework adopted by the City Council on July 14, 2026, which rescinded Resolution No. 51,408-N.S. Aircraft operated by assisting agencies are typically equipped with camera systems, including gyro-stabilized electro-optical and thermal-infrared ("EO/IR") sensors and, in some cases, encrypted video downlink. Those systems are surveillance technology within the meaning of BMC Chapter 2.99, and this policy governs the Department's conduct with respect to them: the purposes for which air support may be requested, and the receipt, viewing, retention, and sharing of air support data by BPD.

The aircraft, sensors, and recordings of an assisting agency remain owned by that agency and governed by that agency's own policies and oversight bodies; nothing in this policy modifies an assisting agency's policies. This policy binds BPD personnel. This policy expressly prohibits the use or sharing of air support data for the purpose of supporting federal civil immigration enforcement or for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care.

1308.2 AUTHORIZED USE

Air support may be requested only with the pre-deployment approval of the on-duty Watch Commander or their designee, only in connection with an active incident documented in the Computer-Aided Dispatch (CAD) system, and only for the following purposes enumerated by the City Council:

- a. To assist in disaster response;
- b. To assist in rescue efforts;
- c. To locate missing persons;
- d. When the safety of law enforcement personnel is in jeopardy and aerial presence may reduce that hazard;
- e. To aid in the apprehension of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community;
- f. To locate a person who is missing and whose continued absence constitutes a serious health or safety hazard; and

- g. To provide aerial coordination during a vehicle pursuit, where such coordination can reduce collision risk to bystanders and improve incident resolution.

Every deployment shall be documented in the originating incident report. Within 72 hours of any deployment, the Chief of Police or a designee shall notify the City Manager in writing of the date, time, and location of the deployment; the requesting BPD supervisor and the assisting agency; the operational purpose; and a brief summary of the outcome.

Where an assisting agency offers a live video downlink, viewing is limited to personnel assigned to the incident, the Watch Commander, and Communications Center staff, for the duration of the incident. Recorded imagery may be obtained from the assisting agency only when relevant to a specific BPD case, through a documented evidence request.

Prohibited Uses

The following uses of Mutual Aid Air Support are prohibited:

- Use to harass, intimidate, or retaliate against any individual or group, or any use premised on a person's or group's actual or perceived race, ethnicity, national origin, religion, disability, gender, gender identity, sexual orientation, immigration status, or other protected characteristic.
- Use or sharing of air support data for the purpose of supporting federal civil immigration enforcement.
- Use or sharing of air support data with law-enforcement agencies from other states for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care.
- Any request that an assisting agency deploy force from the air, or any use of a weaponized aerial platform.
- Any use for personal, political, commercial, or non-law-enforcement purposes.

1308.3 DATA COLLECTION

BPD does not operate the sensors on assisting agencies' aircraft and does not control what those systems record. The categories of air support data that BPD may receive from supporting agencies are limited to:

- Live video downlink (visual and/or thermal), where offered by the assisting agency, viewed in connection with the active incident.
- Recorded video, thermal imagery, and still images obtained from the assisting agency in connection with a specific BPD case through a documented evidence request.
- Observations relayed by the flight crew by radio, which are documented in CAD and incident reports in the ordinary course.
- Associated metadata (date, time, location) accompanying imagery received.

The Department shall not request, receive, or retain air support imagery unrelated to the incident or case for which the deployment occurred.

1308.4 DATA ACCESS

Access to air support data received by the Department shall be limited to BPD personnel with a need to know in connection with the incident or case. Recorded imagery obtained by the Department shall be stored in the Department's digital evidence management system, with role-based access controls, and access shall be logged and auditable.

1308.5 DATA PROTECTION

This program shall utilize a multi-layered security architecture to preserve the integrity and confidentiality of the data:

- Air support data obtained by the Department shall be transferred agency-to-agency through secure evidence-transfer methods.
- Access shall be restricted to authorized personnel.
- Evidentiary data shall be stored in the Department's digital evidence system.

1308.6 CIVIL LIBERTIES AND RIGHTS PROTECTION

To protect against use of Mutual Aid Air Support in ways that would violate or infringe upon civil rights or civil liberties, including but not limited to potential disparate or adverse impacts on any community or group, the following safeguards apply:

- Requests are confined to the purposes enumerated by the City Council and require documented pre-deployment approval by the on-duty Watch Commander or designee.
- The Department receives and retains only imagery relevant to the incident or a specific case.
- Every deployment is documented, reported in writing to the City Manager within 72 hours and included in an annual public report to the City Council and the Police Accountability Board.
- All other access, retention, sharing, training, and audit provisions of this policy serve to protect against unauthorized use of air support data.

1308.7 DATA RETENTION

Air support imagery that the Department does not obtain remains with the assisting agency and is governed by that agency's retention schedule. Imagery obtained by the Department in connection with a specific case shall be stored in the Department's digital evidence management system and retained in accordance with state law and existing Departmental evidence-retention protocols. Imagery received in error, or determined to have no evidentiary value, shall not be retained.

1308.8 PUBLIC ACCESS

Data collected and used in a police report shall be made available to the public in accordance with department policy and applicable state or federal law. Requests for records derived from Mutual Aid Air Support that are held by the Department shall be processed in the same manner as requests for department public records pursuant to Policy 804. Records that are the subject of a court order or subpoena shall be processed in accordance with the established department subpoena process. Records held only by an assisting agency are subject to that agency's public-records processes.

1308.9 THIRD-PARTY DATA-SHARING

The Department's receipt of air support data creates no independent authority to share that data with any third party. Air support data held by the Department may be shared only in accordance with Departmental evidence and records policies- for example, with a prosecuting agency in discovery or pursuant to a court order. Sharing for the purpose of supporting federal civil immigration enforcement is prohibited consistent with BPD Policy 423, the California Values Act, and the City's sanctuary policies; any federal immigration access request shall be reported to the Chief of Police and to Council within 10 days; and any instance in which a federal agency obtains air support data held by the Department shall be reported consistent with the 72-hour federal-disclosure requirement of Policy 351.6. Sharing with out-of-state agencies for the purpose of supporting the enforcement of laws that restrict or criminalize reproductive rights, abortion, or the provision or receipt of gender-affirming care is prohibited.

The Department shall provide a copy of this policy to each mutual aid air support partner.

1308.10 TRAINING

All Watch Commanders and other BPD members authorized to request air support or to access air support data shall receive appropriate training before such authorization.

1308.11 AUDITING AND OVERSIGHT

The Office of Strategic Planning and Accountability (OSPA) shall audit all air support deployments at least twice per year. As part of the audit, OSPA will confirm that BPD has not entered any direct data-sharing arrangements inconsistent with this policy.

BPD will enforce against prohibited uses of Mutual Aid Air Support pursuant to Policy 1010, Personnel Complaints, or other applicable law or policy. The City Manager shall enforce against any prohibited use of air support data by other City of Berkeley personnel.

The audit shall be documented in the form of an internal department memorandum to the Chief of Police. After review by the Chief of Police, the memorandum and any associated documentation shall be placed into the annual report filed with the City Council pursuant to BMC Section 2.99.020 2. d., and published on the City of Berkeley website. The annual public report on air support deployments required by the July 14, 2026 resolution shall be transmitted to the City Council and the Police Accountability Board.

1308.12 MAINTENANCE

BPD owns and maintains no air support equipment. Aircraft and sensor systems are maintained by the assisting agencies. Department systems used to store air support data are maintained under the Department's existing systems contracts.